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WHEN: Tuesday, January 27, 2009
9:00 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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

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Rules and Regulations

Federal Register

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Friday, January 23, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0540; Directorate Identifier 2008–NM–031–AD; Amendment 39–15786; AD 2009–01–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) and Model CL–600–2D24 (Regional Jet Series 900) Airplanes

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

ACTION: Final rule.

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

Bombardier Aerospace has completed a system safety review of the CL–600–2C10/CL–600–2D24 aircraft fuel system against new fuel tank safety standards, introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525–001 to determine if mandatory corrective action is required.

This assessment showed that rupture of the fuel tank climb vent loop pipe or leakage from pipe couplings could result in fuel coming in contact with hot anti-ice ducts, creating potential fire on top of the centre fuel tank.

* * * * *

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective February 27, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 27, 2009.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Fiesel, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7304; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on May 13, 2008 (73 FR 27475). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Bombardier Aerospace has completed a system safety review of the CL–600–2C10/CL–600–2D24 aircraft fuel system against new fuel tank safety standards, introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525–001 to determine if mandatory corrective action is required.

This assessment showed that rupture of the fuel tank climb vent loop pipe or leakage from pipe couplings could result in fuel coming in contact with hot anti-ice ducts, creating potential fire on top of the centre fuel tank.

To correct the unsafe condition, this directive mandates the modification of the fuel tank climb vent loop by installing shrouding boots that direct leaked fuel safely overboard.

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

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Request To Revise Service Bulletin Reference

Comair requests that we refer to Revision C of Bombardier Service Bulletin 670BA–28–011, dated June 5, 2008, which Bombardier released since the NPRM was issued. (The NPRM referred to Revision B of Bombardier Service Bulletin 670BA–28–011, dated July 4, 2007.)

We agree to incorporate Bombardier Service Bulletin 670BA–28–011, Revision C, and give credit for prior actions accomplished according to Bombardier Service Bulletin 670BA–28–011, Revision B. Bombardier Service Bulletin 670BA–28–011, Revision C, revises a figure and its related instruction and includes editorial changes; there are no substantive changes to the remaining procedures. We have revised paragraphs (f)(1), (f)(2), and (h) of the AD accordingly.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 297 products of U.S. registry. We also estimate that it will take about 22 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $13,768

per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $4,611,816, or $15,528 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this 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. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

You may examine the AD docket 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–01–07 Bombardier, Inc. (Formerly Canadair): Amendment 39–15786. Docket No. FAA–2008–0540; Directorate Identifier 2008–NM–031–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 27, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10003 through 10169; and Model CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 though 15025; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

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

''Bombardier Aerospace has completed a system safety review of the CL–600–2C10/CL–600–2D24 aircraft fuel system against new fuel tank safety standards, introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525–001 to determine if mandatory corrective action is required.

''This assessment showed that rupture of the fuel tank climb vent loop pipe or leakage from pipe couplings could result in fuel coming in contact with hot anti-ice ducts, creating potential fire on top of the centre fuel tank.

To correct the unsafe condition, this directive mandates the modification of the fuel tank climb vent loop by installing shrouding boots that direct leaked fuel safely overboard.''

Actions and Compliance

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

(1) Within 4,500 flight hours after the effective date of this AD, modify the fuel tank climb vent loop pipes by installing shrouding boots according to the Accomplishment Instructions of Bombardier Service Bulletin 670BA–28–011, Revision C, dated June 5, 2008.

(2) Modification of the climb vent pipe prior to the effective date of this AD according to Bombardier Service Bulletin 670BA–28–011, dated November 7, 2005; Revision A, dated January 22, 2007; or Revision B, dated July 4, 2007; is acceptable for compliance with the corresponding requirements of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Richard Fiesel, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7304; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2008–01, dated January 3, 2008; and Bombardier Service Bulletin 670BA–28–011, Revision C, dated June 5, 2008; for related information.

Material Incorporated by Reference

(i) You must use Bombardier Service Bulletin 670BA–28–011, Revision C, dated June 5, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; e-mail *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com*.

(3) You may review copies of the service information that is incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* .

Issued in Renton, Washington, on December 18, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–23 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28283; Directorate Identifier 2006–NM–254–AD; Amendment 39–15780; AD 2009–01–02]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes. This AD requires a one-time general visual inspection of frames between body station (BS) 360 and BS 907 to determine if certain support brackets of the air conditioning (A/C) outlet extrusions are installed; medium- and high-frequency eddy current inspections for cracking of the frames around the attachment holes of the subject brackets; and repair if necessary. This AD also requires installing new, improved fittings for all support brackets of the A/C outlet extrusions between BS 360 and BS 907. This AD results from numerous reports of multiple cracks in the frames around the attachment holes of certain support brackets of the A/C outlet extrusions. We are issuing this AD to prevent frame cracking, which, if not corrected, could lead to a severed frame that, combined with cracking of the skin lap splice above stringer 10, could result in rapid decompression of the airplane.

DATES: This AD becomes effective February 27, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of February 27, 2009.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, *Attention:* Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com.*

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes. That supplemental NPRM was published in the **Federal Register** on August 19, 2008 (73 FR 48307). That supplemental NPRM proposed to require a one-time general visual inspection of frames between body station (BS) 360 and BS 907 to determine if certain support brackets of the air conditioning (A/C) outlet extrusions are installed; medium- and high-frequency eddy current inspections for cracking of the frames around the attachment holes of the subject brackets; and repair if necessary. That supplemental NPRM also proposed to require installing new, improved fittings for all support brackets of the A/C outlet extrusions between BS 360 and BS 907.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Revise ''Estimated Costs'' Table

Boeing requests that we revise the ''Estimated Costs'' table in the Cost of Compliance paragraph of the supplemental NPRM to match the information specified in Boeing Special Attention Service Bulletin 737–25–1544, Revision 1, dated January 16, 2008. Boeing states that the parts cost in the supplemental NPRM reflects a price range between $56,095 and $81,339, while the price range specified in the Boeing special attention service bulletin is between $19,854 and $28,789. We referred to the Boeing special attention service bulletin as the appropriate source of service information for doing the actions specified in the supplemental NPRM.

We agree with the commenter's request to revise the parts cost to match the information specified in Boeing Special Attention Service Bulletin 737–25–1544, Revision 1, dated January 16, 2008. We have revised the parts cost to specify ''between $19,854 and $28,789'' and we have revised the corresponding ''Cost per Airplane'' and ''Fleet Cost'' columns in the ''Estimated Costs'' table of this AD.

Request To Clarify the References to the Boeing Special Attention Service Bulletin

Boeing requests that we clarify the references to Boeing Special Attention Service Bulletin 737–25–1544, Revision 1, dated January 16, 2008, in paragraphs (g), (g)(2), and (h) of the supplemental NPRM. Boeing states that the supplemental NPRM reads ''* * * in accordance with Part 2 of the service bulletin * * *'' when the reference is meant to be ''* * * in accordance with Part 2 of the accomplishment instructions of the service bulletin.

* * *'' Boeing further states the service bulletin is divided into three parts with Part 3 being the accomplishment instructions. Boeing notes that the accomplishment instructions are further divided into four parts, which are referenced in the supplemental NPRM.

We agree to clarify the references to Boeing Special Attention Service Bulletin 737–25–1544, Revision 1, dated January 16, 2008. However, we had already included the phrase ''Accomplishment Instructions'' in paragraph (f) of the supplemental NPRM as part of the definition of ''service bulletin.'' Paragraph (f) of the supplemental NPRM states that ''the term 'service bulletin,' as used in this AD, means the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–25–1544, Revision 1, dated January 16, 2008.''

To avoid any confusion as to which part of the service bulletin we are referring to in the AD, we have removed paragraph (f) of the supplemental NPRM from this AD and revised the subsequent paragraph identifiers accordingly. We have also included the phrase ''Accomplishment Instructions'' in the references to the service bulletin in paragraphs (f), (f)(2), and (g) of this AD.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 1,679 airplanes of the affected design in the worldwide fleet. This AD affects about 626 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD, at an average labor rate of $80 per work hour. Operators should note that special cold working tools and sleeves will be needed if any repair is required, which may increase costs.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Fleet cost
General visual inspection	1	No parts required	$80	$50,080.
MFEC and HFEC inspections.	Between 170 and 216	No parts required	Between $13,600 and $17,280.	Up to $10,817,280.
Replace support fittings	Between 258 and 346	Between $19,854 and $28,789.	Between $40,494 and $56,469.	Up to $35,349,594.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2009–01–02 Boeing: Amendment 39–15780. Docket No. FAA–2007–28283; Directorate Identifier 2006–NM–254–AD.

Effective Date

(a) This AD becomes effective February 27, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes; certificated in any category; as identified in Boeing Special Attention Service Bulletin 737–25–1544, Revision 1, dated January 16, 2008.

Unsafe Condition

(d) This AD results from numerous reports of multiple cracks in the frame around the attachment holes of the support bracket of the air conditioning (A/C) outlet extrusion. We are issuing this AD to prevent frame cracking, which, if not corrected, could lead to a severed frame that, combined with cracking of the skin lap splice above stringer 10, could result in rapid decompression of 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.

Inspections

(f) Before the accumulation of 36,000 total flight cycles, or within 72 months after the effective date of this AD, whichever occurs later, except as required by paragraph (h) of this AD: Do a general visual inspection to

determine if the support brackets of the A/C outlet extrusions between body station (BS) 360 and BS 907 have two-rivet attachment fittings in accordance with Part 2 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–25–1544, Revision 1, dated January 16, 2008 (''the service bulletin''), except at the locations identified in the notes of Step 3.B.1 of Part 1 of the Accomplishment Instructions of the service bulletin.

(1) For any support bracket attached with three or more rivets: No further action is required by paragraph (f) of this AD.

(2) For any subject support bracket having a two-rivet attachment fitting: Before the accumulation of 36,000 total flight cycles, or within 72 months after the effective date of this AD, whichever occurs later, except as required by paragraph (h) of this AD, do medium- and high-frequency eddy current inspections for cracking of the frame around the attachment holes of the support bracket, in accordance with Part 2 of the Accomplishment Instructions of the service bulletin. If any cracking is discovered, before further flight, repair the cracking in accordance with Part 3 of the Accomplishment Instructions of the service bulletin.

Modification

(g) Except as required by paragraph (h) of this AD: Before the accumulation of 36,000 total flight cycles, or within 72 months after the effective date of this AD, whichever occurs later, replace the support fittings of all A/C outlet extrusions between BS 360 and BS 907 with new, improved support fittings, in accordance with Part 4 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–25–1544, Revision 1, dated January 16, 2008.

Compliance Time for Certain Airplanes

(h) For airplanes on which Boeing Business Jet (BBJ) lower cabin altitude modification is incorporated in accordance with Supplemental Type Certificate ST01697SE: Before the accumulation of 18,000 total flight cycles, or within 72 months after the effective date of this AD, whichever occurs later, do the actions specified in paragraphs (f) and (g) of this AD.

Actions Accomplished According to Previous Issue of Service Bulletin

(i) Actions accomplished before the effective date of this AD according to Boeing Special Attention Service Bulletin 737–25–1544, dated October 4, 2006, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

Material Incorporated by Reference

(k) You must use Boeing Special Attention Service Bulletin 737–25–1544, Revision 1, dated January 16, 2008, to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) Contact Boeing Commercial Airplanes, *Attention:* Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*, for a copy of this service information.

(3) You may review copies of the service information that is incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on December 18, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–31395 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0010; Directorate Identifier 2009–CE–001–AD; Amendment 39–15792; AD 2009–02–02]

RIN 2120–AA64

Airworthiness Directives; Polskie Zaklady Lotnicze Spolka zo.o Model PZL M26 01 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

A detailed inspection in a M26 airplane revealed a significant chafing of the aileron control cable against the wing rib in the fuselage-to-wing area of transition and an abnormal wearing of pulleys' gorges as well.

Such damage can only be evidenced on control cables which travel in pulleys either limited in rotation or seized.

If left uncorrected, this condition, which could also occur on the elevator or rudder control system, could lead to loss of one or more primary flight controls and consequent reduced controllability of the airplane.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective February 12, 2009.

On February 12, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by February 23, 2009.

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

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

and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2008–0220, dated December 19, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> A detailed inspection in a M26 airplane revealed a significant chafing of the aileron control cable against the wing rib in the fuselage-to-wing area of transition and an abnormal wearing of pulleys' gorges as well.
>
> Such damage can only be evidenced on control cables which travel in pulleys either limited in rotation or seized.
>
> If left uncorrected, this condition, which could also occur on the elevator or rudder control system, could lead to loss of one or more primary flight controls and consequent reduced controllability of the airplane.
>
> For the reason stated above, this Airworthiness Directive requires a detailed inspection of flight controls and the correction of any discrepancy that could be found as a result of the inspection.

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

Relevant Service Information

Polskie Zaklady Lotnicze Spolka zo.o. has issued Service Bulletin No. E/62.020/2008, dated October 30, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority 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

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

We might have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because chafing of the aileron control cable against the wing rib in the fuselage-to-wing area of the transition and an abnormal wearing of pulley gorges, if left uncorrected, could lead to loss of one or more primary controls, which could reduce airplane controllability. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0010; Directorate Identifier 2009–CE–001–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–02–02 Polskie Zaklady Lotnicze Spolka zo.o: Amendment 39–15792; Docket No. FAA–2009–0010; Directorate Identifier 2009–CE–001–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 12, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models PZL M26 01 airplanes, serial numbers 1APP01–01 and 1AP002–01 through 1AP002–06, certificated in any category.

Subject

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

Reason

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

''A detailed inspection in a M26 airplane revealed a significant chafing of the aileron control cable against the wing rib in the fuselage-to-wing area of transition and an abnormal wearing of pulleys' gorges as well.''

''Such damage can only be evidenced on control cables which travel in pulleys either limited in rotation or seized.''

''If left uncorrected, this condition, which could also occur on the elevator or rudder control system, could lead to loss of one or more primary flight controls and consequent reduced controllability of the airplane.''

''For the reason stated above, this Airworthiness Directive requires a detailed inspection of flight controls and the correction of any discrepancy that could be found as a result of the inspection.''

Actions and Compliance

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

(1) Before further flight, after the effective date of this AD, inspect the airplane's flight control systems as instructed in paragraph III.A. of Polskie Zaklady Lotnicze Spolka zo.o. (PZL) Service Bulletin No. E/62.020/2008, dated October 30, 2008.

(2) If in the inspection required in paragraph (f)(1) of this AD any damage is found on the pulleys and cables of the aileron control system, before further flight, repair the damage as instructed in paragraph III.B. of PZL Service Bulletin No. E/62.020/2008, dated October 30, 2008.

(3) If in the inspection required in paragraph (f)(1) of this AD any damage is found on the flight control systems other than the pulleys and cables of the aileron control system, before further flight, repair the damage with an FAA-approved repair solution (see paragraph (g)(2) of this AD).

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4059; *fax:* (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to European Aviation Safety Agency (EASA) AD No. 2008–0220, dated December 19, 2008, and Polskie Zaklady Lotnicze Spolka zo.o. (PZL) Service Bulletin No. E/62.020/2008, dated October 30, 2008, for related information.

Material Incorporated by Reference

(i) You must use Polskie Zaklady Lotnicze Spolka zo.o. (PZL) Service Bulletin No. E/62.020/2008, dated October 30, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Polskie Zaklady Lotnicze Sp. z.o.o., ul. Wojska Polskiego 3, 39–300 Mielec, Poland; telephone: +48 17 788 7574; *fax:* +48 17 788 6365; *e-mail: pzl@pzlmielec.com.pl; Internet: http://www.pzlmielec.pl/biuletyn/E62–020–2008_e.pdf.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri on January 8, 2009.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–776 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0935; Directorate Identifier 2008–NE–28–AD; Amendment 39–15790; AD 2009–01–11]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Arriel 2B and 2B1 Turboshaft Engines

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This 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:

Several cases of loss of internal components from the Hydro Mechanical Unit (HMU) low fuel pressure switch Hydra-Electric part number (P/N) 9 550 17 956 0 into the fuel system, have been reported on Arriel 2 engines.

The loss of internal components from the low fuel pressure switch into the fuel system may lead to a rupture of the HP–LP pumps drive shaft shear pin, and thus to a possible uncommanded in-flight shutdown (IFSD). On a single-engine helicopter, an uncommanded IFSD results in an emergency autorotation landing and in certain conditions may lead to an accident.

We are issuing this AD to prevent forced autorotation landing, or an accident.

DATES: This AD becomes effective February 27, 2009. The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 27, 2009.

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

FOR FURTHER INFORMATION CONTACT: 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.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 30, 2008 (73 FR 64566). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

> Several cases of loss of internal components from the HMU low fuel pressure switch Hydra-Electric P/N 9 550 17 956 0 into the fuel system, have been reported on Arriel 2 engines. The loss of internal components from the low fuel pressure switch into the fuel system may lead to a rupture of the HP–LP pumps drive shaft shear pin, and thus to a possible uncommanded IFSD. On a single-engine helicopter, an uncommanded IFSD results in an emergency autorotation landing and in certain conditions may lead to an accident.
>
> The evaluation of this condition prompts the issuance of this AD, which requires the following actions for the HMUs installed on Arriel 2 single-engine applications in order to:
>
> • Verify the part number of the low fuel pressure switch;
>
> • If installed, replace the Hydra-Electric low fuel pressure switch P/N 9 550 17 956 0 (with either of two different P/N low fuel pressure switches, referenced in the MCAI).
>
> • In case a Hydra-Electric switch P/N 9 550 17 956 0 is installed or may have been installed on the HMU, verify that no parts are found in the chamber of the HMU body where the base of the low fuel pressure switch has been installed.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. We are not referencing the P/Ns of the serviceable low pressure switch as the MCAI does, in order to follow FAA policies. This difference is described in a separate paragraph of the AD.

Costs of Compliance

Based on the service information, we estimate that this AD will affect about 414 products installed on helicopters of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with this AD. The average labor rate is $80 per work-hour. Required parts will cost about $256 per product. Based on these figures, we estimate the cost of the AD on U.S. operators to be $139,104. 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this 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. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–01–11 Turbomeca: Amendment 39–15790. Docket No. FAA–2008–0935; Directorate Identifier 2008–NE–28–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 27, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Turbomeca Arriel 2B and 2B1 turboshaft engines. These engines are installed on, but not limited to, Eurocopter France AS350B3 and EC130 B4 helicopters.

Reason

(d) European Aviation Safety Agency (EASA) AD No. 2008–0077, dated March 13, 2006 (and corrected May 6, 2008), states:

''Several cases of loss of internal components from the Hydro Mechanical Unit (HMU) low fuel pressure switch Hydra-Electric part number (P/N) 9 550 17 956 0 into the fuel system, have been reported on Arriel 2 engines. The loss of internal components from the low fuel pressure switch into the fuel system may lead to a rupture of the HP–LP pumps drive shaft shear pin, and thus to a possible uncommanded in-flight shutdown (IFSD). On a single-engine helicopter, an uncommanded IFSD results in an emergency autorotation landing and in certain conditions may lead to an accident. 'We are issuing this AD to prevent forced autorotation landing, or an accident.' ''

Actions and Compliance

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

(1) No later than September 30, 2009, perform a one-time inspection of the HMU, using paragraph 2 of Turbomeca Mandatory Service Bulletin (MSB) No. 292 73 2826, dated March 13, 2008, to identify the low fuel pressure switch installed on the adjusted HMU.

(2) If a Hydra-Electric low fuel pressure switch, part number (P/N) 9 550 17 956 0 is installed:

(i) Inspect the low fuel pressure switch and chamber of the HMU body.

(ii) If any parts from the low fuel pressure switch are missing or found in the HMU chamber, replace the HMU with a new or overhauled HMU equipped with a serviceable low fuel pressure switch.

(iii) If not, replace only the low fuel pressure switch with a serviceable low fuel pressure switch.

(3) If a low fuel pressure switch other than a Hydra-Electric low fuel pressure switch, P/N 9 550 17 956 0 is installed, and that is the only type of low fuel pressure switch that has been installed since new, repair, or overhaul, no further action is required.

(4) If a Hydra-Electric switch, P/N 9 550 17 956 0, has been or may have been installed previously, and the conditions of paragraph (e)(3) of this AD are not met:

(i) Inspect the chamber of the HMU body.

(ii) If any parts are found in the HMU chamber, replace the HMU with a new or overhauled HMU equipped with a serviceable low fuel pressure switch.

Definition

(f) For the purpose of this AD, a serviceable low fuel pressure switch is a switch that has a P/N other than P/N 9 550 17 956 0.

FAA AD Difference

(g) This AD differs from the Mandatory Continuing Airworthiness Information (MCAI) and/ or service information, by not referencing the P/Ns of the serviceable low fuel pressure switch, and, defining a serviceable low fuel pressure switch, for the purpose of this AD.

Alternative Methods of Compliance (AMOCs)

(h) 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 EASA AD 2008–0077, dated April 28, 2008 (and corrected May 6, 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.

Material Incorporated by Reference

(k) You must use Turbomeca Mandatory Service Bulletin No. 292 73 2826, dated March 13, 2008, to do the low fuel pressure switch installation inspection required by this AD.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Turbomeca, 40220 Tarnos, France; telephone (33) 05 59 74 40 00; fax (33) 05 59 74 45 15.

(3) You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; 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/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on December 30, 2008.

Peter A. White,

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

[FR Doc. E8–31396 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0420; Directorate Identifier 2008–NE–10–AD; Amendment 39–15793; AD 2009–02–03]

RIN 2120–AA64

Airworthiness Directives; Lycoming Engines IO, (L)IO, TIO, (L)TIO, AEIO, AIO, IGO, IVO, and HIO Series Reciprocating Engines, Teledyne Continental Motors (TCM) LTSIO–360–RB and TSIO–360–RB Reciprocating Engines, and Superior Air Parts, Inc. IO–360 Series Reciprocating Engines With Certain Precision Airmotive LLC RSA–5 and RSA–10 Series, and Bendix RSA–5 and RSA–10 Series, Fuel Injection Servos

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Lycoming Engines IO, (L)IO, TIO, (L)TIO, AEIO, AIO, IGO, IVO, and HIO series reciprocating engines, TCM TSIO–360–RB reciprocating engines, and Superior Air Parts, Inc. IO–360 series reciprocating engines with certain Precision Airmotive LLC RSA–5 and RSA–10 series fuel injection servos. That AD currently requires inspecting servo plugs for looseness and damage on fuel injection servos that have a servo plug gasket, part number (P/N) 365533, installed, and if loose, inspecting the servo regulator cover threads for damage, inspecting the gasket for damage, reinstalling acceptable parts, and torquing the servo plug to a new, higher torque to maintain the proper clamp-up force between the plug and cover. This AD requires the same inspections, except if the plug is found loose, servo plug gasket, P/N 365533, must be replaced with a new, improved gasket, P/N 2577258. This AD also requires replacement by December 31, 2009, of servo plug gaskets, P/N 365533, manufactured and made available on or after August 22, 2006, as mandatory terminating action to the repetitive inspections required by this AD. This AD also prohibits the installation of any servo plug gasket, P/N 365533. This AD also clarifies the TCM engine model applicability, and adds Bendix RSA–5 and RSA–10 series fuel injection servos to the applicability. This AD results from Precision Airmotive LLC

introducing the installation of a new improved servo plug gasket, P/N 2577258, to the affected Precision Airmotive LLC RSA–5 and RSA–10 series, and Bendix RSA–5 and RSA–10 series, fuel injection servos. We are issuing this AD to prevent a lean running engine, which could result in a substantial loss of engine power and subsequent loss of control of the airplane.

DATES: Effective February 9, 2009.

We must receive any comments on this AD by March 24, 2009.

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

FOR FURTHER INFORMATION CONTACT: For Precision Airmotive LLC and Bendix, Richard Simonson, Aerospace Engineer, Propulsion Branch, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055; e-mail: *Richard.simonson@faa.gov*; telephone (425) 917–6507; fax (425) 917–6590.

For Lycoming Engines, Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; e-mail: *Norman.perenson@faa.gov*; telephone (516) 228–7337; fax (516) 794–5531.

For Teledyne Continental Motors, Kevin Brane, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Blvd., Suite 450, Atlanta, GA 30349; e-mail: *kevin.brane@faa.gov*; telephone (770) 703–6063; fax (770) 703–6097.

For Superior Air Parts, Inc., Tausif Butt, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Southwest Regional Headquarters, 2601 Meacham Blvd., Fort Worth, Texas 76137; e-mail: *Tausif.butt@faa.gov*; telephone (817) 222–5195; fax (817) 222–5785.

SUPPLEMENTARY INFORMATION: The FAA amends 14 CFR part 39 by superseding AD 2008–08–14, Amendment 39–15466 (73 FR 19977, April 14, 2008). That AD requires:

- Inspecting servo plugs for looseness and damage on fuel injection servos that have a servo plug gasket, P/N 365533 installed since August 22, 2006, and if loose;
- Inspecting both the threads on the servo plug and the servo regulator cover for damage;
- Inspecting the gasket for damage, reinstalling acceptable parts; and
- Torquing the servo plug to a new, higher torque to maintain the proper clamp-up force between the plug and cover.

That AD was the result of eighteen reports of fuel injection servo plugs, P/N 383493 that had loosened or completely backed out of the threaded plug hole on the regulator cover of the fuel injection servo. That condition, if not corrected, could result in a lean running engine, which could result in a substantial loss of engine power and subsequent loss of control of the airplane.

Actions Since AD 2008–08–14 Was Issued

Since that AD was issued, Precision Airmotive LLC introduced the installation of a new improved servo plug gasket, P/N 2577258, to the Precision Airmotive LLC, RSA–5 and RSA–10 series, and Bendix, RSA–5 and RSA–10 series, fuel injection servos. Installation of this gasket with a new higher torque eliminates repetitive inspections of the servo plug.

Also since that AD was issued, we discovered that we inadvertently omitted certain Bendix, RSA–5 and RSA–10 series, fuel injection servos, from the AD applicability. We now include those fuel injection servos in this AD applicability.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other engines of the same type design. We are issuing this AD to prevent a lean running engine, which could result in a substantial loss of engine power and subsequent loss of control of the airplane. This AD requires:

- Inspecting servo plugs for looseness and damage on affected fuel injection servos that have a servo plug gasket, P/N 365533, installed, and if loose;
- Inspecting both the servo plug and regulator threads for damage;
- Replacing gasket P/N 365533, with gasket P/N 2577258;
- Torquing the servo plug to a new, higher torque to maintain the proper clamp-up force between the plug and cover; and
- By December 31, 2009, as mandatory terminating action to the repetitive inspections required by this AD, replacing all servo plug gaskets, P/N 365533 on affected servos, with new, improved gasket, P/N 2577258, and prohibiting the installation of P/N 365533 gaskets.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2008–0420; Directorate Identifier 2008–NE–10–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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 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 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.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

2. Is not a ''significant rule'' under 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 summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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 39–15466 (73 FR 19977, April 14, 2008), and by adding a new airworthiness directive, Amendment 39–15793, to read as follows:

2009–02–03 Precision Airmotive LLC and Bendix: Amendment 39–15793. Docket No. FAA–2008–0420; Directorate Identifier 2008–NE–10–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 9, 2009.

Affected ADs

(b) This AD supersedes AD 2008–08–14, Amendment 39–15466.

Applicability

(c) This AD applies to the following reciprocating engines with a Precision Airmotive LLC, RSA–5 or RSA–10 series, or Bendix, RSA–5 or RSA–10 series, fuel injection servo, having a servo plug gasket, part number (P/N) 365533, that was installed under the fuel injection servo plug, P/N 383493, on or after August 22, 2006:

(1) Lycoming Engines IO, (L)IO, TIO, (L)TIO, AEIO, AIO, IGO, IVO, and HIO series reciprocating engines.

(2) Teledyne Continental Motors LTSIO–360–RB and TSIO–360–RB reciprocating engines.

(3) Superior Air Parts, Inc. IO–360 series reciprocating engines.

(d) This AD also applies to any other Precision Airmotive LLC RSA–5 or RSA–10 series, or Bendix, RSA–5 or RSA–10 series, fuel injection servo:

(1) That was received for installation on an engine on or after August 22, 2006 without a P/N 2577258 gasket and it does not have a letter ''G'' on the fuel injection servo plug, P/N 383493; or

(2) Any fuel injection servo that the installation history is not known.

Unsafe Condition

(e) This AD results from Precision Airmotive LLC introducing the installation of a new improved servo plug gasket, P/N 2577258, to the affected Precision Airmotive LLC RSA–5 and RSA–10 series, and Bendix, RSA–5 and RSA–10 series, fuel injection servos. We are issuing this AD to prevent a lean running engine, which could result in a substantial loss of engine power and subsequent loss of control of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed before further flight, unless the actions have already been done.

Initial Inspection

(g) Before further flight, inspect the fuel injection servo plug, P/N 383493, for looseness, by attempting to turn it by hand, while being careful not to damage the safety wire or seal. If the plug moves, it is loose.

(h) If the plug is not loose, go to paragraph (j) of this AD.

(i) If the plug is loose, do the following:

(1) Carefully cut and remove the safety wire that spans between the servo plug and regulator cover only.

(2) Remove the servo plug and gasket, P/N 365533, that is behind the plug. The gasket may be slightly stuck to the regulator cover.

(3) Examine the threads on the servo plug and regulator cover for damage. Threads should be smooth and consistent, with no burrs or chips. The servo plug outer diameter threads should also measure within 0.7419–0.7500-inch.

(4) If the threads on either the servo plug or the regulator cover are damaged, or do not measure within the limits in paragraph (i)(3) of this AD, the servo is not eligible for any installation and must be replaced before further flight.

(5) Replace the gasket, P/N 365533, with a new improved gasket, P/N 2577258.

(6) While the hex plug is removed, stamp or scribe the letter ''G'' onto the face of the hex plug. Information on stamping or scribing can be found in Precision Airmotive LLC Mandatory Service Bulletin (MSB) No. PRS–107 Revision 4, dated July 16, 2008.

(7) When reassembling, do not install any servo plug or regulator cover that is not eligible for installation. Install a new gasket, P/N 2577258, onto the servo plug and reassemble the servo plug to the regulator cover.

(8) Torque the servo plug to a new, higher torque of 90–100 in-lbs, to maintain the proper clamp-up force between the plug and cover.

(9) Safety wire the servo plug with 0.015 thru 0.025 inch diameter wire to the regulator cover screws. Information on properly safety wiring the plug can be found in Precision Airmotive LLC MSB No. PRS–107, Revision 4, dated July 16, 2008.

(10) Inspect all other safety wire on the servo. Replace any that are damaged.

Repetitive Inspections

(j) For servo plugs that passed inspection with a gasket, P/N 365533 installed, at every engine oil change or within every 50 hours of engine run time, whichever occurs first, repeat the inspection and remedial steps specified in paragraphs (g) through (i)(10) of this AD.

Mandatory Terminating Action

(k) By December 31, 2009, as mandatory terminating action to the repetitive inspections required by this AD, replace all servo plug gaskets, P/N 365533 that are installed on servos affected by this AD, with gasket, P/N 2577258.

(l) Use paragraphs (i)(1) through (i)(10) of this AD, to do the gasket replacements.

Prohibition of Installing Gasket P/N 365533

(m) After the effective date of this AD, do not install gasket, P/N 365533, onto any fuel injection servo.

Identification of Servo Plug Gaskets

(n) Servo plug gaskets, P/N 365533, are identified as being made of either a paper or fiber material, impregnated with synthetic rubber. They are relatively flexible and have a rough surface.

(o) Servo plug gaskets, P/N 2577258, are identified as being made of metal with a coating of synthetic rubber. They are relatively rigid and have a smooth surface.

Special Flight Permits Prohibited

(p) Under 14 CFR part 39.23, we are prohibiting special flight permits.

Alternative Methods of Compliance

(q) The Manager, Seattle Aircraft Certification Office, may approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(r) For Precision Airmotive LLC, Richard Simonson, Aerospace Engineer, Propulsion Branch, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055; e-mail: *Richard.simonson@faa.gov*; telephone (425) 917–6507; fax (425) 917–6590.

(s) For Lycoming Engines, Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; e-mail: *Norman.perenson@faa.gov*; telephone (516) 228–7337; fax (516) 794–5531.

(t) For Teledyne Continental Motors, Kevin Brane, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Blvd., Suite 450, Atlanta, GA 30349; e-mail: *kevin.brane@faa.gov*; telephone (770) 703–6063; fax (770) 703–6097.

(u) For Superior Air Parts, Inc., Tausif Butt, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Southwest Regional Headquarters, 2601 Meacham Blvd., Fort Worth, Texas 76137; e-mail: *Tausif.butt@faa.gov*; telephone (817) 222–5195; fax (817) 222–5785.

(v) FAA Special Airworthiness Information Bulletin NE–09–04, dated January 9, 2009, also pertains to checking servo plugs for looseness on Precision Airmotive LLC RSA–5 and RSA–10 series, and Bendix RSA–5 and RSA–10 series, earlier produced fuel injection servos, not affected by this AD.

(w) Precision Airmotive LLC MSB No. PRS–107, Revision 4, dated July 16, 2008, also pertains to the subject of this AD. Contact Precision Airmotive LLC, 14800 40th Avenue, NE., Marysville, Washington 98271; telephone (360) 651–8282; *http://www.precisionairmotive.com*, for a copy of this MSB.

Material Incorporated by Reference

(x) None.

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

Peter A. White,

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

[FR Doc. E9–1047 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0558; Directorate Identifier 2007–NM–365–AD; Amendment 39–15783; AD 2009–01–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes

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

ACTION: Final rule.

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

> Some operators have reported occurrences of loss of the AC BUS 1 with subsequent loss of the AC ESS BUS and DC ESS BUS, resulting in the loss of 5 upper Display Units and the loss of integral lighting. In this situation, flight crew[s] have reported concerns in reading the standby instruments when the DOME lights were selected to OFF.
>
> This situation, if not corrected, could increase the workload of the flight crew * * *.
>
> * * * * *

The unsafe condition is reduced ability of the flightcrew to maintain the safe flight and landing of the airplane in adverse operating conditions. We are issuing this AD to require actions to correct the unsafe condition on those products.

DATES: This AD becomes effective February 27, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 27, 2009.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on May 20, 2008 (73 FR 29089). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Some operators have reported occurrences of loss of the AC BUS 1 with subsequent loss of the AC ESS BUS and DC ESS BUS, resulting in the loss of 5 upper Display Units and the loss of integral lighting. In this situation, flight crews[s] have reported concerns in reading the standby instruments when the DOME lights were selected to OFF.
>
> This situation, if not corrected, could increase the workload of the flight crew * * *.
>
> This Airworthiness Directive (AD) mandates the modification of the electrical supply logic by adding a back-up supply on the battery hot bus for the under glare shield flood lighting.

The unsafe condition is reduced ability of the flightcrew to maintain the safe flight and landing of the airplane in adverse operating conditions. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request To Include Revised Service Information

Airbus, United Airlines, and the Air Transport Association on behalf of its member U.S. Airways, ask that Airbus Mandatory Service Bulletin A320–33–1057, Revision 01, dated January 31, 2008, be referred to in the AD for doing the proposed modification. Airbus Service Bulletin A320–33–1057, dated May 11, 2007, was referred to in the NPRM as the appropriate source of service information for doing the modification.

We agree and we have changed paragraphs (f) and (h) of this AD to include Airbus Mandatory Service Bulletin A320–33–1057, Revision 01, dated January 31, 2008, as the appropriate source of service

information for doing the modification. No additional work is necessary for airplanes modified in accordance with Airbus Service Bulletin A320–33–1057, dated May 11, 2007. We have also included credit for accomplishing Airbus Service Bulletin A320–33–1057, dated May 11, 2007, to do the modification before the effective date of the AD.

Request To Reduce Compliance Time

The Airline Pilots Association, International (ALPA) asks that the 42-month compliance time proposed in the NPRM be reduced to 18 months. ALPA states that, given the potentially serious consequences of a flightcrew being unable to view their standby instruments, a shorter compliance time should be imposed.

We do not agree that the compliance time should be reduced. In developing the compliance time for this AD action, we considered not only the safety implications of the identified unsafe condition, but the average utilization rate of the affected fleet, the practical aspects of modifying the fleet during the compliance time, and the availability of required parts. In addition, we have coordinated with the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community. We have determined that the 42-month compliance time to do the modification addresses the identified unsafe condition and ensures an adequate level of safety for the affected fleet. We have made no change to the AD in this regard.

Request To Allow Another Source of Service Information

Northwest Airlines (NWA) asks that we allow accomplishing the actions specified in either Airbus Service Bulletin A320–24–1120, Revision 01, dated December 19, 2007; or Airbus Service Bulletin A320–33–1057, dated May 11, 2007; as a method of complying with the NPRM. The NPRM proposes to require accomplishing the modification in accordance with Airbus Service Bulletin A320–33–1057, dated May 11, 2007, and makes no reference to Airbus Service Bulletin A320–24–1120, Revision 01, dated December 19, 2007. NWA states that Airbus Service Bulletin A320–33–1057, dated May 11, 2007, does not correct the root cause of the problem, and does not alleviate other operational consequences of the faults. NWA notes that Airbus Service Bulletin A320–33–1057, dated May 11, 2007, adds the provision for lighting of the standby instruments if there is a loss of AC BUS1, and AC and DC ESS BUS. NWA adds that the majority of commercial air traffic occurs during daylight when the illumination of standby instruments by the glare shield lighting is not required. NWA states that no lost systems are recovered and the flightcrew must work through COM procedures, possibly during critical flight phases. NWA notes that the only additional margin of safety provided is at night, under some flight phases. NWA states that it prefers to accomplish the modification specified in Airbus Service Bulletin A320–24–1120, dated December 19, 2007, because it negates the need for the improved lighting specified in Airbus Service Bulletin A320–33–1057, dated May 11, 2007. NWA adds that Airbus Service Bulletin A320–24–1120, Revision 01, dated December 19, 2007, addresses the unsafe condition by installing an automatic switching system for the AC and DC ESS BUS fault to recover all lost systems in approximately five seconds. NWA adds that the automatic recovery resolves the display outage, loss of VHF radios, and nose wheel steering with no flightcrew intervention.

We do not agree to allow accomplishing the actions specified in Airbus Service Bulletin A320–24–1120, Revision 01, dated December 19, 2007, as an option to accomplishing the actions in Airbus Service Bulletin A320–33–1057, dated May 11, 2007; or Airbus Mandatory Service Bulletin A320–33–1057, Revision 01, dated January 31, 2008. We have determined that accomplishment of actions in Airbus Service Bulletin A320–33–1057, dated May 11, 2007; or Airbus Mandatory Service Bulletin A320–33–1057, Revision 01, dated January 31, 2008, not only ensures adequate lighting to the standby instruments in all phases of flight, but also provides backup power to the conventional standby attitude indicator itself from the hot battery bus. We agree that accomplishing the modification specified in Airbus Service Bulletin A320–33–1057, dated May 11, 2007; or Airbus Mandatory Service Bulletin A320–33–1057, Revision 01, dated January 31, 2008; does not address the root cause of the problem or alleviate all other operational problems related to the AC BUS 1 failures. We have not determined the root cause for loss of first officer displays following failure of AC BUS 1, but we know the root cause of this failure condition is not addressed by accomplishing Airbus Service Bulletin A320–24–1120, Revision 01, dated December 19, 2007. Although we agree that accomplishing Airbus Service Bulletin A320–24–1120, Revision 01, dated December 19, 2007, would alleviate some of the other operational problems related to the AC BUS 1 failures, the auto switching may not restore power to AC BUS1 and AC and DC ESS BUS. The modification specified in Airbus Service Bulletin A320–33–1057, dated May 11, 2007; or Airbus Mandatory Service Bulletin A320–33–1057, Revision 01, dated January 31, 2008; will ensure that the standby instruments are visible in night operations and will continue to function for at least 30 minutes after failure of AC BUS 1 with no pilot action. In light of these factors, we may consider further rulemaking related to Airbus Service Bulletin A320–24–1120, Revision 01, dated December 19, 2007, in the future. We have made no change to the AD in this regard.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 550 products of U.S. registry. We also estimate that it will take about 30 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the AD

on U.S. operators to be $1,320,000, or $2,400 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this 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. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

You may examine the AD docket 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–01–04 Airbus: Amendment 39–15783. Docket No. FAA–2008–0558; Directorate Identifier 2007–NM–365–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 27, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A318, A319, A320, and A321 airplanes, certificated in any category; all certified models; all serial numbers; on which classical standby instruments have been installed per Airbus Modification 20011 or 21999 in production, or per Airbus Service Bulletin A320–34–1280 in service; excluding airplanes identified in paragraphs (c)(1) or (c)(2) of this AD.

(1) Airplanes on which ISIS equipment was installed per Airbus Modification 27620 in production or per Airbus Service Bulletin A320–34–1261 or Airbus Service Bulletin A320–34–1372 in service.

(2) Airplanes on which Airbus Modification 37329 or 37330 was installed in production or per Airbus Service Bulletin A320–33–1057 in service.

Subject

(d) Air Transport Association (ATA) of America Code 33: Lights.

Reason

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

''Some operators have reported occurrences of loss of the AC BUS 1 with subsequent loss of the AC ESS BUS and DC ESS BUS, resulting in the loss of 5 upper Display Units and the loss of integral lighting. In this situation, flight crews[s] have reported concerns in reading the standby instruments when the DOME lights were selected to OFF.

''This situation, if not corrected, could increase the workload of the flight crew * * *.

''This Airworthiness Directive (AD) mandates the modification of the electrical supply logic by adding a back-up supply on the battery hot bus for the under glare shield flood lighting.''

The unsafe condition is reduced ability of the flightcrew to maintain the safe flight and landing of the airplane in adverse operating conditions.

Actions and Compliance

(f) Unless already done, within 42 months after the effective date of this AD: Modify the electrical supply logic of the under glare shield flood lighting in accordance with the instructions given in Airbus Mandatory Service Bulletin A320–33–1057, Revision 01, dated January 31, 2008. Modifications done before the effective date of this AD in accordance with Airbus Service Bulletin A320–33–1057, dated May 11, 2007, are acceptable for compliance with the modification in this paragraph.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2007–0286, dated November 14, 2007; and Airbus Mandatory Service Bulletin A320–33–1057, Revision 01, dated January 31, 2008; for related information.

Material Incorporated by Reference

(i) You must use Airbus Mandatory Service Bulletin A320–33–1057, Revision 01, dated January 31, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; fax +33 5 61 93 44 51; e-mail: *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*.

(3) You may review copies of the service information that is incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on December 28, 2008.

Linda Navarro,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–26 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0625; Directorate Identifier 2008–NM–069–AD; Amendment 39–15789; AD 2009–01–10]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701, and 702) Airplanes; CL–600–2D15 (Regional Jet Series 705) Airplanes; and CL–600–2D24 (Regional Jet Series 900) Airplanes

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

ACTION: Final rule.

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

During a pre-delivery flight of a CL–600–2C10 aircraft, the AC essential bus did not come on-line following deployment of the Air Driven Generator (ADG). Following investigation, it was determined that a specific batch of contactors in the ADG Power Center (ADGPC) is susceptible to failure due to low contact pressure. * * *

The unsafe condition is a malfunction of the emergency AC generation and control system that supplies emergency AC power to essential flight instruments, including the flap and slat system, pitch trim system, and hydraulic pump 3B. Loss of essential flight instruments could prevent continued safe flight and landing of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective February 27, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 27, 2009.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 9, 2008 (73 FR 32493). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During a pre-delivery flight of a CL–600–2C10 aircraft, the AC essential bus did not come on-line following deployment of the Air Driven Generator (ADG). Following investigation, it was determined that a specific batch of contactors in the ADG Power Center (ADGPC) is susceptible to failure due to low contact pressure. This directive mandates inspection of the ADGPC and replacement of any contactors in the suspect batch. It also prohibits future installation of ADGPCs and contactors that have not been inspected per this directive.

The unsafe condition is a malfunction of the emergency AC generation and control system that supplies emergency AC power to essential flight instruments, including the flap and slat system, pitch trim system, and hydraulic pump 3B. Loss of essential flight instruments could prevent continued safe flight and landing of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received from a single commenter.

Request To Reduce Compliance Time

The Air Line Pilots Association (ALPA) supports the intent of the NPRM, but recommends that the compliance time allowed for the proposed actions be shortened from 24 months to 3 months. ALPA states that although its review of available fleet data did not reveal any incidents of full electrical failures in Bombardier airplanes, the ADG is the only remaining source of electrical power sustaining the batteries and flight-critical electrical systems if all other generators fail or are unavailable. ALPA adds that, under certain circumstances, there are procedures for deferring activation of an engine-driven or auxiliary power unit (APU) generator; however, the ADG is a non-deferrable item. ALPA notes that, given the potential consequences of a full electrical system failure, particularly in the low visibility weather conditions in which these airplanes routinely operate, the compliance time should be reduced.

We do not agree to reduce the compliance time specified in paragraph (f)(1) of this AD. In developing the compliance time for this AD action, we considered not only the safety implications of the identified unsafe condition, but the average utilization rate of the affected fleet, the practical aspects of an orderly inspection of the fleet during regular maintenance periods, and the availability of replacement parts. In addition, we also considered the manufacturer's recommendation for an appropriate compliance time. After considering all the available information, we determined that performing the actions within 5,000 flight hours or 24 months, whichever occurs first, represents an appropriate interval of time in which the required actions can be performed in a timely manner within the affected fleet, while still maintaining an adequate level of safety. We have made no change to the AD in this regard.

Request To Limit Special Flight Permit

ALPA also recommends that no flights be allowed with a non-operating engine-driven or APU generator unless the AD has been complied with.

We do not agree to limit flights as ALPA recommends. In the event of failure of an ADG and one engine driven generator (EDG), the airplane can be powered by one EDG and the APU generator. If both the ADG and APU generator fail, the airplane AC buses can be powered by both EDGs. Based on these factors, we have determined that such a limitation is not necessary. We have not changed the AD in this regard.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 306 products of U.S. registry. We also estimate that it will take about 9 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $220,320, or $720 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this 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. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

You may examine the AD docket 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–01–10 Bombardier, Inc. (Formerly Canadair): Amendment 39–15789. Docket No. FAA–2008–0625; Directorate Identifier 2008–NM–069–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 27, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10004 and subsequent; Model CL–600–2D15 (Regional Jet Series 705) airplanes and Model CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15002 and subsequent; certificated in any category.

Subject

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

Reason

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

''During a pre-delivery flight of a CL–600–2C10 aircraft, the AC essential bus did not come on-line following deployment of the Air Driven Generator (ADG). Following investigation, it was determined that a specific batch of contactors in the ADG Power Center (ADGPC) is susceptible to failure due to low contact pressure. This directive mandates inspection of the ADGPC and replacement of any contactors in the suspect batch. It also prohibits future installation of ADGPCs and contactors that have not been inspected per this directive.''

The unsafe condition is malfunction of the emergency AC generation and control system that supplies emergency AC power to essential flight instruments, including the flap and slat system, pitch trim system, and hydraulic pump 3B. Loss of essential flight instruments could prevent continued safe flight and landing of the airplane.

Actions and Compliance

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

(1) For Model CL–600–2C10 airplanes having serial numbers 10004 through 10265, and Model CL–600–2D15 and CL–600–2D24 airplanes having serial numbers 15002 through 15162: Within 5,000 flight hours or 24 months after the effective date of this AD, whichever occurs first, inspect for the serial number of the installed ADGPC and, as

applicable, for the serial numbers of installed contactors K117, K147 and K153, in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–24–021, Revision A, dated December 11, 2006. If the serial number of the ADGPC is in the range 134 through 250, and any installed contactor has a serial number in the range 411 through 777, before further flight, replace the affected contactor in accordance with Part B of Bombardier Service Bulletin 670BA–24–021, Revision A, dated December 11, 2006.

(2) Previous inspection of the ADGPC, and replacement of contactors, before the effective date of this AD, in accordance with Bombardier Service Bulletin 670BA–24–021, dated May 30, 2005, meets the requirements of paragraphs (f)(1) of this AD if the ADGPC has not been replaced since accomplishment of Bombardier Service Bulletin 670BA–24–021, Revision A, dated December 11, 2006.

(3) A review of the aircraft maintenance records to determine the ADGPC and contactor serial numbers also meets the inspection requirements of paragraph (f)(1) of this AD.

Parts Installation

(g) As of the effective date of this AD: No replacement/spare ADGPC having part number 781GA01Y00, with a serial number in the range 134 through 250, is permitted to be installed on any aircraft, unless the ADGPC has been modified according to paragraph (f)(1) of this AD.

(h) As of the effective date of this AD: No replacement/spare ADGPC contactor having part number 995CA01Y00, with a serial number in the range 411 through 777, is permitted to be installed on any aircraft, unless the ADGPC contactor is identified with two labels, as specified in Zodiac ECE Service Bulletin 995CA01Y–24–001, dated May 3, 2005.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(j) Refer to MCAI Canadian Airworthiness Directive CF–2008–14, dated February 19, 2008; Bombardier Service Bulletin 670BA–24–021, Revision A, dated December 11, 2006; and Zodiac ECE Service Bulletin 995CA01Y–24–001, dated May 3, 2005; for related information.

Material Incorporated by Reference

(k) You must use Bombardier Service Bulletin 670BA–24–021, Revision A, dated December 11, 2006; and Zodiac ECE Service Bulletin 995CA01Y–24–001, dated May 3, 2005; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; e-mail *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(3) You may review copies of the service information that is incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on December 18, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–28 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1083; Directorate Identifier 2008–NM–130–AD; Amendment 39–15782; AD 2009–01–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

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

ACTION: Final rule.

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

There have been several cases reported where the landing gear did not retract after take-off. Subsequent investigation revealed this was caused by fatigue failure of the nose landing gear electrical harness. In conjunction with one engine being inoperable, this could, in certain operating conditions, affect continued safe flight and landing.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective February 27, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 27, 2009.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would

apply to the specified products. That NPRM was published in the **Federal Register** on October 10, 2008 (73 FR 60206). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> There have been several cases reported where the landing gear did not retract after take-off. Subsequent investigation revealed this was caused by fatigue failure of the nose landing gear electrical harness. In conjunction with one engine being inoperable, this could, in certain operating conditions, affect continued safe flight and landing.
>
> This directive mandates incorporation of new weight-on-wheels (WOW) and steering harnesses that have a new conduit construction.

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 42 products of U.S. registry. We also estimate that it will take about 13 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $43,680, or $1,040 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this 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. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

You may examine the AD docket 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–01–03 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–15782. Docket No. FAA–2008–1083; Directorate Identifier 2008–NM–130–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 27, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 airplanes, certificated in any category, serial numbers 4003, 4004, 4006, and 4008 through 4184 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 32: Landing Gear.

Reason

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

''There have been several cases reported where the landing gear did not retract after take-off. Subsequent investigation revealed this was caused by fatigue failure of the nose landing gear electrical harness. In conjunction with one engine being inoperable, this could, in certain operating conditions, affect continued safe flight and landing.

''This directive mandates incorporation of new weight-on-wheels (WOW) and steering harnesses that have a new conduit construction.''

Actions and Compliance

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

(1) Within 2,500 flight hours after the effective date of this AD, replace the WOW and steering harnesses by incorporating Modsum 4–126401, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–51, Revision 'B,' dated December 17, 2007.

(2) Actions done before the effective date of this AD in accordance with Bombardier

Service Bulletin 84–32–51, dated August 16, 2007; or Revision 'A,' dated August 22, 2007; are acceptable for compliance with the corresponding requirements of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York Aircraft Certification Office, ANE–172, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2008–22, dated June 24, 2008; and Bombardier Service Bulletin 84–32–51, Revision 'B,' dated December 17, 2007; for related information.

Material Incorporated by Reference

(i) You must use Bombardier Service Bulletin 84–32–51, Revision 'B,' dated December 17, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; e-mail *thd.qseries@aero.bombardier.com*; Internet *http://www.bombardier.com*.

(3) You may review copies of the service information that is incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on December 28, 2008.

Linda Navarro,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–320 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

Notices

Federal Register

Vol. 74, No. 14

Friday, January 23, 2009

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 15, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Treatment for Fruits and Vegetables.

OMB Control Number: 0579–New.

Summary of Collection: The Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests. The Animal and Plant Health Inspection Service (APHIS) amended the fruits and vegetables regulations by revising the approved doses for irradiation treatment of imported fruits and vegetables. The regulation established a new minimum generic dose for the fruit fly family, reduced the minimum dose of irradiation for some specific fruit fly species, added 10 pests to the list of pests for which irradiation is an approved treatment at less than the generic dose, and provided for the use of irradiation as a treatment for cut flowers and foliage.

Need and Use of the Information: Certain fruits and vegetables moved interstate from Hawaii, Puerto Rico, and the U.S. Virgin Islands must undergo irradiation treatment. These requirements involve information collection activities, including the use of permits, certificates, request for facility approval, and package marking. If this information were not collected, it would seriously affect APHIS' ability to ensure that certain fruit and vegetables entering the United States from numerous countries do not harbor fruit flies or other insect pests that could cause serious damage to American agriculture.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 23.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 55.

Animal and Plant Health Inspection Service

Title: Importation of Clementines from Spain.

OMB Control Number: 0579–0203.

Summary of Collection: As authorized by the Plant Protection Act (7 U.S.C. 7701–7772) (PPA), the Secretary of Agriculture may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, means of conveyance, or other article if the Secretary determines that the prohibition or restriction is necessary to prevent a plant pest or noxious weed from being introduced into or disseminated within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS), which administers regulation to implement the PPA. The regulations in ''Subpart—Fruits and Vegetables,'' 7 CFR 319.56 through 319.56–8, prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests, including fruit flies.

Under the regulations, clementines from Spain are subject to certain conditions before entering the United States to ensure that exotic plant pests, such as the Mediterranean fruit fly, are not introduced into the United States.

Need and Use of the Information: APHIS will collect information including a trust fund agreement, grower registration and agreement, a Mediterranean fruit fly management program, fruit fly trapping and control activities, recordkeeping, a phytosanitary certificate and box labeling to ensure that the cold treatment was successfully completed and also to ensure that no Mediterranean fruit flies are found in any of the shipment of clementines from Spain. Failure to collect this information would cripple APHIS' ability to ensure that clementines from Spain are not carrying fruit flies.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 4,508.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 13,927.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–1321 Filed 1–22–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Census Coverage Measurement Initial Housing Unit Followup Operation

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before March 24, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Gia F. Donnalley, U.S. Census Bureau, 4600 Silver Hill Road, Room 4K067, Washington, DC 20233, 301–763–4370 (or via the Internet at *Gia.F.Donnalley@census.gov*.)

SUPPLEMENTARY INFORMATION

I. Abstract

The 2010 Census Coverage Measurement (CCM) Initial Housing Unit Followup (IHUFU) Operation will be conducted in the U.S. (excluding remote Alaska) and in Puerto Rico in selected CCM sampled areas. The primary sampling unit is a block cluster, which consists of one or more geographically contiguous census blocks. As in the past, the CCM operations and activities will be managed and staffed separately from, and independent of, the 2010 Census operations.

CCM will be conducted to provide estimates of net coverage error and coverage error components for omissions and erroneous enumerations for housing units and persons in housing units (see Definition of Terms) to improve future censuses. The data collection and matching methodologies for previous coverage measurement programs were designed only to measure net coverage error, which reflects the difference between omissions and erroneous inclusions.

The 2010 CCM will be comprised of two samples selected to measure census coverage of housing units and the household population: The population sample (P sample) and the enumeration sample (E sample). The P sample is a sample of housing units and persons obtained independently from the census for a sample of block clusters. The E sample is a sample of census housing units and enumerations in the same block cluster as the P sample. The independent roster of housing units is obtained during the CCM Independent Listing, the results of which will be matched to census housing units in the sample block clusters and surrounding blocks. A separate OMB register notice was previously submitted for the Independent Listing operation published on July 25, 2008 (Vol. 73, Pg. 43406).

After the CCM Independent Listing and matching operations have taken place, some cases will be identified to receive the CCM IHUFU interview. Generally, these will be cases where additional information is needed to determine housing unit status (for example, clarify if the addresses refer to a housing unit, identify duplicate addresses) or resolve inconsistencies observed during the matching operations between the CCM and census addresses in the block cluster. Using a paper questionnaire tailored for the type of follow-up required, interviewers will contact a member (or proxy, as a last resort) of each housing unit needing followup to answer questions that might allow a resolution of housing unit status or clarify discrepancies. We also will conduct a quality control operation of the IHUFU called the Initial Housing Unit Followup Quality Control (IHUFU QC) of 10 percent of the IHUFU workload to ensure that the work performed is of acceptable quality. There will be two IHUFU Forms, D–1303 and D–1303PR. The D–1303 is the English language version of the IHUFU form and will be used to collect data and to conduct QC for addresses in CCM stateside sample areas. The D–1303PR is the Spanish language version of the listing form, which will be used for the same purposes in the CCM sample areas of Puerto Rico.

II. Method of Collection

The Initial Housing Unit Followup operation will be conducted using person-to-person interviews.

Definition of Terms

Components of Coverage Error—The four components of census coverage error are: Omissions, erroneous enumerations, correct enumerations, and whole-person census imputations. Whole-person census imputations are applicable only for person estimates.

Net Coverage Error—Reflects the difference between the estimated population (or subpopulation) total obtained through dual system estimation and the census count for that population (or subpopulation). A positive net error indicates a census undercount, while a negative net error indicates a census overcount.

For more information about the Census 2010 Coverage Measurement Program, please visit the following page of the Census Bureau's Web site: *http://www.census.gov/cac/www/pdf/coverage-measurement-program.pdf*

III. Data

OMB Control Number: None.

Form Number: D–1303, D–1303PR.

Type of Review: Regular submission.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 400,000 Housing Units (HUs) for Initial Housing Unit Followup and 40,000 HUs for Initial Housing Unit Followup QC.

Estimated Time Per Response: 2 minutes.

Estimated Total Annual Burden Hours: 14,667 hours.

Estimated Total Annual Cost: No cost to the respondent except for their time to respond.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, U.S. Code, Section 141, 193, and 221.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 15, 2009.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–1303 Filed 1–22–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology and Research Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology and Research Advisory Committee (ETRAC) will meet on February 10, 2009, 1:15 p.m., Room 4830, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on emerging technology and research activities, including those related to deemed exports.

Agenda:

Open Session

1. BIS Export Enforcement (EE)—deemed export rules for dual-use technologies subject to EAR over 5 years.
   - Describe the levels of violations; prime reasons for violations; prime reasons for violations.
   - Typical EE responses
   - Frequency of prosecution
   - Real life examples
2. ISTAC, MTAC briefings
   - Approaches BIS/TACs use in identifying, ranking, or prioritizing technologies in terms of importance, sensitivity, availability, etc.
   - Describe decision trees, process models, systematic processes individual TACs.
   - Discuss methods TACs use to identify, rank, or prioritize technologies that might be subject to deemed export regulations.
   - Describe types of guidance and tools BIS provides to TACs to enable sound decision making on imposition or relaxation of deemed export regulations.
3. Public Comments and Questions.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first served basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than February 3, 2009.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 14, 2009, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 §§ (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public. For more information, call Yvette Springer at (202) 482–2813.

Dated: January 15, 2009.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E9–1253 Filed 1–22–09; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau Of Industry And Security

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on February 4, 2009, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Public Session

1. Welcome and Introductions.
2. Review Status of Working Groups.
3. Proposals from the Public.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than January 28, 2009.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 13, 2009, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 §§ (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: January 15, 2009.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E9–1255 Filed 1–22–09; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–936]≤

Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing a countervailing duty order on certain

circular welded carbon quality steel line pipe (line pipe) from the People's Republic of China (PRC). On January 7, 2009, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry. *See Circular Welded Carbon Quality Steel Line Pipe from China*, USITC Pub. 4055, Inv. Nos. 701–TA–455 (Final) (January 2009).

EFFECTIVE DATE: January 23, 2009.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Case History

On November 24, 2008, the Department published its final determination in the countervailing duty investigation of line pipe from the PRC. *See Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 70961 (November 24, 2008) (*Final Determination*).

On January 7, 2009, the ITC notified the Department of its final determination pursuant to sections 705(b) (1) (A) (i) and 735(b) (1) (A) (i) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured by reason of subsidized imports of subject merchandise from the PRC. *See Circular Welded Carbon Quality Steel Line Pipe from China*, USITC Pub. 4055, Inv. Nos. 701–TA–455 (Final) (January 2009).

Scope of Order

The merchandise covered by this order is circular welded carbon quality steel pipe of a kind used for oil and gas pipelines (welded line pipe), not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, length, surface finish, end finish or stenciling.

The term ''carbon quality steel'' includes both carbon steel and carbon steel mixed with small amounts of alloying elements that may exceed the individual weight limits for non alloy steels imposed in the Harmonized Tariff Schedule of the United States (HTSUS). Specifically, the term ''carbon quality'' includes products in which (1) iron predominates by weight over each of the other contained elements, (2) the carbon content is 2 percent or less by weight and (3) none of the elements listed below exceeds the quantity by weight respectively indicated:

(i) 2.00 percent of manganese,
(ii) 2.25 percent of silicon,
(iii) 1.00 percent of copper,
(iv) 0.50 percent of aluminum,
(v) 1.25 percent of chromium,
(vi) 0.30 percent of cobalt,
(vii) 0.40 percent of lead,
(viii) 1.25 percent of nickel,
(ix) 0.30 percent of tungsten,
(x) 0.012 percent of boron,
(xi) 0.50 percent of molybdenum,
(xii) 0.15 percent of niobium,
(xiii) 0.41 percent of titanium,
(xiv) 0.15 percent of vanadium, or
(xv) 0.15 percent of zirconium.

Welded line pipe is normally produced to specifications published by the American Petroleum Institute (API) (or comparable foreign specifications) including API A–25, 5LA, 5LB, and X grades from 42 and above, and/or any other proprietary grades or non–graded material. Nevertheless, all pipe meeting the physical description set forth above that is of a kind used in oil and gas pipelines, including all multiple–stenciled pipe with an API welded line pipe stencil is covered by the scope of this order.

Excluded from this scope are pipes of a kind used for oil and gas pipelines that are multiple–stenciled to a standard and/or structural specification and have one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted surface finish; or has a threaded and/or coupled end finish. (The term ''painted'' does not include coatings to inhibit rust in transit, such as varnish, but includes coatings such as polyester.)

The welded line pipe products that are the subject of this order are currently classifiable in the HTSUS under subheadings 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Amendment to the Final Determination

In accordance with sections 705(d) and 777(i) (1) of the Act, on November 24, 2008, the Department published its notice of final affirmative countervailing duty determination in the countervailing duty investigation of line pipe from the PRC. *See Final Determination*. On December 1, 2008, Maverick Tube Corporation (Maverick), one of the two petitioners in the investigation, and (Huludao Seven Star Group), Huludao Steel Pipe Industrial Co. Ltd. (Huludao Steel Pipe), and Huludao Bohai Oil Pipe Industrial Co. Ltd. (Huludao Bohai), the respondent, (collectively, Huludao) submitted timely ministerial error allegations with respect to the *Final Determination*. On December 5, 2008, Maverick submitted rebuttal comments to the respondent's ministerial error allegation and on December 8, 2008, United States Steel Corporation, the other petitioner in the investigation (collectively petitioners), also submitted comments regarding respondent's ministerial error allegations.

In accordance with 19 CFR 351.224(e), on January 12, 2009, the Department issued its Ministerial Error Correction Memo addressing the parties' ministerial error allegations. As discussed in the memorandum, the Department accepted some of the allegations as ministerial errors and stated that it would make those corrections by amending the Final Determination. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Melissa G. Skinner, Director, Office 3 Operations, regarding ''Final Determination Ministerial Error Allegations'' (January 12, 2009) (*Ministerial Error Memorandum*).

After analyzing all interested party comments and rebuttals, we have determined, in accordance with 19 CFR 351.224 (e), that we made ministerial errors in our calculations performed for the final determination. As a result of correcting for these errors, the countervailing duty calculated for the Huludao Companies has changed from 35.63 percent to 31.29 percent. There was no change to the countervailing duty calculated for Liaoning Northern Steel Pipe Co., Ltd.

Section 705(c)(5)(A) of the Act states that for companies not investigated, we will determine an all–others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of the subject merchandise to the United States. The all–others rate may not include zero and *de minimis* net subsidy rates, or any rates based solely on the facts available. Notwithstanding the language of section 705(c)(1)(B)(i)(I) of the Act, we have not calculated the all–others rate by weight averaging the rates of the Huludao Companies and Northern Steel because doing so risks disclosure of proprietary information. Therefore, for the all–others rate, we have calculated a simple average of the two responding firms' rates. In accordance with 19 CFR 351.224 (e), we are amending the subsidy rates of line pipe from the PRC. The revised subsidy rates are listed in the chart below.

	Original Net Subsidy Rate	Amended Net Subsidy Rate
Huludao Companies	35.63%	31.29%
Liaoning Northern Steel Pipe Co., Ltd.	40.05%	(no change)
All Others Rate	37.84%	35.67%

Countervailing Duty Order

On January 7, 2009, in accordance with section 705(d) of the Act, the ITC notified the Department of its final determination that the industry in the United States producing line pipe is materially injured within the meaning of section 705(b) (1)(A)(i) of the Act by reason of subsidized imports of line pipe from the PRC. Therefore, countervailing duties will be assessed on all unliquidated entries of line pipe from the PRC entered or withdrawn from warehouse, for consumption, on or after September 9, 2008, the date on which the Department published its preliminary affirmative countervailing duty determination in the **Federal Register**. *See Circular Welded Line Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 73 FR 52297 (September 9, 2008).

In accordance with section 706 of the Act, the Department will direct CBP to continue to suspend liquidation, effective the date of publication of this order in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the amended net countervailable subsidy rates for the subject merchandise as noted above. Further, with respect to Huludao, we are directing CBP to require a cash deposit for such entries of subject merchandise in the amount indicated above that are entered, or withdrawn from warehouse, for consumption on or after the publication date of this amended final determination in the **Federal Register**. We are further directing CBP to grant a refund for any over collection on entries entered, or withdrawn from warehouse, for consumption on or after the publication date of the *Final Determination* and on or before the publication date of the amended final determination and order in the **Federal Register**, provided the importer makes such a request pursuant to 19 USC § 1520(a)(4).

Regarding the rate applied to all other companies not individually investigated for the amended final, we are directing CBP to require a cash deposit for such entries of subject merchandise in the amount indicated above that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the amended final determination in the **Federal Register**. We are further directing CBP to grant a refund for any over collection on entries entered, or withdrawn from warehouse, for consumption on or after the publication date of the *Final Determination* and on or before the publication date of the amended final determination in the **Federal Register**, provided the importer makes such a request pursuant to 19 USC § 1520(a)(4).

This notice constitutes the countervailing duty order with respect to line pipe from the PRC, pursuant to section 706(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 1117 of the Main Commerce Building, for copies of an updated list of countervailing duty orders currently in effect.

This order is issued and published in accordance with section 736(a) of the Act, 19 CFR 351.211(b) and 19 CFR 351.224(e).

Dated: January 14, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–1446 Filed 1–22–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–882

Refined Brown Aluminum Oxide from the People's Republic of China: Final Results of Expedited Sunset Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 1, 2008, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty order on refined brown aluminum oxide (RBAO) from the People's Republic of China (PRC) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). The Department conducted an expedited (120–day) sunset review of this order. As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: January 23, 2009.

FOR FURTHER INFORMATION: David Goldberger or Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background:

On October 1, 2008, the Department published the notice of initiation of the sunset review of the antidumping duty order on RBAO from the PRC pursuant to section 751(c) of the Act. *See Initiation of Five–Year ("Sunset") Review*, 73 FR 57055, October 1, 2008. The Department received a Notice of Intent to Participate from the following domestic producers of RBAO: C–E Minerals, Inc., Great Lakes Minerals LLC, Treibacher Schleifmittel North America, Inc., U.S. Electrofused Minerals, Inc., and Washington Mills Company, Inc. (collectively "the domestic interested parties"), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic–like product in the United States. We received a complete substantive response from the domestic interested parties within the 30–day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120–day) sunset review of the order.

Scope of the Order

The merchandise covered by this order is ground, pulverized or refined brown artificial corundum, also known as brown aluminum oxide or brown fused alumina, in grit size of 3/8 inch or less. Excluded from the scope of the order is crude artificial corundum in which particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of the entire

batch. The scope includes brown artificial corundum in which particles with a diameter greater than 3/8 inch constitute less than 50 percent of the total weight of the batch. The merchandise under investigation is currently classifiable under subheadings 2818.10.20.00 and 2818.10.20.90 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the ''Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Order on Refined Brown Aluminum Oxide from the PRC'' (Decision Memo), which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were to be revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room 1117 of the main Commerce building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order on RBAO from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted–average percentage margins:

Manufacturers/Exporters/Producers	Weighted–Average Margin (percent)
Zibo Jinyu Abrasive Co., Ltd.	135.18
PRC–wide	135.18

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders 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 the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 14, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–1504 Filed 1–22–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University, DoD.

ACTION: Notice of meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at Defense Acquisition University, Fort Belvoir, VA. The purpose of this meeting is to report back to the BoV on continuing items of interest.

DATES: January 28, 2009 from 0900–1500.

ADDRESSES: Defense Acquisition University, Bldg. 226, Fort Belvoir, VA 22060.

FOR FURTHER INFORMATION CONTACT: Ms. Christen Goulding at 703–805–5134.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Christen Goulding at 703–805–5134.

Dated: January 14, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–1407 Filed 1–22–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on the Fulfillment of Urgent Operational Needs will meet in closed session on February 12 and 13, 2009, in Arlington, VA. The exact meeting location is still to be determined.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. These meetings will assess the effectiveness of the processes used by the Department of Defense for the generation of urgent operational need requirements and the acquisition processes used to fulfill such requirements. Consequently, this Task Force will have access to all levels of classified information needed to develop its assessment and recommendations.

FOR FURTHER INFORMATION CONTACT: LtCol Charles Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *charles.lominac@osd.mil*, or via phone at (703) 571–0081.

SUPPLEMENTARY INFORMATION: The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decision maker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce the **Federal Register** when the findings and recommendations of the February 12 and 13 meetings are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed above, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: January 15, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–1403 Filed 1–22–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on the Fulfillment of Urgent Operational Needs will meet in closed session on February 24 and 25, 2009, in Arlington, VA. The exact meeting location is still to be determined.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. These meetings will assess the effectiveness of the processes used by the Department of Defense for the generation of urgent operational need requirements and the acquisition processes used to fulfill such requirements. Consequently, this Task Force will have access to all levels of classified information needed to develop its assessment and recommendations.

FOR FURTHER INFORMATION CONTACT: LtCol Charles Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *charles.lominac@osd.mil*, or via phone at (703) 571–0081.

SUPPLEMENTARY INFORMATION: The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decision maker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce the **Federal Register** when the findings and recommendations of the February 24 and 25 meetings are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed above, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: January 15, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–1404 Filed 1–22–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on the Fulfillment of Urgent Operational Needs will meet in closed session on March 5 and 6, 2009, in Arlington, VA. The exact meeting location is still to be determined.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. These meetings will assess the effectiveness of the processes used by the Department of Defense for the generation of urgent operational need requirements and the acquisition processes used to fulfill such requirements. Consequently, this Task Force will have access to all levels of classified information needed to develop its assessment and recommendations.

FOR FURTHER INFORMATION CONTACT: LtCol Charles Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *charles.lominac@osd.mil,* or via phone at (703) 571–0081.

SUPPLEMENTARY INFORMATION: The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decision maker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce the **Federal Register** when the findings and recommendations of the March 5 and 6 meetings are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed above, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: January 15, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–1406 Filed 1–22–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on the Fulfillment of Urgent Operational Needs will meet in closed session on May 27 and 28, 2009, in Arlington, VA. The exact meeting location is still to be determined.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. These meetings will assess the effectiveness of the processes used by the Department of Defense for the generation of urgent operational need requirements and the acquisition processes used to fulfill such requirements. Consequently, this Task Force will have access to all levels of classified information needed to develop its assessment and recommendations.

FOR FURTHER INFORMATION CONTACT: LtCol Charles Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *charles.lominac@osd.mil*, or via phone at (703) 571–0081.

SUPPLEMENTARY INFORMATION: The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decision maker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce in the **Federal Register** when the findings and recommendations of the May 27 and 28 meetings are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed above, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: January 15, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–1438 Filed 1–22–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on the Fulfillment of Urgent Operational Needs will meet in closed session on April 7 and 8, 2009, in Arlington, VA. The exact meeting location is still to be determined.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. These meetings will assess the effectiveness of the processes used by the Department of Defense for the generation of urgent operational need requirements and the acquisition processes used to fulfill such requirements. Consequently, this Task Force will have access to all levels of classified information needed to develop its assessment and recommendations.

FOR FURTHER INFORMATION CONTACT: LtCol Charles Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *charles.lominac@osd.mil*, or via phone at (703) 571–0081.

SUPPLEMENTARY INFORMATION: The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decision maker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce in the **Federal Register** when the findings and recommendations of the April 7 and 8 meetings are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed above, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: January 15, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–1439 Filed 1–22–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on the Fulfillment of Urgent Operational Needs will meet in closed session on March 26 and 27, 2009, in Arlington, VA. The exact meeting location is still to be determined.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. These meetings will assess the effectiveness of the processes used by the Department of Defense for the generation of urgent operational need requirements and the acquisition processes used to fulfill such requirements. Consequently, this Task Force will have access to all levels of classified information needed to develop its assessment and recommendations.

FOR FURTHER INFORMATION CONTACT: LtCol Charles Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *charles.lominac@osd.mil,* or via phone at (703) 571–0081.

SUPPLEMENTARY INFORMATION:

The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decisionmaker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce in the **Federal Register** when the findings and recommendations of the March 26 and 27 meetings are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed above, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: January 15, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–1442 Filed 1–22–09; 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: Notice of meeting.

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. paragraph 552b, as amended), and 41 CFR paragraph 102–3.150, the Department of Defense announces the following Federal Advisory Committee meeting of the U.S. Nuclear Command and Control System Comprehensive Review Advisory Committee will take place.

DATES: February 3, 2009 (0830–1630).

ADDRESSES: Nuclear Command and Control System Support Staff, 5201 Leesburg Pike, Falls Church, VA 22041.

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: *Purposes of the Meeting:* For the Federal Advisory Committee to review and discuss contents of its Final Report.

Agenda: February 3, 2009.

Time	Topic	Presenter
8:30 a.m.	Administrative Remarks	CAPT Budney, USN (NSS)
8:45 a.m.	Review and Discussion	
10:45 a.m.	Break	
11 a.m.	Review and Discussion	
12 p.m.	Lunch	
1 p.m.	Review and Discussion	
3:15 p.m.	Break	
3:30 p.m.	Deliberations and Guidance	
4:30 p.m.	Adjourn	

Pursuant to 5 U.S.C. paragraph 552b, as amended, and 41 CFR paragraph 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. paragraph 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.*

Pursuant to 41 CFR paragraphs 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. Statements submitted in response to this notice must be received by the Designated Federal Official at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after that date may not be provided or considered by the Committee until its next meeting. All submissions provided before that date will be presented to the committee members before the meeting that is subject of this notice. Contact information for the Designated Federal Officer is listed above.

Dated: January 14, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–1410 Filed 1–22–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2009–0012]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Department of the Air Force is proposing to alter a system of records notice 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 February 23, 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, Washington, DC 20330–1800.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Brodie at (703) 696–7557.

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 proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 14, 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: January 15, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AETC D

SYSTEM NAME:

Basic Trainee Interview Records (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''United States Air Force Recruiting Service Liaison Office, 1550 Wurtsmith Dr, Building 5725, Room 114, Lackland Air Force Base, TX 78236–5724.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Name, address, Social Security Number (SSN), date of birth, service number; records resulting from personal interviews with basic trainees who file complaints about their enlistment, including, but not limited to, investigations on each complaint, conclusions and recommendations.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 503, Enlistments; Air Education and Training Command Instruction 36–2002 and E.O. 9397 (SSN).''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records or information contained therein may be specifically disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.''

* * * * *

Delete entry and replace with ''Paper records and electronic storage media.''

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Records are maintained in a controlled facility. Records are stored in locked rooms and cabinets. Access through the computer system is safeguarded so that only authorized personnel can retrieve. Access is limited to person(s) responsible with a need to know for servicing the system of record in performance of their official duties and those authorized personnel who are properly screened and cleared.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records are cut off at the end of each calendar year in which case files are closed, held for one additional year, then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Superintendent, United States Air Force Recruiting Service Liaison Office, 1550 Wurtsmith Dr, Building 5725, Room 114, Lackland Air Force Base, TX 78236–5724.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Superintendent, United States Air Force Recruiting Service Liaison Office, 1550 Wurtsmith Dr, Building 5725, Room 114, Lackland Air Force Base, TX 78236–5724.

The individual should provide complete name, address, Social Security Number (SSN), date of birth, service number and signature be certified/verified by a notary public.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Superintendent, United States Air Force Recruiting Service Liaison Office, 1550 Wurtsmith Dr, Building 5725, Room 114, Lackland Air Force Base, TX 78236–5724.

The individual should provide complete name, address, Social Security Number (SSN), date of birth, service number and signature be certified/verified by a notary public.''

* * * * *

F036 AETC D

SYSTEM NAME:

Basic Trainee Interview Records.

SYSTEM LOCATION:

United States Air Force Recruiting Service Liaison Office, 1550 Wurtsmith Dr, Building 5725, Room 114, Lackland Air Force Base, TX 78236–5724.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force Basic Trainees who register complaints concerning their enlistment in the United States Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security Number (SSN), date of birth, service number; records resulting from personal interviews with basic trainees who file complaints about their enlistment, including, but not limited to, investigations on each complaint, conclusions and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 503, Enlistments; Air Education and Training Command Instruction 36–2002 and E.O. 9397 (SSN).

PURPOSE(S):

Provides a record of interviews with basic trainees who register complaints about the enlistment procedure. The data is used by the Recruiting Service Liaison Office to investigate the complaints and keep the Commander, United States Air Force Recruiting Service advised of the nature of complaints being received. It is also used as the basis for making procedural changes in the United States Air Force Recruiting Service when a trend develops in a specific area.

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 or information contained therein may be specifically disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are maintained in a controlled facility. Records are stored in locked rooms and cabinets. Access through the computer system is safeguarded so that only authorized personnel can retrieve. Access is limited to person(s) responsible with a need to know for servicing the system of record in performance of their official duties and those authorized personnel who are properly screened and cleared.

RETENTION AND DISPOSAL:

Records are cut off at the end of each calendar year in which case files are

closed, held for one additional year, then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, United States Air Force Recruiting Service Liaison Office, 1550 Wurtsmith Dr, Building 5725, Room 114, Lackland Air Force Base, TX 78236–5724.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Superintendent, United States Air Force Recruiting Service Liaison Office, 1550 Wurtsmith Dr, Building 5725, Room 114, Lackland Air Force Base, TX 78236–5724.

The individual should provide complete name, address, Social Security Number (SSN), date of birth, service number and signature be certified/verified by a notary public.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Superintendent, United States Air Force Recruiting Service Liaison Office, 1550 Wurtsmith Dr, Building 5725, Room 114, Lackland Air Force Base, TX 78236–5724.

The individual should provide complete name, address, Social Security Number (SSN), date of birth, service number and signature be certified/verified by a notary public.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Records contain specific complaints/allegations made by the individual and responses to the complaints/allegations by appropriate Air Force Recruiting Service personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–1409 Filed 1–22–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2009–0010]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice To Amend a System of Records.

SUMMARY: The Department of the Air Force proposes to amend a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on February 23, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCPPI, 1800 Air Force Pentagon, Washington, DC 20330–1800.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Brodie at (703) 696–6488.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 15, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AFRC A

SYSTEM NAME:

Air Force Inactive Duty Training Records (December 30, 2008, 73 FR 79838)

CHANGES:

* * * * *

Add category ''Storage: Paper records and electronic storage media.''

* * * * *

F036 AFRC A

SYSTEM NAME:

Air Force Inactive Duty Training Records.

SYSTEM LOCATION:

Department of the Air Force, HQ AFRC/FMXS, 155 Richard Ray Blvd., Robins Air Force Base, GA 31098–1635.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserves Command personnel and reservists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name of the individual, military grade, Social Security Number (SSN), Military Reserve and Inactive Duty Training participation records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Code 8013, Department of the Air Force; AFRCI 65–601, Budget Programming and Financial Management; DoD 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPS) and Major Automated Information System Acquisition Programs; and E.O. 9397 (SSN).

PURPOSE:

Manages Inactive Duty Training (IDT) periods such as Unit Training Assembly (UTAs), Readiness Management Period (RMPs), Points Only (PNTs), and Funeral Honor Duty (FHDs) and provides Air Force Reserve Commanders on-site IDT participation information.

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 or information contained therein may specifically be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(3).

The ''Blanket Routine Uses'' published at the beginning of the Air Force's compilation of the systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

By member's Name and/or Social Security Number.

SAFEGUARDS:

Access is restricted by the use of the Common Access Card, user accounts and user roles. The user roles determine the level of data access received. The transmission of data is protected by using Secure Sockets Layer encryption.

RETENTION AND DISPOSAL:

Data stored within the system is retained only for the period required to satisfy recurring processing requirement and historical requirements, then the expired data is deleted from the system database.

SYSTEM MANAGER AND ADDRESS:

Department of the Air Force, HQ AFRC/FMXS, 155 Richard Ray Blvd., Robins AFB, GA 31098–1635.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the Reserve Command Unit Training Assembly Processing System contains information on themselves should submit written inquiries to HQ AFRC/FMXS, 155 Richard Ray Blvd., Robins AFB, GA 31098–1635.

The request should contain the full name of the individual, military grade, Social Security Number (SSN) and must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking to access system information about themselves contained in the Reserve Command Unit Training Assembly Processing System should submit written inquiries to HQ AFRC/FMXS, 155 Richard Ray Blvd., Robins AFB, GA 31098–1635.

The request should contain the full name of the individual, military grade, Social Security Number (SSN) and must be signed.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual and Air Reserve Order Writing System—Reserve.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–1411 Filed 1–22–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Information Meeting for the Draft Environmental Impact Statement for the Proposed Dredging of the Norfolk Harbor Channel in Norfolk and Portsmouth, VA

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA), and the Council on Environmental Quality regulations implementing the procedural provisions of NEPA (Title 40 Code of Federal Regulations Parts 1500–1508), the Department of the Navy (Navy), in cooperation with the U.S. Army Corps of Engineers (USACE), has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) on January 8, 2008, to evaluate the environmental consequences of deepening approximately five miles of the Norfolk Harbor Federal Navigational Channel in the Southern Branch of the Elizabeth River, separating Norfolk and Portsmouth, Virginia. Dredging will extend from the Lamberts Point Deperming Station in the Lamberts Bend Reach south to the Norfolk Naval Shipyard (NNSY) in the Lower Reach. A Notice of Intent for this EIS was published in the **Federal Register** on September 19, 2006, (71 FR 54803).

The Navy will conduct a public information meeting to receive oral and written comments on the DEIS. Federal, state, and local agencies and interested individuals are invited to be present or represented at the public information meeting. This notice announces the date and location of the public information meeting for this DEIS.

DATES AND ADDRESSES: An open house public information meeting is scheduled for February 11, 2009, between 3 p.m. and 8 p.m. at the Renaissance Hotel, 425 Water Street, Portsmouth, VA. Information posters will be on display, and representatives from the Navy will be available to explain the proposal, answer questions, and receive comments from the public.

FOR FURTHER INFORMATION CONTACT: Mr. John D. Conway, Project Manager, Naval Facilities Southeast, NAS Jacksonville, Building 135N, Ajax Street, Jacksonville, FL 32212–0030 or telephone: 904–542–6159.

SUPPLEMENTARY INFORMATION: The Norfolk Harbor Channel is the Federal Navigation Channel within the Southern Branch of the Elizabeth River in Norfolk, Portsmouth, and Chesapeake, Virginia. This channel is the only means of nuclear-class aircraft carrier (CVN) access to the Lamberts Bend Deperming Station and NNSY. The current average depth of the Norfolk Harbor Channel from Lamberts Bend to the Lower Reach at NNSY is maintained by the USACE Norfolk District, varying in depth from approximately 40 to 43 feet below mean lower low water (−40 to −43 feet MLLW). The existing channel depths are not sufficient to allow safe, unrestricted access by CVNs to the Lamberts Bend Deperming Station and NNSY and to avoid incidents of fouling and clogging of the cooling systems of the CVNs.

The proposed action would occur solely within the Norfolk Harbor Channel's existing limits and deepen the heavily used waterway at Lamberts Bend to −50 feet MLLW, plus three feet of overdredge for a new depth-in-channel of −53 feet MLLW. The remainder of the channel (Port Norfolk, Town Point, and Lower Reaches) would be deepened to −47 feet MLLW plus three feet of overdredge for a new depth-in-channel of −50 feet MLLW. Overdredge depth is typically needed to ensure project depths and allow a margin of accuracy. The proposed action would bring the Norfolk Harbor Channel in compliance with Naval Sea Systems Command (NAVSEA) water depth requirements for homeports and entrance channels to shipyards, providing CVNs with continuous safe and uninterrupted access to the Lamberts Point Deperming Station and NNSY.

The DEIS evaluates the potential environmental impacts of two action alternatives and the No Action Alternative. Alternative A (the preferred alternative) would implement the proposed dredge depths for aircraft carriers for homeports and entrance channels to shipyards. Alternative B would involve a combination of partial deepening of the Norfolk Harbor Channel and operational restrictions based on tidal activity. It would represent an improvement over the existing situation in that with partial deepening, there is less likelihood of sediment from the river bottom fouling ship systems. However, with only the partial deepening, the carrier movements would still need to wait for high tide conditions to provide the needed water depths below the keel of the carriers. Under both alternatives, dredged materials would meet USACE sediment quality thresholds for disposal at the Craney Island Dredged Materials Management Area (CIDMMA).

Under the No Action Alternative, no deepening of the Norfolk Harbor Channel would occur. The channel would continue to be available at the existing controlling dimensions and access to the deperming station and NNSY would remain restricted for use by carriers.

The DEIS addresses potential environmental impacts on multiple resources, including but not limited to: water resources, air quality, noise,

biological resources, cultural resources, traffic, socioeconomics and environmental justice, general services, utilities and infrastructure, and environmental health and safety. With the exception of noise and aesthetics, no significant impacts are identified for any resource area. Potentially significant noise impacts may occur at one receptor (Town Point Park), depending on the actual dredge equipment to be used. The Navy's policy is to comply with local noise ordinances to the maximum extent practicable, therefore mitigation or minimization measures may be implemented, if needed, at Town Point Park. There is also a potential for cumulative visual impacts from implementation of the proposed action due to the need for the USACE to increase the height of dikes surrounding the containment cells at the CIDMMA to maintain capacity.

The DEIS was distributed to Federal, State, and local agencies, elected officials, and interested individuals and organizations. The public comment period will end on March 2, 2009. Copies of the DEIS are available for public review at the following libraries: Norfolk Main Library, 235 East Plume Street, Norfolk, VA; Portsmouth Main Library, 601 Court Street, Portsmouth, VA; Churchland Branch Library, 3215 Academy Avenue, Portsmouth, VA; and the South Norfolk Memorial Library (Chesapeake Public Library System), 1100 Poindexter Street, Chesapeake, VA. The DEIS is also available for electronic public viewing at *http://www.NorfolkdredgingEIS.com.* An electronic copy of the DEIS may be requested by contacting Caren Hendrickson, Naval Facilities Engineering Command, Mid-Atlantic, telephone: 757–444–1030.

Federal, State, and local agencies, and interested parties are invited to be present or represented at the public information meeting on February 11, 2009. To ensure they become part of the official record, written comments may be submitted at the public information meeting or mailed (with a postmark on or before March 2, 2009) to: Mr. John Conway, EIS Project Manager, Naval Facilities Engineering Command Southeast, NAS Jacksonville, Building 135N, Ajax Street, Jacksonville, FL, 32212–0030. Public comments may also be submitted online during the public comment period at *http://www.NorfolkdredgingEIS.com* under the ''Send Us Your Comments Link''. All comments will be addressed in the Final EIS.

Dated: January 15, 2009.

A. M. Vallandingham,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E9–1505 Filed 1–22–09; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent to Grant Partially Exclusive License; Sigma Technologies International

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy gives notice of its intent to grant Sigma Technologies International a revocable, nonassignable, partially exclusive license, with exclusive field of use in passivation of aluminum flake pigments that have a flake thickness of 5 nm to 2 micron and an area of 10 nm to 500 microns in diameter, in the United States to practice the Government-owned invention, U.S. Patent 7,193,649 entitled ''Passivation Layer on Aluminum Surface and Method Thereof.''

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than February 20, 2009.

ADDRESSES: Written objections are to be filed with Indian Head Division, Naval Surface Warfare Center, Code CAB, Suite 107, 1st floor, 3824 Strauss Avenue, Indian Head, MD 20640–5152.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code CAB, 3824 Strauss Avenue, Indian Head, MD 20640–5035, telephone: 301–744–6111.

Dated: January 15, 2009.

A.M. Vallandingham,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E9–1452 Filed 1–22–09; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 24, 2009.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 15, 2009.

Angela C. Arrington,

Leader, Information Collections Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Impact Evaluation of Response to Intervention Strategies (Site Recruitment).

Frequency: On Occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 505.
Burden Hours: 1,510.

Abstract: The Impact Evaluation of Response to Intervention (RtI) strategies will inform the National Assessment of IDEA 2004, and the choices of districts and schools, by estimating the differential impacts of strategies for providing Tier 2 reading instruction to at-risk first and second graders. ED has awarded a contract to MDRC (in partnership with SRI International and Survey Research Management) to conduct this study in 150 elementary schools. This initial collection involves the site recruitment. The resulting RtI project will provide information that policymakers and school administrators can use to help identify students with learning disabilities and improve instruction provided to at-risk students.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3932. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–1382 Filed 1–22–09; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education Overview Information; Alaska Native Education (ANE); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.356A.

Dates:

Applications Available: January 23, 2009.

Deadline for Transmittal of Applications: March 24, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Alaska Native Education program is to support innovative projects that enhance the educational services provided to Alaska Native children and adults. These projects may include those activities authorized under section 7304(a)(2) and (3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

Note: The construction of facilities that support the operation of Alaska Native education programs will be a permissible activity only if Congress specifically authorizes the use of FY 2009 funds for that purpose.

Priorities: This competition includes a competitive preference priority and an invitational priority. In accordance with 34 CFR 75.105(b)(2)(iv), the competitive preference priority is from section 7304(c) of the ESEA (20 U.S.C. 7544(c)). The invitational priority is from the notice of final discretionary grant priorities for FY 2009, published in the **Federal Register** on November 21, 2008 (73 FR 70627).

Competitive Preference Priority: For FY 2009 and any subsequent year in which we make awards based on the list of unfunded applicants from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional five points to an application that meets this priority.

This priority is:

The Secretary gives priority to applications from Alaska Native regional nonprofit organizations or consortia that include at least one Alaska Native regional nonprofit organization. In order to receive a competitive preference under this priority, an application must provide documentation supporting its claim that it meets this priority.

Invitational Priority: For FY 2009 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Secondary Schools. Projects that support activities and interventions aimed at improving the academic achievement of secondary school students who are at greatest risk of not meeting challenging State academic standards and not completing high school.

Program Authority: 20 U.S.C. 7541 et seq.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99. (b) The notice of final discretionary grant priorities for FY 2009, published in the **Federal Register** on November 21, 2008 (73 FR 70627).

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration's budget request for FY 2009 does not include funds for this program. However, we are inviting applications to allow enough time to complete the grant process before the end of the current fiscal year if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2010 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $300,000–$700,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 10 for novice applicants; 20 for non-novice applicants, including previous grantees under the ANE program. The Department will rank and fund two groups of applicants separately: Novice applicants will comprise one group, and non-novice applicants will comprise the second group. If we do not receive a sufficient number of high quality applications from novice applicants, funds set aside for novice applicants may be used to fund non-novice applicants, including previous grantees under the ANE program. Further information regarding our review of these two groups of applications, including the definition of novice applicant, is in section V. 2. of this notice.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* (a) Alaska Native organizations;

(b) Educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages;

(c) Cultural and community-based organizations with experience in

developing or operating programs to benefit Alaska Natives; and

(d) Consortia of organizations and entities described in this paragraph to carry out activities that meet the purposes of this program.

Note: A State educational agency or local educational agency may apply for an award under this program only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the program office. To obtain a copy via the Internet, use either of the following addresses: *http://www.grants.gov* or *http://www.ed.gov/programs/alaskanative/applicant.html.* To obtain a copy from the program office, contact: Alexis Fisher, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E242, Washington, DC 20202–6200. Telephone: (202) 401–0281 or by e-mail: *alexis.fisher@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 25 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: January 23, 2009.

Deadline for Transmittal of Applications: March 24, 2009.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under *For Further Information Contact* in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Under section 7304(b) of the ESEA (20 U.S.C. 7544(b)), not more than five percent of the funds provided to a grantee under this competition for any fiscal year may be used for administrative purposes. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the ANE program, CFDA Number 84.356A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the ANE program at *http://www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.356, not 84.356A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be dated and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*

• To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) Registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under *For Further Information Contact* in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Alexis Fisher, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E242, Washington, DC 20202–6200. FAX: (202) 260–8969.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.356A), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.356A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum score for all criteria is 100 points. The maximum possible score for each criterion is indicated in parentheses. The selection criteria for this competition are as follows:

(a) *Need for project* (15 points). In determining the need for the proposed project, the Secretary considers the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps and weaknesses.

(b) *Quality of the project design* (40 points). In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(c) *Quality of the management plan* (30 points). In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(d) *Quality of the project evaluation* (15 points). In determining the quality of the evaluation for the proposed project, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

2. *Review of Applications—Novice and Non-Novice Applicants.* The Department will rank and fund two groups of applicants separately: Novice applicants will comprise one group; and non-novice applicants, including previous grantees under the ANE program, will comprise the second group. If we do not receive a sufficient number of high quality applications from novice applicants, funds set aside for novice applicants may be used to fund applications submitted by non-novice applicants.

An applicant is considered a ''novice applicant'' if it meets the following criteria in 34 CFR 75.225(a)(1) and (b):

The applicant must—

(i) Have never received a grant or subgrant under the ANE program;

(ii) Have never been a member of a group application, submitted in accordance with 34 CFR 75.127 through 75.129, that received a grant under the ANE program; and

(iii) Have not had an active discretionary grant from the Federal Government in the five years before the deadline date for applications in this competition. For the purposes of this requirement, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

34 CFR 75.225(a)(2) addresses the requirements for group applications submitted by novice applicants. In the case of a group application submitted in accordance with 34 CFR 75.127 through 75.129, each group member must meet the requirements in 34 CFR 75.225(a)(1) and (b), previously described in this section of the notice, in order to qualify as a novice applicant.

All applicants should follow the instructions in the application package to ensure that they properly indicate in their application their status as a novice or non-novice applicant.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year

award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has developed the following performance measures for measuring the overall effectiveness of the ANE program: (1) The percentage of Alaska Native students in schools served by the program who meet or exceed proficiency standards in reading, mathematics, and science on the State assessments; (2) the percentage of Alaska Native children participating in early learning and preschool programs who consistently demonstrate school readiness in language and literacy as measured by the Revised Alaska Development Profile (RADP); and (3) the percentage of students in schools served by the program who graduate from high school with a regular high school diploma in four years.

All grantees will be expected to submit an annual performance report that includes data addressing these performance measures, to the extent that they apply to the grantee's project.

VII. Agency Contact

For Further Information Contact: Alexis Fisher, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E242, Washington, DC 20202–6200. Telephone: (202) 401–0281 or by e-mail: *alexis.fisher@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under *For Further Information Contact* in section VII in this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: January 16, 2009.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E9–1527 Filed 1–22–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Overview Information; Indian Education—Professional Development Grants

Notice inviting applications for new awards for fiscal year (FY) 2009.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.299B.

Dates:

Applications Available: January 23, 2009.

Deadline for Transmittal of Applications: March 3, 2009.

Deadline for Intergovernmental Review: May 4, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Professional Development program is to (1) increase the number of qualified Indian individuals in professions that serve Indians; (2) provide training to qualified Indian individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and (3) improve the skills of qualified Indian individuals who serve in the education field. Activities may include, but are not limited to, continuing education programs, symposia, workshops, conferences, and direct financial support.

Priorities: This competition contains two absolute priorities and two competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(ii), the absolute priorities are from the regulations for this program (34 CFR 263.5(c)). In accordance with 34 CFR 75.105(b)(2)(ii) and (iv), the competitive preference priorities are from the regulations for this program (34 CFR 263.5(a) and (b)).

Absolute Priorities: For FY 2009, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet one or both of the following priorities.

These priorities are:

Absolute Priority One—Pre-Service Training for Teachers

A project that provides support and training to Indian individuals in completing a pre-service education program that enables these individuals to meet the requirements for full State certification or licensure as a teacher through—

(i)(A) Training that leads to a bachelor's degree in education before the end of the award period; or

(B) For States allowing a degree in a specific subject area, training that leads to a bachelor's degree in the subject area so long as the training meets the requirements for full State teacher certification or licensure; or

(C) Training in a current or new specialized teaching assignment that requires at least a bachelor's degree and in which a documented teacher shortage exists; and

(ii) One-year induction services after graduation, certification, or licensure, provided during the award period to graduates of the pre-service program while they are completing their first year of work in local educational agencies (LEAs) with at least five percent American Indian/Alaska Native student populations.

Note: In working with various institutions of higher education and State certification/licensure requirements, we have found that States requiring a degree in a specific subject area (*e.g.*, specialty areas or teaching at the secondary level) generally require a master's degree or completion of a five-year program before an individual can be certified or licensed as a teacher. Students pursuing those credentials would be eligible to participate so long as their training meets the requirements for full State certification or licensure as a teacher.

Note: We clarify that, to meet the requirements of this priority, the degree received as a result of training and the one year of induction services are to be completed prior to the end of the award period.

Absolute Priority Two—Pre-Service Administrator Training

A project that provides—

(1) Support and training to Indian individuals to complete a master's degree in education administration that is provided before the end of the award period and that allows participants to meet the requirements for State certification or licensure as an education administrator; and

(2) One year of induction services, during the award period, to participants after graduation, certification, or licensure, while they are completing their first year of work as administrators in schools with a significant Indian student population.

Note: We clarify that, to meet the requirements of this priority, the degree received as a result of training and the one year of induction services are to be completed prior to the end of the award period.

Competitive Preference Priorities: For FY 2009, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application, depending on how well the application meets one or both of these priorities.

These priorities are:

Competitive Preference Priority One

We award five points to an application submitted by an Indian tribe, Indian organization, or Indian institution of higher education that is eligible to participate in the Professional Development program. A consortium application of eligible entities that meets the requirements of 34 CFR 75.127 through 75.129 of the Education Department General Administrative Regulations (EDGAR) and includes an Indian tribe, Indian organization, or Indian institution of higher education will be considered eligible to receive the five competitive preference points. The consortium agreement, signed by all parties, must be submitted with the application in order for the application to be considered a consortium application.

Competitive Preference Priority Two

We award five points to an application submitted by a consortium of eligible applicants that includes a tribal college or university and that designates that tribal college or university as the fiscal agent for the application. The consortium application of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129 of EDGAR to be eligible to receive the five competitive preference points. These points are in addition to the five competitive preference points that may be awarded under Competitive Preference Priority One. The consortium agreement, signed by all parties, must be submitted with the application in order for the application to be considered a consortium application.

Program Authority: 20 U.S.C. 7442.

Applicable Regulations: (a) EDGAR in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98 and 99. (b) The regulations for this program in 34 CFR part 263.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $3,280,000 for new awards for the Indian Education—Professional Development Grant program for FY 2009. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $125,000–$400,000.

Estimated Average Size of Awards: $364,000.

Maximum Award: We will reject any application that proposes a budget exceeding $400,000 for the first, second, or third 12-month budget periods. The last 12-month budget period of a 48-month award will be limited to induction services only, at a cost not to exceed $90,000. The Assistant Secretary for Elementary and Secondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 9.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Eligible applicants for this program are institutions of higher education, including Indian institutions of higher education; State educational agencies (SEAs) or local educational agencies (LEAs) in consortium with an institution of higher education; Indian tribes or organizations in consortium with an institution of higher education; and Department of the Interior/Bureau of Indian Education-funded schools in consortium with an institution of higher education. LEAs include charter schools that are considered LEAs under State law.

An application from a consortium of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129. An application from a consortium of eligible entities must submit a consortium agreement, signed by all parties, with the application. Letters of support do *not* meet the requirement for a consortium agreement.

In order to be considered an eligible entity, applicants, including institutions of higher education, must be eligible to provide the level and type of degree proposed in the application or must apply in a consortium with an institution of higher education that is eligible to grant the target degree.

Applicants applying in consortium with or as an ''Indian organization'' must demonstrate eligibility by showing how the ''Indian organization'' meets all requirements of the definition in 34 CFR 263.3.

The term ''Indian institution of higher education'' means an accredited college or university within the United States cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for funding under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*), and Dine College (formerly Navajo Community College), authorized in the Navajo Community College Assistance Act of 1978 (25 U.S.C. 640a *et seq.*).

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other:* Projects funded under this competition are encouraged to budget for a two-day Project Directors' meeting in Washington, DC during each year of the project period. In addition, the Department strongly encourages grantees to begin to provide training by January, 2010.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html*.

To obtain a copy from ED Pubs, write, fax, or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone, toll free: 1–877–433–7827. FAX: (301) 470–1244.

If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.ed.gov/pubs/edpubs.html* or at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this program or

competition as follows: CFDA number 299B.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.*, braille, large print, audiotape, or computer diskette) by contacting the person listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no more than 35 pages, using the following standards:

- A page is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to the cover sheet; the budget section, including the budget narrative justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section.

We will reject your application if you exceed the page limit; or if you apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: January 23, 2009.

Deadline for Transmittal of Applications: March 3, 2009.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: May 4, 2009.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* Under 34 CFR 263.4, a project funded under this program may include, as training costs, assistance to either fully finance a student's educational expenses or supplement other financial aid for meeting a student's educational expenses. For the payment of stipends to project participants receiving training, the Secretary expects to set the stipend maximum at $1,800 per month for full-time students and provide for a $300 allowance per month per dependent during an academic term. The terms ''stipend,'' ''full-time student,'' and ''dependent allowance'' are defined in 34 CFR 263.3. Stipends may be paid only to full-time students.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Professional Development Program, CFDA Number 84.299B, must be submitted electronically using the Governmentwide Grants.gov application site at *http://www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the Professional Development Program at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.*, search for 84.299, not 84.299B).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition

to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf*.

• To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (*see http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (*see http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date (with the exception of consortium agreements which must be submitted within the electronic application, if applicable).

Application Deadline Date Extension in Case of Technical Issues With the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll-free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Lana Shaughnessy, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E231, Washington, DC 20202–6335. FAX: (202) 260–7779.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.299B), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.299B), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260. The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 263.6 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the Professional Development program: (1) The percentage of participants in administrator preparation projects who become principals, vice principals or other school administrators in LEAs that enroll five percent or more American Indian and Alaska Native students; (2) The percentage of participants in teacher preparation projects who become teachers in LEAs that enroll five percent or more American Indian and Alaska Native students; (3) The percentage of program participants who meet the definition of ''Highly Qualified'' in section 9101(23) of the ESEA; (4) The percentage of program participants who complete their service requirement on schedule; (5) The cost per individual who successfully completes an administrator preparation program, takes a position in a school district with at least five percent American Indian/Alaska Native enrollment, and completes the service requirement in such a district; and (6) The cost per individual who successfully completes a teacher preparation program, takes a position in such a school district with at least five percent American Indian/Alaska Native enrollment, and completes the service requirement in such a district.

We encourage applicants to demonstrate a strong capacity to provide reliable data on these measures in their responses to the selection criteria ''Quality of project services'' and ''Quality of the project evaluation.''

All grantees will be expected to submit, as part of their performance report, information with respect to these performance measures.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Lana Shaughnessy, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E231, Washington, DC 20202–6335. Telephone: (202) 205–2528 or by e-mail: *Indian.education@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.*, braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: January 15, 2009.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E9–1263 Filed 1–22–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Native Hawaiian Career and Technical Education Program (NHCTEP) Catalog of Federal Domestic Assistance (CFDA) Number: 84.259A

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Notice of proposed requirements, definitions, and selection criteria.

SUMMARY: The Assistant Secretary for Vocational and Adult Education proposes requirements, definitions, and selection criteria under the Native Hawaiian Career and Technical Education Program. The Assistant Secretary may use these requirements, definitions, and selection criteria in competitions in fiscal year (FY) 2009 and later years. The requirements, definitions, and selection criteria proposed in this notice are very similar to those we used in the first competition we held (in FY 2007) for this program following the enactment in August 2006 of the Carl D. Perkins Career and Technical Education Act of 2006 (Act). For that competition, we established the requirements, definitions, and selection criteria pursuant to a waiver of rulemaking under the authority of section 457(d) of the General Education Provisions Act. In this notice we are publishing and requesting public comment on proposed requirements, definitions, and selection criteria for NHCTEP that will govern a second competition, and may also govern subsequent competitions, for this program.

DATES: We must receive your comments on or before February 23, 2009.

ADDRESSES: Address all comments about this notice to Nancy Essey, U.S. Department of Education, 400 Maryland Avenue, SW., room 11070, Potomac Center Plaza (PCP), Washington, DC 20202–7241.

If you prefer to send your comments by e-mail, use the following address: *nancy.essey@ed.gov.* You must include the term Native Hawaiian Career and Technical Education Program in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Nancy Essey. *Telephone:* (202) 245–7789. *Fax:* (202) 245–7170 or by *e-mail: nancy.essey@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final requirements, definitions, and selection criteria, we urge you to identify clearly the specific proposed requirements, definitions, and selection criteria that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed requirements, definitions, and selection criteria. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 11070, 550 12th Street, SE., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Purpose of Program: The Native Hawaiian Career and Technical Education Program provides grants to eligible applicants to plan, conduct, and administer programs, or portions of programs, that are authorized by and consistent with the purposes of section 116 of the Act for the benefit of Native Hawaiians.

Program Authority: 20 U.S.C. 2326(a)–(h).

Proposed Requirements:

Background:

Under section 116(h) of the Act, the Secretary is authorized to award grants under the NHCTEP to eligible community-based organizations to plan, conduct, and administer programs, or portions thereof, which are consistent with the purposes of section 116 of the Act, for the benefit of Native Hawaiians. Section 116(e) of the Act provides that educational programs, services, and activities funded under section 116 must support and help to improve career and technical education programs. (20 U.S.C. 2326(e)) This requirement, along with the statutory definition of career and technical education, aligns NHCTEP with other programs authorized under the Act that require grantees to offer a sequence of courses that provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions. (20 U.S.C. 2302(5))

While section 116(e) of the Act requires grantees to use funds awarded by the Department to support and help to improve career and technical education, it does not identify specific types of programs, services, and activities that are consistent with the purposes of section 116. The requirements proposed in the *Authorized Programs, Services, and Activities* section of this notice include examples of the activities that the Assistant Secretary views as being consistent with the purposes of section 116. In this section, we also describe those activities that we believe meet the definition of ''expansion'' of NHCTEP projects, consistent with the purposes of the Act. More specifically, we explain our interpretation of the terms ''expansion'' and ''improvement'' and specify those programs, services, and activities that the Assistant Secretary believes inherently improve career and technical education.

Section 116 of the Act also does not address situations in which a project plans to use NHCTEP funds to provide students with stipends or other forms of assistance. Accordingly, we are proposing in this notice requirements for those NHCTEP projects that choose to provide student stipends. These include requirements for determining whether a student qualifies for a stipend, recordkeeping requirements, and the procedure for calculating stipends. We also propose requirements that grantees must meet if they decide to provide ''direct assistance to students'' using NHCTEP funds.

A number of NHCTEP grantees traditionally have not provided career and technical education to Native Hawaiian students directly, but instead have provided NHCTEP funds to qualified educational entities that have served Native Hawaiian students. In such instances, we believe a written agreement that describes the commitments and responsibilities of each party would improve accountability and would help ensure that students receive services that have been thoughtfully developed and planned, consistent with applicable Federal requirements. This notice includes several proposed requirements for a written agreement between the grantee and the educational institution providing services directly.

The Government Performance and Results Act of 1993 (GPRA) requires Federal departments and agencies to describe clearly the goals and objectives of their programs, identify resources and actions needed to accomplish these

goals and objectives, develop a means of measuring progress made, and regularly report on their achievement. To meet our obligations under GPRA, we are proposing several performance measures for projects awarded funds under this program and to require grantees to conduct an independent evaluation of their projects. Information from the proposed GPRA core factors and measures would provide a means for the Department to evaluate the overall effectiveness of the NHCTEP. Further, we believe that the proposed evaluation requirements for an independent evaluator and formative and summative evaluations, which are paid for by the grant, would provide grantees with valuable objective information on the effectiveness of their project. Grantees and the Assistant Secretary would be able to use this evaluative information to guide and improve projects and determine the quality of project activities.

Proposed Requirements:

Consistent with the Act, the Assistant Secretary proposes the following requirements for this program. We may apply these requirements in any year in which this program is in effect.

I. *Authorized Programs, Services, and Activities:*

(a) *Authorized Programs.* In accordance with section 116(e) of the Act, under this program, NHCTEP projects must—

(1) Develop new programs, services, or activities or improve or expand existing programs, services, or activities that are consistent with the purposes of the Act. In other words, the Department will support ''expansions'' or ''improvements'' that include, but are not necessarily limited to, the expansion of effective programs or practices; upgrading of activities, equipment, or materials; increasing staff capacity; adoption of new technology; modification of curriculum; or implementation of new policies to improve program effectiveness and outcomes; and

(2) Fund a career and technical education program, service, or activity that—

(i) Is a new program, service, or activity that was not provided by the applicant during the instructional term (a defined period, such as a semester, trimester, or quarter, within the academic year) that preceded the request for funding under NHCTEP;

(ii) Will improve or expand an existing career and technical education program; or

(iii) Inherently improves career and technical education. A program, service, or activity ''inherently improves career and technical education'' if it—

(A) Develops new career and technical education programs of study for approval by the appropriate accreditation agency;

(B) Strengthens the rigor of the academic and career and technical components of funded programs;

(C) Uses curriculum that is aligned with industry-recognized standards and will result in students attaining industry-recognized credentials, certificates, or degrees;

(D) Integrates academics (other than remedial courses) with career and technical education programs through a coherent sequence of courses to help ensure learning in the core academic and career and technical subjects;

(E) Links career and technical education at the secondary level with career and technical education at the postsecondary level, and facilitates students' pursuit of a baccalaureate degree;

(F) Expands the scope, depth, and relevance of curriculum, especially content that provides students with a comprehensive understanding of all aspects of an industry and a variety of hands-on, job-specific experiences; or

(G) Offers—

(*1*) Work-related experience, internships, cooperative education, school-based enterprises, studies in entrepreneurship, community service learning, and job shadowing that are related to career and technical education programs;

(*2*) Coaching/mentoring, support services, and extra help for students after school, on the weekends, or during the summer so they can meet higher standards;

(*3*) Career guidance and academic counseling for students participating in career and technical education programs under NHCTEP;

(*4*) Placement services for students who have successfully completed career and technical education programs and attained a technical skill proficiency that is aligned with industry-recognized standards;

(*5*) Professional development programs for teachers, counselors, and administrators;

(*6*) Strong partnerships among grantees and local educational agencies, postsecondary institutions, community leaders, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards and attain career and technical skills;

(*7*) The use of student assessment and evaluation data to improve continually instruction and staff development; or

(*8*) Research, development, demonstration, dissemination, evaluation and assessment, capacity-building, and technical assistance related to career and technical education programs.

(b) *Student stipends.*

(1) A portion of an award under this program may be used to provide stipends (as defined elsewhere in this notice under the heading *Proposed Definitions*) to help students meet the costs of participation in a NHCTEP project.

(2) To be eligible for a stipend a student must—

(i) Be enrolled in a career and technical education project funded under this program;

(ii) Be in regular attendance in a NHCTEP project and meet the training institution's attendance requirement;

(iii) Maintain satisfactory progress in his or her program of study according to the training institution's published standards for satisfactory progress; and

(iv) Have an acute economic need that—

(A) Prevents participation in a project funded under this program without a stipend; and

(B) Cannot be met through a work-study program.

(3) The amount of a stipend is the greater of either the minimum hourly wage prescribed by State or local law, or the minimum hourly wage established under the Fair Labor Standards Act.

(4) A grantee may award a stipend only if the stipend combined with other resources the student receives does not exceed the student's financial need. A student's financial need is the difference between the student's cost of attendance and the financial aid or other resources available to defray the student's cost of attending a NHCTEP project.

(5) To calculate the amount of a student's stipend, a grantee must multiply the number of hours a student actually attends career and technical education instruction by the amount of the minimum hourly wage that is prescribed by State or local law or by the minimum hourly wage that is established under the Fair Labor Standards Act. The grantee must reduce the amount of a stipend if necessary to ensure that it does not exceed the student's financial need.

Example: If a grantee uses the Fair Labor Standards Act minimum hourly wage of $7.25 and a student attends classes for 20 hours a week, the student's stipend would be $145 for the week during which the student attends

classes ($7.25 × 20 = $145). If the program lasts 16 weeks and the student's total financial need is $2,000, the grantee must reduce the weekly stipend to $125, because the total stipend for the course would otherwise exceed the student's financial need by $320 (or $20 a week).

Note: Grantees must maintain records that fully support their decisions to award stipends to students, as well as the amounts that are paid, such as proof of a student's enrollment in the NHCTEP project, stipend applications, timesheets showing the number of hours of student attendance that are confirmed in writing by an instructor, student financial status information, and evidence that a student could not participate in the NHCTEP project without a stipend. (*See generally* 20 U.S.C. 1232f; 34 CFR 75.700–75.702; 75.730; and 75.731.)

(6) An eligible student may earn a stipend when taking a course for the first time, although a stipend may not be provided to a student for a particular course if the student has already taken, completed, and had the opportunity to benefit from the course and is merely repeating the course.

(7) An applicant must include, in its application, the procedure it intends to use in determining student eligibility for stipends and stipend amounts, and its oversight procedures for the awarding and payment of stipends.

(c) *Direct assistance to students.* A grantee may provide direct assistance (as defined elsewhere in this notice under the heading *Proposed Definitions*) to a student only if the following conditions are met:

(1) The recipient of the direct assistance is an individual who is a member of a special population (as defined in section 3(29) of the Act) and who is participating in a NHCTEP project.

(2) The direct assistance is needed to address barriers to the individual's successful participation in a NHCTEP project.

(3) The direct assistance is part of a broader, more generally focused program or activity for addressing the needs of an individual who is a member of a special population.

Note: Direct assistance to individuals who are members of special populations is not, by itself, a ''program or activity for special populations.''

(4) The grant funds used for direct assistance must be expended to supplement, and not supplant, assistance that is otherwise available from non-Federal sources. For example, generally, a community-based organization could not use NHCTEP funds to provide child care for single parents if non-Federal funds previously were made available for this purpose, or if non-Federal funds are used to provide child care services for single parents participating in non-career and technical education programs and these services otherwise (in the absence of NHCTEP funds) would have been available to career and technical education students.

(5) In determining how much of the NHCTEP grant funds it will use for direct assistance to an eligible student, a grantee—

(i) May only provide assistance to the extent that it is needed to address barriers to the individual's successful participation in career and technical education; and

(ii) Considers whether the specific services to be provided are a reasonable and necessary cost of providing career and technical education programs for special populations. However, the Secretary does not envision a circumstance in which it would be a reasonable and necessary expenditure of NHCTEP project funds for a grantee to utilize a majority of a project's budget to pay direct assistance to students, in lieu of providing the students served by the project with career and technical education.

(d) *Career and technical education agreement.* Any applicant that is not proposing to provide career and technical education directly to Native Hawaiian students and proposes instead to pay one or more qualified educational entities to provide such career and technical education to Native Hawaiian students must include with its application a written career and technical education agreement between the applicant and the educational entity. The written agreement must describe the commitment between the applicant and the educational entity and must include, at a minimum, a statement of the responsibilities of the applicant and the entity. The agreement must be signed by the appropriate individuals on behalf of each party, such as the authorizing official or administrative head of the applicant Native Hawaiian community-based organization.

(e) *Supplement-Not-Supplant.* Grantees may not use funds under NHCTEP to replace otherwise available non-Federal funding for ''direct assistance to students'' (as defined elsewhere in this notice under the heading *Proposed Definitions*) and family assistance programs. For example, NHCTEP funds must not be used to supplant non-Federal funds to pay the costs of students' tuition, dependent care, transportation, books, supplies, and other costs associated with participation in a career and technical education program.

Further, funds under NHCTEP may not be used to replace Federal student financial aid. The Act does not authorize the Secretary to fund projects that serve primarily as entities through which students may apply for and receive tuition and other financial assistance.

II. *Evaluation Requirements:*

To help ensure the high quality of NHCTEP projects and the achievement of the goals and purposes of section 116(h) of the Act, each grantee must budget for and conduct an ongoing evaluation of the effectiveness of its project. An independent evaluator must conduct the evaluation. The evaluation must—

(a) Be appropriate for the project and be both formative and summative in nature; and

(b) Include—

(1) Collection and reporting of the performance measures for NHCTEP that are identified in the *Performance Measures* section of this notice; and

(2) Qualitative and quantifiable data with respect to—

(i) Academic and career and technical competencies demonstrated by the participants and the number and kinds of academic and work credentials acquired by individuals, including their participation in programs providing skill proficiency assessments, industry certifications, or training at the associate degree level that is articulated with an advanced degree option;

(ii) Enrollment, completion, and placement of participants by gender, for each occupation for which training was provided;

(iii) Job or work skill attainment or enhancement, including participation in apprenticeship and work-based learning programs, and student progress in achieving technical skill proficiencies necessary to obtain employment in the field for which the student has been prepared, including attainment or enhancement of technical skills in the industry the student is preparing to enter;

(iv) Activities, during the formative stages of the project, to help guide and improve the project, as well as a summative evaluation that includes recommendations for disseminating information on project activities and results;

(v) The number and percentage of students who obtained industry-recognized credentials, certificates, or degrees;

(vi) The outcomes of students' technical assessments, by type and scores, if available;

(vii) The rates of attainment of a proficiency credential or certificate, in conjunction with a secondary school diploma;

(viii) The effectiveness of the project, including a comparison between the intended and observed results and a demonstration of a clear link between the observed results and the specific treatment given to project participants;

(ix) The extent to which information about or resulting from the project was disseminated at other sites, such as through the grantee's development and use of guides or manuals that provide step-by-step directions for practitioners to follow when initiating similar efforts; and

(x) The impact of the project, e.g., follow-up data on students' employment, sustained employment, promotions, further and continuing education or training, or the impact the project had on Native Hawaiian economic development or career and technical education activities.

III. *Performance Measures:* The Assistant Secretary proposes the following core factors and measures for evaluating the overall effectiveness of the NHCTEP and projects supported under this program.

(a) *Number of Secondary, Postsecondary, and Adult Projects.* The number of secondary, postsecondary, and adult programs that—

(1) Apply industry-recognized skill standards so that students can earn skill certificates in those projects; and

(2) Offer skill competencies, related assessments, and industry-recognized skill certificates in an area of study offered by secondary and postsecondary institutions.

(b) *Secondary Projects.* The percentage of participating secondary career and technical education students who—

(1) Meet or exceed State proficiency standards in reading/language arts and mathematics;

(2) Attain a secondary school diploma or its State-recognized equivalent, or a proficiency credential in conjunction with a secondary school diploma;

(3) Attain career and technical education skill proficiencies aligned with industry-recognized standards; and

(4) Are placed in postsecondary education, advanced training, military service, or employment in high-skill, high-wage, and high-demand occupations or in current or emerging occupations.

(c) *Postsecondary Projects.*

The percentage of participating postsecondary students in career and technical education programs who—

(1) Receive postsecondary degrees, certificates, or credentials;

(2) Attain career and technical education skill proficiencies aligned with industry-recognized standards;

(3) Receive industry-recognized credentials, certificates, or degrees;

(4) Are retained in postsecondary education or transfer to a baccalaureate degree program; and

(5) Are placed in military service or apprenticeship programs, or are placed in employment, receive an employment promotion, or retain employment.

(d) *Adult Projects.* The percentage of participating adult career and technical education students who—

(1) Enroll in a postsecondary education or training program;

(2) Attain career and technical education skill proficiencies aligned with industry-recognized standards;

(3) Receive industry-recognized credentials, certificates, or degrees; and

(4) Are placed in employment, receive an employment promotion, or retain employment.

Note: All grantees must submit an annual performance report addressing these performance measures, to the extent feasible and to the extent that they apply to each grantee's NHCTEP project.

Proposed Definitions:

Background:

The Act authorizes specific uses of funds for, and contains definitions for many key terms applicable to, NHCTEP. The Act does not, however, define all terms or all key activities and services relevant to NHCTEP. Experience from previous competitions has shown us that without concise definitions of terms, applicants and grantees often develop approaches that are inconsistent with the purposes of the Act and accepted historical practice in career and technical education programs. In this notice we propose definitions of key terms not defined in the Act, to eliminate confusion and ensure that grantees provide services that are consistent with the Act and that increase students' chances of success in attaining career and technical education and skills.

Proposed Definitions:

The Assistant Secretary proposes the following definitions for NHCTEP program terms not defined in the Act. We may apply these definitions in any year in which this program is in effect.

Acute economic need means an income that is at or below the national poverty level according to the latest available data from the U.S. Department of Commerce or the U.S. Department of Health and Human Services Poverty Guidelines.

Coherent sequence of courses means a series of courses in which career and academic education is integrated, and that directly relates to, and leads to, both academic and occupational competencies. The term includes competency-based education and academic education, and adult training or retraining, including sequential units encompassed within a single adult retraining course that otherwise meets the requirements of this definition.

Direct assistance to students means tuition, dependent care, transportation, books, and supplies that are necessary for a student to participate in a project funded under this program.

Stipend means a subsistence allowance—

(a) For a student who is enrolled in a career and technical education program funded under the NHCTEP;

(b) For a student who has an acute economic need that cannot be met through work-study programs; and

(c) That is necessary for the student to participate in a project funded under this program.

Proposed Selection Criteria:

Background:

Our experience with administering competitions for a variety of career and technical education programs, including feedback from peer reviewers, applicants, and funded grantees, demonstrates that using program-specific selection criteria improves our ability to select high-quality projects that are specifically focused on the goals and purposes of a particular program. In addition to providing precise focus, we believe the proposed selection criteria would enable us to (1) emphasize specific aspects of projects that typically result in better-quality projects, e.g., project design, project management, experience and qualifications of personnel, resources available for project activities, and project evaluation and (2) ensure that projects propose to expand and improve the effectiveness of NHCTEPs.

Proposed Selection Criteria:

The Assistant Secretary proposes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect. In the notice inviting applications or the application package, or both, we will announce the maximum possible points assigned to each criterion.

(a) *Quality of the project design.* In determining the quality of the design of the proposed project, we consider the following factors:

(1) The extent to which the design of the proposed project is appropriate to

and will successfully address the needs of the target population or other identified needs (as evidenced by such data as local labor market demand, occupational trends, and surveys).

(2) The extent to which goals, objectives, and outcomes are clearly specified and measurable. (For example, we look for clear descriptions of proposed student career and technical education activities; recruitment and retention strategies; expected student enrollments, completions, and placements in jobs, military specialties, and continuing education/training opportunities; the number of teachers, counselors, and administrators to be trained; and identification of requirements for each program of study to be provided under the project, including related training areas and a description of performance outcomes.)

(3) The extent to which the proposed project will establish linkages with other appropriate agencies (e.g., community, State, and other Federal resources) and organizations providing services to the target population in order to improve services to students and strengthen outcomes for the proposed project.

(4) The extent to which the services to be provided by the proposed project will create and offer activities that focus on enabling participants to obtain the skills necessary to gain employment in high-skill, high-wage, and high-demand occupations in emerging fields or in a specific career field.

(5) The extent to which the services to be provided by the proposed project will create opportunities for students to acquire skills identified by the State at the secondary level or by industry-recognized career and technical education programs for licensure, degree, certification, or as required by a career or profession.

(6) The extent to which the proposed project will provide opportunities for high-quality training or professional development services that—

(i) Are of sufficient quality, intensity, and duration to lead to improvements in practice among instructional personnel;

(ii) Will improve and increase instructional personnel's knowledge and skills to help students meet challenging and rigorous academic and career and technical skill proficiencies;

(iii) Will advance instructional personnel's understanding of effective instructional strategies that are supported by scientifically based research; and

(iv) Include professional development plans that clearly address ways in which learning gaps will be addressed and how continuous review of performance will be conducted to identify training needs.

(b) *Quality of the management plan.* In determining the quality of the management plan for the proposed project, we consider the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and the milestones and performance standards for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and other key project personnel, including instructors, are appropriate and adequate to meet the objectives of the proposed project.

(3) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(c) *Quality of data collection plan.* In determining the quality of the data collection plan, we consider the following factors:

(1) The adequacy of procedures and methods for collecting data.

(2) The adequacy of the data collection plan in allowing comparison with other similar secondary, postsecondary, and adult career and technical education programs.

(d) Quality of project personnel. In determining the quality of project personnel, we consider the following factors:

(1) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(2) The qualifications, including relevant training, expertise, and experience, of the project director.

(3) The qualifications, including relevant training, expertise, and experience, of key project personnel, especially the extent to which the project will use instructors who are certified to teach in the field in which they will provide instruction.

(4) The qualifications, including training, expertise, and experience, of project consultants.

(e) *Adequacy of resources.* In determining the adequacy of resources for the proposed project, we consider the following factors:

(1) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization(s) and the entities to be served, including the evidence and relevance of commitments (e.g., articulation agreements, memoranda of understanding, letters of support, or commitments to employ project participants) of the applicant, local employers, or entities to be served by the project.

(2) The extent to which the budget is adequate and costs are reasonable in relation to the objectives and design of the proposed project.

(3) The potential for continued support of the project after Federal funding ends.

(f) *Quality of the project evaluation.* In determining the quality of the evaluation, we consider the following factors:

(1) The extent to which the methods of evaluation proposed by the grantee are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and the performance measures discussed elsewhere in this notice and will produce quantitative and qualitative data, to the extent possible.

(3) The extent to which the methods of evaluation will provide performance feedback and continuous improvement toward achieving intended outcomes.

(4) The quality of the proposed evaluation to be conducted by an external evaluator with the necessary background and technical expertise to carry out the evaluation.

Final Requirements, Definitions, and Selection Criteria:

We will announce the final requirements, definitions, and selection criteria in a notice in the **Federal Register**. We will determine the final requirements, definitions, and selection criteria after considering any comments submitted in response to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register**.

Executive Order 12866: This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are

those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed requirements, definitions, and selection criteria justify the costs.

We have determined, also, that this proposed regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Discussion of Costs and Benefits:

Elsewhere in this notice we discuss the potential costs and benefits, both quantitative and qualitative, of the proposed evaluation requirements. We also discuss the benefits of the other proposed requirements, definitions and selection criteria.

In addition, we do not believe the proposed requirements, definitions, and selection criteria will increase the amount of time it takes to prepare an application. During the first competition under this program, the Department estimated that community-based organizations would spend 120 hours preparing an application, and we continue to believe that is a correct estimate. The application package for the NHCTEP (approved by the Office of Management and Budget through June 30, 2010 under 1830–0564) included the same requirements, definitions, and selection criteria that are in this notice.

We also believe that these proposed requirements, definitions, and selection criteria will improve the ability of eligible applicants to write applications that better address the purposes of the NHCTEP and to operate projects that are consistent with the Act.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html.*

Dated: January 16, 2009.

Troy R. Justesen,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. E9–1456 Filed 1–22–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Overview Information: Native Hawaiian Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.362A.

DATES:

Applications Available: January 23, 2009.

Deadline for Transmittal of Applications: March 24, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Native Hawaiian Education program is to support innovative projects that enhance the educational services provided to Native Hawaiian children and adults. These projects may include those activities authorized under section 7205(a)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

Note: Construction, renovation, or modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body will be a permissible activity under this competition only if Congress specifically authorizes the use of FY 2009 funds for that purpose.

Priorities: In accordance with 34 CFR 75.105(b)(2)(iv), competitive preference priorities (a) through (d) are from section 7205(a)(2) of the ESEA (20 U.S.C. 7515(a)(2)). Competitive preference priority (e) is from the notice of final discretionary grant priorities for FY 2009, published in the **Federal Register** on November 21, 2008 (73 FR 70627).

Competitive Preference Priorities: For FY 2009 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points (total) to an application, depending on how well the application meets one or more of these priorities.

These priorities are:

(a) Projects that are designed to address beginning reading and literacy among students in kindergarten through third grade.

(b) Projects that are designed to address the needs of at-risk children and youth.

(c) Projects that are designed to address the needs in fields or disciplines in which Native Hawaiians are underemployed.

(d) Projects that are designed to address the use of the Hawaiian language in instruction.

(e) Projects that support activities and interventions aimed at improving the academic achievement of secondary school students who are at greatest risk of not meeting challenging State academic standards and not completing high school.

Note: In order to receive additional points under a competitive preference priority, an application should provide adequate and sufficient information that clearly substantiates its claim that it meets each priority addressed.

Program Authority: 20 U.S.C. 7511–7517.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99. (b) The notice of final discretionary grant priorities for FY 2009, published in the **Federal Register** on November 21, 2008 (73 FR 70627).

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds: The Administration's budget request for FY 2009 does not include funds for this program. However, we are inviting applications to allow enough time to complete the grant process before the end of the current fiscal year if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2010 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $250,000–$950,000.

Estimated Average Size of Awards: $425,000.

Estimated Number of Awards: 21 (7 for novice applicants; 14 for non-novice applicants, including previous grantees under the Native Hawaiian Education program). The Department will rank and fund two groups of applicants separately: The novice applicants will comprise one group, and non-novice applicants will comprise the second group. If we do not receive a sufficient number of high-quality applications from novice applicants, funds set aside for novice applicants may be used to fund non-novice applicants, including previous grantees under the Native Hawaiian Education Program. Further information regarding our review of these two groups of applications, including the definition of novice applicant, is in section V.2. of this notice.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Native Hawaiian educational organizations; Native Hawaiian community-based organizations; public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and consortia of the previously mentioned organizations, agencies, and institutions.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet, or from the program office. To obtain a copy via the Internet, use either of the following addresses: *www.grants.gov or www.ed.gov/programs/nathawaiian/applicant.html.*

To obtain a copy from the program office, contact: Joanne Osborne, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E214, Washington, DC 20202–6200. Telephone: (202) 401–1265 or by e-mail: *joanne.osborne@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no more than 25 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, captions, and all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; the abstract; the resumes; or the appendices. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: January 23, 2009.

Deadline for Transmittal of Applications: March 24, 2009.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements of this notice.*

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Under section 7205(b) of the ESEA, not more than five percent of funds provided to a grantee under this competition for any fiscal year may be used for administrative purposes. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Native Hawaiian Education program, CFDA Number 84.362A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Native Hawaiian Education program at www.Grants.gov. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.*, search for 84.362, not 84.362A).

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*

• To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC, time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Joanne Osborne, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E214, Washington, DC 20202–6200. FAX: (202) 260–8969.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.362A) LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.362A) 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum possible score for all criteria is 100 points. The maximum possible score for each criterion is indicated in parentheses. The selection criteria for this competition are as follows:

a. *Need for project* (10 points). The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors: (i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project; and (ii) the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

b. *Quality of the project design* (30 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors: (i) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project; (ii) the extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice; (iii) the extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population; and (iv) the extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

c. *Quality of project services* (15 points). The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors: (i) The likely impact of the services to be provided by the proposed project on the intended recipients of those services; (ii) the likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards; and (iii) the extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

d. *Quality of the management plan* (20 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors: (i) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project; (ii) the adequacy of mechanisms for ensuring high-quality products and services from the proposed project; and (iii) the extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

e. *Adequacy of Resources* (5 points). The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors: (i) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project; (ii) the extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits; and (iii) the potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

f. *Quality of the project evaluation* (20 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors: (i) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies; and (ii) the extent to which the methods of evaluation will provide timely guidance for quality assurance.

2. *Review of Applications—Novice Applicants and Non-Novice Applicants.* The Department will rank and fund two groups of applicants separately: novice applicants will comprise one group, and non-novice applicants, including previous grantees under the Native Hawaiian Education program, will comprise the second group. If we do not receive a sufficient number of high quality applications from novice applicants, funds set aside for novice applicants may be used to fund applications submitted by non-novice applicants.

An applicant is considered a ''novice applicant'' if it meets the following criteria in 34 CFR 75.225(a)(1) and (b):

The applicant must—

(i) Have never received a grant or subgrant under the Native Hawaiian Education program;

(ii) Have never been a member of a group application, submitted in accordance with 34 CFR 75.127 through 75.129, that received a grant under the Native Hawaiian Education program; and

(iii) Have not had an active discretionary grant from the Federal Government in the five years before the deadline date for applications in this competition. For purposes of this requirement, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

34 CFR 75.225(a)(2) addresses the requirements for group applications submitted by novice applicants. In the case of a group application submitted in accordance with 34 CFR 75.127 through 75.129, each group member must meet the requirements in 34 CFR 75.225(a)(1) and (b), previously described in this section of the notice, in order to qualify as a novice applicant.

All applicants should follow the instructions in the application package to ensure they properly indicate in their application their status as a novice or non-novice applicant.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has developed the following performance measures for evaluating the overall effectiveness of the Native Hawaiian Education program:

(1) The percentage of Native Hawaiian students in schools served by the program who meet or exceed proficiency standards in reading, mathematics, and science on the State assessments;

(2) The percentage of Native Hawaiian children participating in early education programs who consistently demonstrate school readiness in literacy as measured by the Hawaii School Readiness Assessment (HSRA);

(3) The percentage of students in schools served by the program who graduate from high school with a regular high school diploma in four years; and

(4) The percentage of students participating in a Hawaiian language program conducted under the Native Hawaiian Education Program who meet or exceed proficiency standards in reading on a test of the Hawaiian language.

All grantees will be expected to submit an annual performance report that includes data addressing these performance measures, to the extent that they apply to the grantee's project.

VII. Agency Contact

For Further Information Contact: Joanne Osborne, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E214, Washington, DC 20202–6200. Telephone: (202) 401–1265 or by e-mail: *joanne.osborne@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *gpoaccess.gov/nara/index.html.*

Dated: January 16, 2009.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E9–1524 Filed 1–22–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records—TRIO Programs Annual Performance Report (APR) System (TRIO APR)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a new system of records entitled ''TRIO Programs Annual Performance Report (APR) System (TRIO APR)'' (18–12–07).

The TRIO APR system collects information on individuals who participate in the Upward Bound, Student Support Services, and Ronald E. McNair Postbaccalaureate Achievement programs authorized under Title IV, Part A, Subpart 2 of the Higher Education Act of 1965, as amended. The Department collects this information to assist in monitoring grantee performance and to determine program outcomes in response to the requirements of the Government Performance and Results Act of 1993 (GPRA) (Pub. L. 103–62) and the Office of Management and Budget (OMB) Program Assessment Rating Tool (PART) process. To determine if the goals of the programs are being met, the academic progress of program participants must be tracked over multiple years. Collecting individual participant data, including the Social Security Number (SSN) for individual participants, is the most reliable method for matching records across years needed to determine program outcomes. Although the collection of the SSN is not required by statute, it serves a distinct business need of the Department. The SSN serves as a unique identifier for matching participant records across years. Although another unique identifier might be used for the APRs, the SSN is needed to match the APR data with other databases, such as the Federal Student Aid Application File (18–11–01) and the Recipient Financial Management System (18–11–02). Matching with these other databases can supplement APR information on participants' postsecondary enrollment and their persistence in and completion of programs of postsecondary education. Most project grantees are institutions of higher education that already collect SSNs for all students applying for Federal financial aid. The Department seeks comment on the new system of records described in this notice, in accordance with the requirements of the Privacy Act.

DATES: We must receive your comments about this new system of records on or before February 23, 2009.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, OMB on January 15, 2009. This system of records will become effective at the later date of—(1) The expiration of the 40-day period for OMB review on February 24, 2009; or (2) February 23, 2009, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about this new system of records to Frances Bergeron, Team Leader, Program Management and Development, Federal TRIO Programs, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., room 7059, Washington, DC 20006–8510. If you prefer to send comments through the Internet, use the following address: *comments@ed.gov*.

You must include the term ''TRIO APR'' in the subject line of your electronic message.

During and after the comment period, you may inspect all comments about this notice at the U.S. Department of Education in room 7059, 1990 K Street, NW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Frances Bergeron. Telephone number: (202) 502–7528. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records maintained by the Department. The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) in part 5b of title 34.

The Privacy Act applies to a record about an individual that is maintained in a system of records from which individually identifying information is retrieved by a unique identifier associated with each individual, such as a name or SSN. The information about each individual is called a ''record,'' and the system, whether manual or computer-based, is called a ''system of records.''

The Privacy Act requires each agency to publish a system of records notice in the **Federal Register** and to submit, whenever the agency publishes a new system of records or makes a significant change to an established system of records, a report to the Administrator of the Office of Information and Regulatory Affairs, OMB. Each agency is also required to send copies of the report to the Chair of the Committee on Oversight and Government Reform of the House of Representatives, and to the Chair of the Committee on Homeland Security and Governmental Affairs of the Senate.

Electronic Access to This Document

You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister/index.html*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara*.

Dated: January 15, 2009.

Vickie L. Schray,

Acting Deputy Assistant Secretary for Higher Education Programs.

For the reasons discussed in the preamble, the Acting Assistant Secretary for Postsecondary Education, U.S. Department of Education publishes a notice of a new system of records, to read as follows:

SYSTEM NUMBER:

18–12–07.

SYSTEM NAME:

TRIO Programs Annual Performance Report (APR) System (TRIO APR).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

(1) Federal TRIO Programs, Office of Postsecondary Education, U.S. Department of Education, 1990 Street, NW., suite 7000, Washington, DC 20006–8510.

(2) Computer Business Methods, Inc. (CBMI), 2750 Prosperity Avenue, suite 100, Fairfax, VA 22031–4312. CBMI annually collects records from grantees, prepares databases of records by program, and transfers the data to the analysis contractor.

(3) National Opinion Research Center (NORC) at the University of Chicago, 1155 East 60th Street, Chicago, IL 60637–2745. NORC maintains the system of records for data analysis.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The TRIO APR system contains records on participants served by the following Federal TRIO Programs: Upward Bound (which includes regular Upward Bound, Upward Bound Math-Science, and Veterans Upward Bound); Student Support Services; and the Ronald E. McNair Postbaccalaureate Achievement programs. Although the TRIO APR system contains some information about institutions, agencies, and organizations that receive grants under these programs, this system of records notice pertains only to individuals protected under the Privacy Act of 1974, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

The TRIO APR system contains records regarding: (1) Participant identifier information including SSN, name, and date of birth; (2) participant eligibility for services and demographic information such as gender, race, ethnicity, and secondary or postsecondary school attended; and (3) academic information such as grade level, grade point average, and high school (postsecondary or graduate school) graduation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV, Part A, Subpart 2 of the Higher Education Act of 1965, as amended (20 U.S.C. 1070 *et seq.*) and the Government Performance and Results Act of 1993 (Pub. L. 103–62).

PURPOSE(S):

The information contained in the records maintained in this system is used for the following purposes:

(1) To monitor each funded project's compliance with the program requirements;

(2) To assess the progress of each funded project (grantee) in meeting its goals and objectives and to award ''prior experience'' points for meeting approved objectives;

(3) To determine program outcomes and areas for program improvement in response to the requirements of the Government Performance and Results Act of 1993 (GPRA) and the OMB's Program Assessment Rating Tool (PART) process; and

(4) To produce program and grantee-level data for annual reporting and program profile reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis, or, if the Department has complied with the computer matching requirements of the Computer Matching and Privacy Protection Act of 1988, as amended, under a computer matching agreement.

(1) *Program Disclosures*. The Department may disclose records to an institution of higher education, agency, or organization responsible for entering the information into the TRIO APR system in order to obtain clarification or additional information about the data submitted.

(2) *Contract Disclosure*. If the Department contracts with an entity to perform any function that requires disclosing records to the contractor's employees, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(3) *Research Disclosure*. The Department may disclose records from this system to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions and purposes of this system of records. The official may disclose information from this system of records to that researcher solely for the purpose of carrying out research related to the functions or purposes of this system of records. The researcher will be required to maintain Privacy Act safeguards with respect to the disclosed records.

(4) *Disclosure for Use by Other Law Enforcement Agencies*. The Department may disclose information to any Federal, State, local, or foreign agency, or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(5) *Enforcement Disclosure*. In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statutory, regulatory, or legally binding requirement, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

(6) *Litigation and Alternative Dispute Resolution (ADR) Disclosure*.

(a) *Introduction*. In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components.

(ii) Any Department employee in his or her official capacity.

(iii) Any Department employee in his or her individual capacity if the U.S. Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation for the employee.

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee.

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to DOJ*. If the Department determines that disclosure of certain records to DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to DOJ.

(c) *Adjudicative Disclosure*. If the Department determines that it is relevant and necessary to the litigation or ADR to disclose certain records to an

adjudicative body before which the Department is authorized to appear, to an individual, or to an entity designated by the Department or otherwise empowered to resolve or mediate disputes, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, or Witnesses*. If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(7) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure*. The Department may disclose records to DOJ or the OMB if the Department concludes that disclosure would help in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(8) *Congressional Member Disclosure.* The Department may disclose the records of an individual to a member of Congress or the member's staff in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested the inquiry.

(9) *Disclosure in the Course of Responding to Breach of Data*. The Department may disclose records to appropriate agencies, entities, and persons when (a) the Department suspects or confirms that the security or confidentiality of information in the TRIO APR system has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of the TRIO APR system or other systems or programs (whether maintained by the Department or by another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and to prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Department's data collection contractor, CBMI, annually collects records from grantees via a secure Web site and prepares databases of the records by program. CBMI transfers the data via a secure File Transfer Protocol site to NORC that maintains the system of records and is responsible for analyzing the data. Archival and analysis copies of the databases are maintained on NORC's secure servers and in other electronic storage media. The data are submitted electronically and stored electronically; paper records of the individual student data are not collected.

RETRIEVABILITY:

The records are indexed by the grant number(s) assigned to each project. The following data elements are used for matching participant records with prior year's data and with other data sources: SSN, first and last name, and date of birth. Electronic files on participants can be accessed through these data elements.

SAFEGUARDS:

Access to the records is limited to authorized personnel only. All physical access to the Department's site and to the sites of the Department's contractors where the data is collected and this system of records maintained is controlled and monitored by security personnel who check each individual entering the buildings for his or her employee or visitor badge.

The computer systems employed by the Department and by the Department's contractors offer a high degree of resistance to tampering and circumvention. The data reside in secured facilities on secured servers behind a Department-approved firewall system that continuously monitors for intrusion and unauthorized access. Access to the data is permitted only for contractor staff who support the data collection or data analysis and a small number of Department staff who have a need for the data to perform their responsibilities. Contractor staff have appropriate security clearances and also sign confidentiality and non-disclosure agreements to protect against unauthorized disclosure of confidential information.

RETENTION AND DISPOSAL:

The retention and disposal of records associated with the TRIO APR system is currently unscheduled pending National Archives and Records Administration (NARA) approval of a records retention schedule. Until a NARA-approved records schedule is in effect, no records will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Team Leader, Program Management and Development, Federal TRIO Programs, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., room 7059, Washington, DC 20006–8510.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to your record in the system of records, contact the system manager at the address listed under, *System Manager and Address*. Requests should contain your full name, address, and telephone number. Your request must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations in 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information maintained in this system of records is obtained from institutions of higher education and non-profit agencies and organizations that are recipient of grants under one or more of the following Federal TRIO programs: Upward Bound (including Upward Bound Math-Science and Veterans Upward Bound), Student Support Services, and Ronald E. McNair Postbaccalaureate Achievement. The system of records will also include information obtained from data matching with the Federal Student Aid Application File and the Recipient Financial Management System.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.

[FR Doc. E9–1261 Filed 1–22–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Public Meeting on Analysis of ASHRAE Standard 90.1–2007

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of public meeting.

SUMMARY: The Department of Energy is in the process of making a determination as to whether ANSI/ASHRAE/IESNA Standard 90.1–2007 would save energy in commercial buildings. In doing so, we are performing a comparative analysis of the 2007 edition of that standard to the 2004 edition and seeking input on our considered approach to carrying out that analysis.

DATES: The Department will hold a public meeting on Wednesday, February 18, 2009, in Washington, DC. Please send requests to speak at the meeting so that we receive them by 4 p.m., Wednesday, February 11, 2009. DOE must receive a signed original and an electronic copy of statements to be given at the public meeting no later than 4 p.m., Friday, February 13, 2009.

ADDRESSES: Requests to make statements at the public meeting and copies of those statements should be sent to Brenda Edwards-Jones at the following address: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

You should identify documents as either, ''Request to Speak,'' or ''Statement,'' followed by, ''Public Meeting on Analysis of Standard 90.1–2007''.

The public meeting will begin at 9 a.m., on Wednesday, February 18, 2009, in Room 1E–245 at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. You can read copies of the transcript of the public meeting in the Freedom of Information Reading Room (Room No. 1E–090) at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may obtain copies of the reference standard ANSI/ASHRAE/IESNA Standard 90.1–2007 by request from the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, NE., Atlanta, GA 30329, (404) 636–8400, *http://www.ASHRAE.org.* A copy of the ''Draft Methodology for a Comparative Analysis of ANSI/ASHRAE/IESNA Standard 90.1–2007 and Standard 90.1–2004'' may be downloaded from Building Energy Codes Program Web site at *http://www.energycodes.gov/implement/determinations_com.stm*. The latest information regarding the public workshop is available on the Building Energy Codes Program Web site at *http://www.energycodes.gov/implement/determinations_com.stm*.

FOR FURTHER INFORMATION CONTACT: Ronald B. Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–7935, e-mail: *Ronald.majette@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Authority

Section 304(b)(2) of title III of the Energy Conservation and Production Act (ECPA), as amended, requires the Secretary of Energy to determine whether the revisions of the American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)/Illuminating Engineering Society of North America (IESNA) Standard 90.1 will improve energy efficiency in commercial buildings. (42 U.S.C. 6833(b)(2)(A)) A notice of the determination is required to be published in the **Federal Register**. (42 U.S.C. 6833(b)(2)(A)) If the Secretary makes an affirmative determination, each State is required to certify to DOE within two years of the determination that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency and that its State commercial building code meets or exceeds the revised standard. (42 U.S.C. 6833(2)(B)(i)).

B. Background

Standard 90.1 was revised by ASHRAE in 2007. In preparation for making a determination as to whether the recent revision would improve energy efficiency in commercial buildings, DOE is doing a comparative analysis between the 2004 edition and 2007 edition of Standard 90.1. DOE's determination for ANSI/ASHRAE/IESNA Standard 90.1–2004 was conducted using the same methodology as the previous determination for ANSI/ASHRAE/IESNA Standard 90.1–1999. The analysis used in the determinations for both the 1999 and 2004 versions was discussed in detail at 67 FR 46464 (July 15, 2002). DOE is considering modifying the methodology used in the determination associated with Standard 90.1–2007. DOE is holding a meeting to obtain comment on the new approach prior to analyzing ANSI/ASHRAE/IESNA 90.1–2007 and to identify any issues. This meeting is the subject of today's notice.

C. Summary of Draft Methodology for Comparative Analysis of ANSI/ASHRAE/IESNA Standard 90.1–2007 and Standard 90.1–2004

DOE is considering both a qualitative and quantitative comparison of the Standard 90.1–2004 and Standard 90.1–2007. The considered analysis would provide qualitative comparisons of the stringencies between the two editions of Standard 90.1 in the scope of the standard; the building envelope requirements; the building lighting requirements; the building mechanical equipment requirements; and the paths to compliance. The quantitative comparison of energy codes would be done on whole building energy simulations of specific building prototypes compliant with each standard. For the determination, DOE is considering to simulate several representative building types in 16 representative U.S. climates. The detailed methodology for the quantitative comparison is presented in ''Draft Methodology for a Comparative Analysis of ASHRAE/IESNA Standard 90.1–2007 and Standard 90.1–2004.'' DOE is considering a new methodology for two reasons. First, DOE is considering use of the EnergyPlus building energy simulation software in place of the BLAST building energy simulation software used in previous determinations. EnergyPlus is the newest simulation software developed by DOE and most DOE buildings-related analysis is now being conducted with EnergyPlus. Second, DOE is considering the use of a DOE benchmark building for the building models. The Benchmark buildings are a set of prototypical buildings developed by DOE for evaluation of commercial building energy programs, including codes and standards.

II. Discussion

A. Draft Methodology for a Comparative Analysis of ANSI/ASHRAE/IESNA Standard 90.1–2004 and Standard 90.1–2007

DOE is considering both a qualitative and quantitative comparison of the Standard 90.1–2004 and Standard 90.1–2007.

Qualitative Comparisons

The draft analysis would provide qualitative comparisons of the

stringencies between the two editions of Standard 90.1 based on examination of the differences between the editions in each of the following areas:

Scope of the standard,

Building envelope requirements,

Building lighting requirements,

Building mechanical equipment requirements, and

Paths to compliance.

The emphasis of the qualitative comparison would differ between the envelope, lighting, and mechanical sections. In the building envelope section, the comparison would focus on the impact of the different building envelope requirements on the building heating and cooling loads for different building types and climates. The envelope comparison would examine requirements for all envelope components, including roofs, walls, floors, and fenestration, as well as explore variations in construction types and in the window-to-wall ratio.

In the lighting requirements comparison, the focus would be primarily on the impact the different lighting requirements have on lighting energy use, as well as on building loads. The comparison would look separately at the whole building and space-by-space lighting requirements in both standards in a variety of commercial building types, as well as examine the effect of any ''additional lighting power allowances.''

The mechanical requirements comparison would be divided into comparisons of equipment efficiency requirements and system design requirements. The system design requirements affect both the system efficiency, system load, and may have direct energy impacts due, for instance, to fan design. Tables of relative stringency and estimated positive or negative national energy impact would be prepared based on practical application of the system design requirements in each standard.

Each standard has multiple ways to demonstrate compliance. DOE would enumerate the multiple paths to compliance, but is not considering a detailed comparison of the relative stringency of alternate paths within a single standard or between standards. The large quantity of variables among the alternative compliance paths would make such analysis prohibitive to undertake. Further, we know of no data on which to base the selection of representative requirements for such an analysis. Assignment of requirements would be arbitrary. Rather we would focus on what we believe is the most common approach to using the standard in question for particular building types.

The qualitative comparison methodology proposed for the Standard 90.1–2007 determination is identical to that used for the Standard 90.1–2004 determination.

Quantitative Comparison

We are considering basing the quantitative comparison of energy codes on whole building energy simulations of buildings built to each standard. The simulated buildings would utilize EnergyPlus prototype buildings developed within DOE as reference buildings for tracking and predicting the energy impacts of DOE programs. (These prototypes are known as DOE's Benchmark Buildings.) The use of EnergyPlus prototypes represents a significant change from past determinations where the BLAST simulation tool was utilized and where a scaling process was used to represent buildings of varying size within a specific building type.

DOE is developing 17 building prototypes under its Benchmark buildings effort. Each benchmark prototype is being developed through support of DOE national lab staff at Lawrence Berkeley National Laboratory (LBNL), the National Renewable Energy Laboratory (NREL), and Pacific Northwest National Laboratory (PNNL), as well as being reviewed by members of ASHRAE Standing Standard Project Committee (SSPC) 90.1, with the purpose of being as representative of current building designs as possible. However, not all of these prototypes are expected to be completed in sufficient time for DOE to meet its statutory deadline for the 90.1–2007 determination on December 31, 2008. DOE expects to have between five and ten prototypes completed in time for use in the quantitative aspect of the determination. DOE intends to simulate the available prototypes over a range of climate locations (16 versus 11 in previous determinations).

For the 90.1–2007 determination, DOE plans to develop weighting factors by climate zone for each building prototype simulated based on historical construction data. These weighting factors would be based on historical construction square footages by building types assigned to each climate zone. DOE intends to weight simulated building energy use intensities (EUI) across the climate zones by building type to determine the relative change in efficiency by building type and will report these results as was done in previous determinations. In previous determinations, a national estimate of relative energy improvement was provided by weighing the resulting improvements across building types. If the available building prototypes can represent a sufficiently large percentage of the commercial building market, DOE intends to publish in the determination an estimate of relative national improvement in energy efficiency based on weighting EUIs across building types. If not, DOE may choose not to publish a national estimate of relative improvement, but will make relative weighting factors available.

As more benchmark prototypes become available, DOE plans to complement its 90.1–2007 determination analysis with simulation results from other prototypes and intends to make this additional data available on the Energy Codes Program Web site at the address provided above. The 17 benchmark building types being developed by DOE are: Large Office, Medium Office, Small Office, Stand-Alone Retail, Strip Mall, Primary School, Secondary School, Outpatient Health Care, Hospital, Small Hotel/Motel, Large Hotel, Public Assembly, Fast Food Restaurant, Sit-Down Restaurant, Mid-Rise Apartment, High-Rise Apartment, and Non-Refrigerated Warehouse. These buildings (minus the two apartment buildings) together account for approximately 82 percent of commercial building energy use, according to the Commercial Buildings Energy Consumption Survey (CBECS). Mid Rise and High-Rise residential buildings are also within the scope of ASHRAE 90.1, but are not represented in CBECS. DOE envisions that at a minimum that Medium Office, Large Office, Mid-Rise Apartment, Warehouse and Hospital building prototypes will be available for the Determination.

The 16 climates considered for the analysis represent the 15 distinct climate zones identified in the United States and utilized in Standards 90.1–2004 and 90.1–2007. One location per climate zone would be included in the determination with the exception of Zone 3B, for which two climates are being considered. The climate locations selected are: Miami, Florida (Zone 1A); Houston, Texas (Zone 2A); Phoenix, Arizona (Zone 2B); Atlanta, Georgia (Zone 3A); Los Angeles, California (Zone 3B-California), Las Vegas, Nevada (Zone 3B-other than California); San Francisco, California (Zone 3C); Baltimore, Maryland (Zone 4A); Albuquerque, New Mexico (Zone 4B); Seattle, Washington (Zone 4C); Chicago, Illinois (Zone 5A); Denver, Colorado (Zone 5B); Minneapolis, Minnesota (Zone 6A); Helena, Montana (Zone 6B); Duluth, Minnesota (Zone 7); and Fairbanks, Alaska (Zone 8).

Note that only changes to new buildings would be considered in this quantitative analysis. The scopes of both Standard 90.1–2004 and 90.1–2007 also address additions and renovations to existing buildings. While this may have a significant energy impact, we do not believe the data is available to quantify this impact.

The differences between the quantitative analysis proposed for the Standard 90.1–2007 determination and the Standard 90.1–2004 determination are summarized below in tabular form.

TABLE 1—COMPARISON OF PRIOR TO CURRENT QUANTITATIVE DETERMINATION METHODOLOGY

	Standard 90.1–1999 and 90.1–2004 Determinations	2007 Determination
Building simulation tool	BLAST	EnergyPlus
Source and Description of Building Models	Pacific Northwest National Laboratory (PNNL; GUMBY). Single generic three-story 48,000 sf slab on grade building model with changeable envelope characteristics (*e.g.* Window-Wall-Ratio, Wall-Type) and Changeable Internal Plug Loads and Lighting Loads and Schedules.	Building-specific Building Models from DOE Benchmark Building Task.
Building Types Included in Comparison	Office Retail Warehouse Education Lodging Public Assembly. Food Service. *(Multi-family Residential buildings not included).*	Medium Office. Large Office. Warehouse. Hospital. Mid-Rise Apartment.
Method of characterizing building "type"	Changing of internal loads and schedules in building models.	Building-specific designs based on typical building characteristics, including building design, size and shape, and schedules developed from various data sets and engineering judgment during DOE Benchmarks development.
Method of characterizing building-type population characteristics.	National Characteristics Data Set (CBECS99) used in development of weights for key characteristics known to vary within building "types" (*i.e.* window-to-wall ratio, mass versus frame wall construction, electric resistance versus gas heat fuel source; simulations done for each of the above characteristics and weighted to final EUI.	National Characteristics Data Set (CBECS03) used in development of Benchmarks Building Models characteristics.
HVAC System Type	Generic Single Zone DX equipment with Gas Furnaces used for all buildings by Lodging. Lodging category represented with PTAC equipment with electric resistance. More detailed system models not considered.	Varies depending on building types. Cooling Systems include Single Zone DX Systems, Central Chiller VAV, and Water-loop Heat Pumps. Heating Systems include hydronic boilers and furnaces and zone reheat systems in VAV models.
HVAC Efficiencies	HVAC efficiencies improvements modeled. Determination "Credit" given for changes to HVAC efficiencies in Standard if not already in Federal Law.	Same; however, efficiencies with effective dates that are more than 3 years out from date of standard are not included.
Ventilation Rates	Ventilation based on Standard 62–1989	Ventilation based on Standard 62–2004.
Extracted Data	Zonal Energy used for Direct Electric Loads, DX Cooling Energy including Fan Energy, Zone Heating energy and SHW energy in central plant. Zonal Data used to develop representative EUI for building population with the simulated characteristics using core and perimeter zone area weights developed from CBECS Size and Form Factor Data for represented building "types".	Whole-Building Energy Use Data for Electric and Gas Energy Use extracted for each building model.
Fuel Types—Cooling	Electric	Electric.
Fuel Types—Heating	Gas Furnace or Electric Resistance Furnace, with Electric Furnace weights developed through CBECS estimates.	Gas and Electric depending on Benchmark building HVAC system characteristics.
Fuel Types—Hot Water	Gas and Electric (Electric assumed for all buildings with electric heat).	Electric resistance for mid-rise apartment and warehouse, gas for other building types.
Climate Zones Simulated	11 Climate Locations used in 1999 development.	15 climate locations, each representative of one of the 15 U.S. climate zones used in defining the requirements in Standard 90.1–2004 and Standard 90.1–2007.

TABLE 1—COMPARISON OF PRIOR TO CURRENT QUANTITATIVE DETERMINATION METHODOLOGY—Continued

	Standard 90.1–1999 and 90.1–2004 Determinations	2007 Determination
Building simulation tool	BLAST	EnergyPlus
Mapping between simulated locations to geographic regions.	Specific Climate Simulations mapped to geographic census divisions using PNNL-developed weighting factors (vintage 1996).	A representative climate is selected for each of the geographic climate zones.
Building Construction weights	Construction Weights developed based on EIA-NEMS estimates 10 years of future new construction in census division by building type category.	Construction weights developed based on 5 years recent county construction data for building types represented by Benchmark Buildings (DODGE Data, including multi-family >3 stories).
Energy Characteristics Reported	EUI by Building Type and Census Division National EUI estimates through weighting across modeled building types categories.	EUI by Building Type across U.S. National EUI weights not proposed until more Benchmark building type simulations can be included.

B. Public Meeting

1. Procedures for Submitting Requests To Speak

DOE invites any person who would like to attend the public meeting to notify Brenda Edwards-Jones at (202) 586–2945. You may hand deliver requests to speak to the address indicated at the beginning of this notice between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, or send them by mail.

2. Conduct of Public Meeting

The public meeting will be to receive comments representing the individual opinions of participating entities. It is not the object of the hearing to obtain any group position or consensus. Rather DOE is seeking as many comments as possible from all interested parties. The Department may use a professional facilitator to facilitate discussion, and a court reporter will be present to record the transcript of the meeting. We will present summaries of comments received before the public meeting, allow time for presentations by public meeting participants, and encourage all interested parties to share their views on issues affecting the draft analysis. Following the public meeting, we will provide an additional two week comment period, during which interested parties will have an opportunity to present further comment on the draft analysis. The Department will arrange for a transcript of the public meeting and will make the entire record of the public meeting, including the transcript, available for inspection in the Department's Freedom of Information Reading Room. Any person may purchase a copy of the transcript from the transcribing reporter.

C. Issues Requested for Comment

The Department of Energy is interested in receiving comments and/or data concerning issues relating to the comparative analysis of Standard 90.1–2004 and Standard 90.1–2007. These issues are discussed in greater detail in the Draft Methodology for a Comparative Analysis of ASHRAE/IESNA Standard 90.1–2004 and Standard 90.1–2007 that is posted on the web at *http://www.energycodes.gov/implement/determinations_com.stm*. We are especially interested in any comments or data regarding:

(1) Specific reductions in stringency in Standard 90.1–2007 that the Department should be made aware of and that have been identified by stakeholders.

(2) Specific changes in scope between Standard 90.1–2004 and Standard 90.1–2007 and how DOE should interpret expansions of scope in its determination.

(3) DOE's considered approach to changes in referenced ventilation standards between Standard 90.1–2004 and Standard 90.1–2007.

(4) DOE's considered approach for addressing future effective dates for mechanical equipment requirements.

(5) The frequency of use of alternative paths to compliance in building standards (*e.g.* space-by-space versus whole building lighting power allowances).

(6) New non-residential building construction data (including mid rise and high rise residential) by State or census division and building type.

(7) Data to quantify the impact of Standard 90.1 on additions and renovations to existing buildings.

(8) The relative prevalence of the semi-heated building envelope subcategory in the building types draft for analysis (*e.g.*, warehouses).

(9) The relative importance of the Mid- and High-rise residential sector in DOE's determination and data for developing weighting factors for this sector.

(10) Data describing the relative frequency of use of alternative paths to compliance.

(11) The impact of using a limited number of building prototypes (medium office, large office, warehouse, hospital, and mid-rise apartment) in the quantitative portion of the determination.

These data will help us to make a determination whether ASHRAE/IESNA Standard 90.1–2007 will improve energy efficiency in commercial buildings as well as provide background that will help DOE in future determinations on Standard 90.1.

Issued in Washington, DC, on January 13, 2009.

John F. Mizroch,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E9–1380 Filed 1–22–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; Basic Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Basic Energy Sciences Advisory Committee (BESAC). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, February 26, 2009, 8:30 a.m.–5 p.m., and Friday, February 27, 2009, 8:30 a.m. to 12 noon.

ADDRESSES: Bethesda North Marriott Hotel and Conference Center; 5701 Marinelli Road, North Bethesda, MD 20852.

FOR FURTHER INFORMATION CONTACT: Katie Perine, Office of Basic Energy Sciences, U.S. Department of Energy, Germantown Building, Independence Avenue, Washington, DC 20585; Telephone: (301) 903–3081.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of this meeting is to provide advice and guidance with respect to the basic energy sciences research program.

Tentative Agenda: Agenda will include discussions of the following:

- News from Office of Science/DOE
- News from the Office of Basic Energy Sciences
- Report from the New Era Subcommittee's Photon Workshop
- Report from the New Era Subcommittee

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Katie Perine at 301–903–6594 (fax) or *katie.perine@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585; between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, on January 15, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9–1379 Filed 1–22–09; 8:45 am]

BILLING CODE 6450–01–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, February 11, 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* 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 an overview of the 2007 Annual Site Environmental Report.

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 January 16, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9–1381 Filed 1–22–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Revised Record of Decision for the Environmental Impact Statement on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel

AGENCY: National Nuclear Security Administration, Department of Energy.

ACTION: Revised Record of Decision.

SUMMARY: The Department of Energy (DOE) is further revising the Record of Decision (61 FR 25092; May 17, 1996) on the *Environmental Impact Statement on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel* (FRR SNF EIS) (DOE/EIS–0218, February 1996) to allow the United States to transport up to 1 metric ton heavy metal (MTHM) (1.1 tons) of spent nuclear fuel (Gap Material SNF) from foreign research reactor (FRR) locations to the United States and safely store this Gap Material at a DOE site pending disposition. Gap Material consists primarily [1] of a limited quantity of (1) SNF containing non-U.S.-origin highly enriched uranium (HEU) and (2) SNF containing U.S.-origin HEU that was not previously addressed in the FRR SNF EIS. DOE prepared a Supplement Analysis of the FRR SNF EIS in accordance with DOE's National Environmental Policy Act (NEPA) Implementing Procedures (10 CFR Part 1021). This analysis addressed the potential health and environmental impacts of accepting Gap Material SNF and concluded that the recovery and transport of this material to the United States would constitute neither substantial changes to the proposed action nor significant new circumstances relevant to environmental concerns bearing on the proposed action evaluated in the FRR SNF EIS. Acceptance of Gap Material SNF would not cause the total quantity of SNF projected to be received under DOE's FRR SNF Acceptance Program to exceed the estimates analyzed in the FRR SNF EIS.

ADDRESSES: The Supplement Analysis will be available on DOE's NEPA Web

[1] The GAP Material addressed in this Revised Record of Decision also includes certain non-U.S.-origin unirradiated fuel (fresh fuel) containing HEU.

site at *http://www.gc.energy.doe.gov/NEPA* and in DOE Public Reading Rooms as follows: U.S. Department of Energy, 1000 Independence Avenue, SW., Room G–051, Washington, DC 20585, (202) 586–5955. The public reading room is open from 9 a.m. to 4 p.m., Monday through Friday. The University of South Carolina—Aiken Library, 471 University Parkway, Aiken, South Carolina 29801, (803) 641–3320. The library is open from 8 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For further information on DOE's Foreign Research Reactor Spent Nuclear Fuel Acceptance Program or this Revised Record of Decision, contact: Mr. Andrew Bieniawski, Assistant Deputy Administrator for Defense Nonproliferation, Office of Global Threat Reduction (NA–21), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Attn: 955 L'Enfant, 202–586–9215.

For information on DOE's NEPA process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

DOE, with the Department of State as a cooperating agency, issued the FRR SNF EIS (DOE/EIS–0218) in February 1996. The FRR SNF EIS considered the potential environmental impacts of a proposed policy to accept and manage in the United States SNF and target material from foreign research reactors (FRRs). DOE issued a Record of Decision (ROD) which was published in the **Federal Register** on May 17, 1996 (61 FR 25092) announcing its decision to implement the proposed policy as identified in the Preferred Alternative contained in the FRR SNF EIS, subject to additional stipulations specified in Section VII of the ROD. This *FRR SNF Acceptance Policy* provides for acceptance of 19.2 tons of SNF containing HEU enriched in the United States from research reactors located in 41 countries. In a separate **Federal Register** Notice (61 FR 26507; May 28, 1996), DOE announced the fee policy for accepting FRR SNF.

Five previous revisions to the original ROD have been issued: On July 25, 1996 (61 FR 38720), and August 25, 2008 (73 FR 5004), the ROD was revised to provide the FRR SNF Acceptance Program with greater flexibility about the location where it takes title to FRR SNF. On July 19, 2000 (65 FR 44767), the ROD was revised to reflect DOE's decision to increase the number of transportation casks allowable per shipment. On December 1, 2004 (69 FR 69901), the ROD was revised to extend the expiration date for irradiation for a limited amount of FRR SNF (not to exceed the 19.2 tons originally eligible and to include a small number of SNF elements from the Replacement Research Reactor in Australia). In addition, on April 13, 1999 (64 FR 18006), DOE announced a clarification to the fee policy in the event of a change in the economic status of the country from which the SNF would be removed.

Purpose and Need for Action

Reducing the threat posed by the proliferation of nuclear weapons is a foremost goal of the United States. To continue to meet DOE's objective of reducing, and eventually eliminating, HEU from civil commerce worldwide, DOE needs to extend its FRR SNF Acceptance Policy to certain SNF, called Gap Material SNF, which is not currently covered under the policy. This Gap Material SNF consists of up to 1 MTHM (1.1 tons) FRR SNF containing HEU that is either non-U.S. origin or is of U.S. origin but was not addressed previously in the FRR SNF EIS. This Gap Material SNF will come from research reactors and not commercial power plants.

Proposed Action

DOE proposes to bring this Gap Material SNF to the United States for management if the material poses a threat to national security, is susceptible for use in an improvised nuclear device, presents a high risk of terrorist threat, and has no other reasonable pathway to assure security from theft or diversion. DOE proposes to revise the FRR SNF Acceptance Program Record of Decision to include transport of Gap Material SNF from FRR locations to the United States if the material meets the above criteria and safely store Gap Material SNF at the DOE Savannah River Site in South Carolina pending disposition. Gap Material SNF consists of up to 1 MTHM (1.1 tons) of SNF containing either non-U.S.-origin HEU or U.S.-origin HEU that was not previously addressed in the FRR SNF EIS. The total amount of potentially eligible SNF under the FRR SNF Acceptance Program would remain unchanged from the 19.2 tons of SNF analyzed in the FRR SNF EIS and cited in the May 17, 1996 (61 FR 25092) ROD announcing the FRR SNF Acceptance Policy.

NEPA Review

DOE prepared its *Supplement Analysis (SA) for U.S. Disposition of Gap Material—Spent Nuclear Fuel* (DOE/EIS–0218–SA–4) in accordance with DOE's NEPA Implementing Procedures (10 CFR Part 1021) to determine whether a supplement to the *FRR SNF EIS* or a new EIS is required. The SA evaluated the potential environmental impacts of the transport by ship of Gap Material SNF to a United States seaport, the unloading of ships at the seaport and the transfer of the Gap Material SNF to transport vehicles, the overland transport (by truck or rail) of Gap Material SNF to the Savannah River Site, and the acceptance and storage of the Gap Material SNF, pending disposition. The SA also evaluated overland transport of Gap Material SNF from Canada to the Savannah River Site. Including Gap Material SNF, the total quantity of SNF to be received under the FRR SNF Acceptance Program is expected to be smaller than the quantity analyzed in the FRR SNF EIS because some countries with material analyzed under the *FRR SNF EIS* elected not to participate in the FRR SNF Acceptance Program.

Collective doses projected to be received by ship crew members and seaport workers for implementing the FRR SNF Acceptance Program (including Gap Material SNF) are expected to be smaller than the doses projected in the FRR SNF EIS. Experience with receipt of FRR SNF has indicated that the external radiation levels at the surfaces of transport casks containing FRR SNF have been significantly smaller than those levels assumed for the FRR SNF EIS. Nonetheless, DOE plans to extend the mitigation action plan announced in the May 1996 ROD and currently in place for FRR SNF to Gap Material SNF to ensure that individual ship crew member doses are maintained as low as reasonably achievable and less than 100 millirem in a year.

With respect to routine overland transport of FRR SNF to the Savannah River Site, the analysis was updated from that in the FRR SNF EIS to reflect projected population increases along representative transportation routes and the Department's currently recommended dose-to-risk conversion factor for estimating risks from radiation exposures. The analysis concluded that the updated potential impacts from overland transportation of SNF would be small with no latent cancer fatalities projected for transport crews or members of the public.

The analysis also addressed the potential for severe accidents at a seaport and during overland transport to Savannah River. The accident analysis was updated from that performed in the FRR SNF EIS to reflect changes in populations along representative transportation routes and the Department's currently recommended dose-to-risk conversion factor for estimating risks from radiation exposures. The risks were determined to be low with no latent cancer fatalities expected among transport crews or members of the public. The potential for intentional destructive acts was also addressed and the impacts from such possible acts were determined to be comparable to those previously analyzed in the FRR SNF EIS.

Receipt and storage of Gap Material SNF at the Savannah River Site are not expected to cause impacts at the site that would differ from or exceed those identified in the FRR SNF EIS. Gap Material SNF is expected to ultimately be disposed of in a geologic repository. Disposition of Gap Material SNF is not expected to result in any changes to the envelope of impacts addressed in the FRR SNF EIS, the *Savannah River Site Spent Fuel Management Final Environmental Impact Statement* (DOE/EIS–0279, March 2000), and the *Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain* (DOE/EIS–0250, February 2002) and its supplemental EISs (DOE/EIS–0250–S1, DOE/EIS–0250–S2, and DOE/EIS–0369, June 2008). Acceptance of Gap Material SNF will occur under the condition that Gap Material SNF complies with the acceptance criteria of the SRS facility receiving the Gap Material SNF and that sufficient storage capacity exists at the facility, pending disposition of the material.

Decision

DOE has decided to amend the FRR SNF EIS Record of Decision to accept up to 1 MTHM (1.1 tons) of foreign research reactor SNF containing either non-U.S.-origin HEU or SNF containing U.S.-origin HEU that was not previously addressed in the FRR SNF EIS.[2] DOE would only accept the material if it poses a threat to national security, is susceptible for use in an improvised nuclear device, presents a high risk of terrorist threat, and has no other reasonable pathway to assure security from theft or diversion.

Further, acceptance of this material would be undertaken consistent with existing conditions of the FRR SNF Acceptance Program. The FRR SNF Acceptance Program provides for fuel acceptance through May 12, 2019. DOE will continue limitations on shipment cask curie activity and will ensure that the upper limit estimate for the source term assumed in the FRR SNF EIS accident analysis will not be exceeded. DOE will extend the mitigation action plan announced in the May 1996 ROD and currently in place for FRR SNF to Gap Material SNF to ensure that individual ship crew member doses are maintained as low as reasonably achievable and less than 100 millirem in a year. Acceptance of Gap Material SNF will occur in accordance with processes implemented to ensure compliance with DOE and international requirements. Shipments of Gap Material SNF will occur under the condition that Gap Material SNF complies with the acceptance criteria of the SRS facility receiving the Gap Material SNF and that sufficient storage capacity exists at the facility, pending disposition of the material.

Conclusion

DOE's decision furthers the nonproliferation objectives of the United States. The decision provides for the management and disposition of certain material not previously addressed in the FRR SNF EIS that poses a threat to national security, is susceptible to use in an improvised nuclear device, presents a high risk of terrorist threat, and has no other reasonable pathway to assure security from theft or diversion.

The decision set forth in this Revised ROD complies with the requirements of NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR Parts 1500–1508 and 10 CFR Part 1021. Potential impacts resulting from implementing this action will remain within the range of the potential environmental impacts analyzed in the FRR SNF EIS. This action does not constitute either a substantial change or significant new circumstance relevant to environmental concerns. There are no significant new circumstances or information relevant to environmental concerns related to this action or its impacts within the meaning of 40 CFR 1502.9(c) and 10 CFR 1021.314. Therefore, neither a supplement to the FRR SNF EIS nor a new EIS is needed.

Issued in Washington, DC, on this 13th day of January, 2009.

Thomas P. D'Agostino,

Administrator, National Nuclear Security Administration.

[FR Doc. E9–1279 Filed 1–22–09; 8:45 am]

BILLING CODE 6450–01–P

[2] This decision also includes acceptance of non-U.S.-origin HEU in unirradiated (fresh) fuel that will be transported to the Y–12 National Security Complex in Oak Ridge, Tennessee. Management of such HEU is addressed in the *Site-wide Environmental Impact Statement for the Y–12 National Security Complex* (DOE/EIS–0309, 2001) and associated ROD (67 FR 11296; March 13, 2002).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–6–003]

Midcontinent Express Pipeline LLC; Notice of Application

January 14, 2009.

Take notice that on January 9, 2009, Midcontinent Express Pipeline LLC (Midcontinent), 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515–7918, filed in the above-referenced docket an abbreviated application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the regulations of the Commission, to amend its certificate authority issued on July 25, 2008, in Docket No. CP08–6–000, in order to revise the initial transportation rates for Midcontinent's Zone 1 and Zone 2 facilities.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC.

There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: January 30, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1358 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

January 14, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP96–312–186.

Applicants: Tennessee Gas Pipeline Company.

Description: Tennessee Gas Pipeline Company submits a negotiated rate gas transportation arrangement with JP Morgan Ventures Energy Corp pursuant to Tennessee's Rate Schedule FT–A, to be effective 2/1/09.

Filed Date: 01/12/2009.

Accession Number: 20090113–0293.

Comment Date: 5 p.m. Eastern Time on Monday, January 26, 2009.

Docket Numbers: RP09–123–000.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Southern Star Central Gas Pipeline, Inc. submits its Annual Cash-Out Refund Report.

Filed Date: 12/01/2008.

Accession Number: 20081201–5035.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–206–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Iroquois Gas Transmission System, LP submits Fourth Revised Sheet 141 *et al.,* to its FERC Gas Tariff, First Revised Volume 1.

Filed Date: 01/09/2009.

Accession Number: 20090112–0201.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–207–000.

Applicants: Tennessee Gas Pipeline Company.

Description: Tennessee Gas Pipeline Company submits Twelfth Revised Sheet 400 *et al.* to its FERC Gas Tariff, Fifth Revised Volume 1.

Filed Date: 01/09/2009.

Accession Number: 20090112–0202.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–208–000.

Applicants: North Baja Pipeline, LLC.

Description: North Baja Pipeline, LLC submits Second Revised Sheet 5 *et al.* to reflect tariff modifications necessitated by Order 712.

Filed Date: 01/09/2009.

Accession Number: 20090112–0173.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–209–000.

Applicants: SG Resources Mississippi, L.L.C.

Description: SG Resources Mississippi, LLC submits First Revised Sheet 114 *et al.* to FERC Gas Tariff, Original Volume 1 to be effective 2/8/09.

Filed Date: 01/09/2009.

Accession Number: 20090112–0171.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–210–000.

Applicants: Centra Pipelines Minnesota, Inc.

Description: Centra Pipelines Minnesota, Inc. submits Fourth Revised Sheet 35 to FERC Gas Tariff, Second Revised Volume 2.

Filed Date: 01/12/2009.

Accession Number: 20090113–0294.

Comment Date: 5 p.m. Eastern Time on Monday, January 26, 2009.

Docket Numbers: RP09–211–000.

Applicants: Colorado Interstate Gas Company.

Description: Colorado Interstate Gas Company submits Twelfth Revised Sheet 228 *et al.* to FERC Gas Tariff, First Revised Volume 1, to be effective 2/16/09.

Filed Date: 01/12/2009.

Accession Number: 20090113–0295.

Comment Date: 5 p.m. Eastern Time on Monday, January 26, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–1366 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

January 9, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP95–408–072.

Applicants: Columbia Gas Transmission, LLC.

Description: Columbia Gas Transmission, LLC submits Substitute Twenty-Fourth Revised Sheet 29 to its FERC Electric Tariff, Second Revised Volume 1 to be effective 2/1/09.

Filed Date: 01/07/2009.

Accession Number: 20090108–0379.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP96–331–021.

Applicants: National Fuel Gas Supply Corporation.

Description: National Fuel Gas Supply Corporation submits part of its FERC Gas Tariff, Fourth Revised Volume 1, an original and five copies of Second Sub. Eighth Revised Sheet 12 bearing an issuance date of 1/5/09 to be effective 12/1/08.

Filed Date: 01/05/2009.

Accession Number: 20090107–0145.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP03–36–040.

Applicants: Dauphin Island Gathering Partners.

Description: Dauphin Island Gathering Partners submits Forty-Second Revised Sheet 9, part of its FERC Gas Tariff, First Volume 1 effective.

Filed Date: 01/07/2009.

Accession Number: 20090108–0377.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP03–323–015.

Applicants: Williston Basin Interstate Pipeline Co.

Description: Supplemental Information for Tariff Filing Withdrawal by Williston Basin Interstate Pipeline Company.

Filed Date: 01/06/2009.

Accession Number: 20090106–5119.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP08–257–003.

Applicants: Saltville Gas Storage Company L.L.C.

Description: Saltville Gas Storage Company LLC submits First Revised Sixth Revised Sheet 11 *et al.*, part of its FERC Gas Tariff, Original Volume 1 to be effective 9/1/08.

Filed Date: 01/07/2009.

Accession Number: 20090108–0380.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–110–001.

Applicants: Northern Natural Gas Company.

Description: Northern Natural Gas Company submits Substitute 11 Revised Sheet 286 *et al.* of its FERC Electric Tariff, Fifth Revised Volume 1 to be effective 12/26/09.

Filed Date: 01/07/2009.

Accession Number: 20090108–0378.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–115–001.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Southern Star Central Gas Pipeline, Inc submits Substitute Ninth Revised Sheet 12, part of its FERC Gas Tariff, Original Volume 1, to be effective 1/1/09.

Filed Date: 01/07/2009.

Accession Number: 20090108–0376.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–203–000.

Applicants: Williston Basin Interstate Pipeline Company.

Description: Williston Basin Interstate Pipeline Company submits Sixth Revised Sheet 293 to FERC Gas Tariff, Second Revised Volume 1.

Filed Date: 01/06/2009.

Accession Number: 20090108–0105.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–204–000.

Applicants: Carolina Gas Transmission Corporation.

Description: 2008 Interruptible Revenue Sharing Report for Carolina Gas Transmission Corporation.

Filed Date: 01/07/2009.

Accession Number: 20090107–5069.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Docket Numbers: RP09–205–000.

Applicants: Texas Eastern Transmission LP.

Description: Texas Eastern Transmission, LP submits its FERC Gas Tariff, Seventh Revised Volume 1 and copies of Seventh Revised Sheet 543A to be effective 2/7/09.

Filed Date: 01/07/2009.

Accession Number: 20090108–0381.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–1367 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Closing and Filing Deadlines

January 14, 2009.

Take notice that January 20, 2009, Inauguration Day, is a legal public holiday for the Washington, DC, office of the Federal Energy Regulatory Commission.

In accordance with section 385.2007 of the Commission's rules, 18 CFR 385.2007 (2008), all filings and documents due to be filed on Tuesday, January 20, 2009, will be accepted as timely on the next official business day.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1355 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2281–011–CA; Project No. 4851–005–CA]

Pacific Gas and Electric Company; Notice of Availability of Environmental Assessment

January 14, 2009.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the applications for new licenses for the Woodleaf-Kanaka Junction and Sly Creek transmission line projects, located near the South Fork Feather River, in Butte County, California, and has prepared an environmental assessment (EA) for the projects. The projects occupy approximately 105 acres, which includes approximately 34 acres that are administered by the Forest Supervisor of the Plumas National Forest.

The EA contains staff's analysis of the potential environmental impacts of the projects and alternatives and concludes that licensing the projects, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the 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* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

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.

For further information, contact Lesley Kordella at (202) 502–6406.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1356 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–637–000; ER08–637–001; ER08–637–004; ER08–637–005]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

January 14, 2009.

Take notice that on January 12, 2009, Alliant Energy Corporate Services and Midwest TDU's [1] filed an Offer of Settlement in the above-referenced proceeding.

By this notice, initial comments should be filed on or before January 27, 2009. Reply comments should be filed on or before February 3, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1349 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–504–000]

AC Landfill Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

January 14, 2009.

This is a supplemental notice in the above-referenced proceeding of AC Landfill Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure(18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is February 3, 2009.

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-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list.

They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1351 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–503–000]

BC Landfill Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

January 14, 2009.

This is a supplemental notice in the above-referenced proceeding of BC Landfill Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice

[1] Midwest TDU's consist of the Great Lakes Utilities, Madison Gas & Electric Company, Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Agency of Nebraska, and Wisconsin Public Power Inc.

and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 3, 2009.

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-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1350 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–513–000]

Cyprus Energy Futures, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

January 14, 2009.

This is a supplemental notice in the above-referenced proceeding of Cyprus Energy Futures, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure(18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is February 3, 2009.

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-referenced proceeding 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 dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1353 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–505–000]

WC Landfill Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

January 14, 2009.

This is a supplemental notice in the above-referenced proceeding of WC Landfill Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is February 3, 2009.

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-referenced proceeding 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

dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1352 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–514–000]

Cyprus Energy Futures, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

January 14, 2009.

This is a supplemental notice in the above-referenced proceeding of Cyprus Energy Futures, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is February 3, 2009.

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-referenced proceeding 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 dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1354 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF08–28–000]

Henry Gas Storage, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Henry Gas Storage Project Request for Comments on Environmental Issues and Notice of Public Meeting

January 14, 2009.

The Federal Energy Regulatory Commission (FERC or Commission) is in the process of preparing an environmental assessment (EA) on the environmental impacts of the Henry Gas Storage Project (HGS Project) involving the construction and operation of a new natural gas storage facility and new natural gas pipeline proposed by Henry Gas Storage, LLC (HGS).

This notice announces the opening of the scoping process that will be used to gather input from the public and interested agencies on the Project. Your input will help determine which issues will be evaluated in the EA. Please note that the scoping period for this Project will close on February 13, 2009.

Comments on the Project may be submitted in written form or verbally. In lieu of, or in addition, to sending written comments, we also invite you to attend the public scoping meeting that has been scheduled in the Project area on January 27, 2009. Details on how to submit comments and additional details of the public scoping meeting are provided in the Public Participation section of this notice.

This notice 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 [1] 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 proposed pipeline 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 federal 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 entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice HGS provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site *(http://www.ferc.gov).*

Summary of the Proposed Project

HGS proposes to construction and operate an 11.5 billion cubic-feet capacity natural gas salt-dome storage facility on Cote Blanche Island in St. Mary Parish, Louisiana as well as a 12-mile, 24-inch-diameter pipeline lateral. The HGS Project would have a withdrawal capacity of 2.6 billion cubic feet (bcf) of natural gas per day and an injection capacity of up to 1 bcf per day.

Location maps depicting the proposed facilities are attached to this NOI as Appendix 1.[2] HGS anticipates filing its application in March 2009 with a request that the Commission issue a certificate by September 2009. HGS

[1] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[2] The appendices referenced in this notice are not printed in the **Federal Register**, but they are being provided to all those who receive this notice in the mail. Copies of the NOI can be obtained from the Commission's Web site at the ''eLibrary'' link, from the Commission's Public Reference Room, or by calling (202) 502–8371. For instructions on connecting to eLibrary, refer to the end of this notice.

plans to complete the proposed project and commence service by April 2012.

Specifically, HGS proposes the following primary components for the HGS Project:

- Main Plant Site—Approximately 367 acres which would include the following:
  - → Solution mining equipment;
  - → Gas dehydration system;
  - → Gas meter and pig launcher and receiving facilities;
  - → Power generation, utility systems, safety and fire equipment; and
  - → Compressor Station which would consist of 14 reciprocating gas-fired engine/compressor packages with a total of 66,220 horsepower;
- Four salt dome natural gas storage caverns;
- Brine decanting tank site;
- Raw water intake;
- Ferry landing, barge dock & helipad site;
- Approximately 25 miles of subsea 24-inch diameter brine disposal pipeline terminating at the brine disposal outlet;
- Brine disposal outlet approximately 6.5 miles south-southeast of Marsh Island in Iberia Parish Louisiana;
- Approximately 12 miles of 24-inch diameter natural gas pipeline;
- Eight tie-in and metering facilities along the natural gas pipeline route; and
- Pipe fabrication yard.

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 Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed 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 proposed project under these general headings:

- Geology and Soils.
- Water Resources.
- Aquatic Resources.
- Vegetation and Wildlife.
- Threatened and Endangered Species.
- Land use, Recreation, and Visual Resources.
- Cultural Resources.
- Socioeconomics.
- Air Quality and Noise.
- Reliability and Safety.
- Cumulative Impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. 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 federal, state, and local 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. Additional 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.

Currently Identified Environmental Issues

We have already identified issues that we think deserve attention based on our previous experience with similar projects in the region. This preliminary list of issues, which is presented below, may be revised based on your comments and our continuing analyses specific to the HGS Project.

- Impacts of the pipeline on waterbodies, wetlands and endangered species;
- Air quality impacts due to emissions from compressor station;
- Water quality and fisheries impacts due to brine disposal; and
- Impacts to fisheries and oyster beds from the brine disposal pipeline.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the HGS 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 February 13, 2009.

For your convenience, there are three methods which you can use to submit your written comments to the Commission. In all instances please reference the Project docket number PF08–28–000 with your submission. The docket numbers can be found on the front of this notice. 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.*

(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, PJ–11.3.

The public scoping meeting (date, time, and location listed below) are designed to provide another opportunity to offer comments on the proposed Project. Interested groups and individuals are encouraged to attend the

meetings and to present comments on the environmental issues that they believe should be addressed in the EA. A transcript of the scoping meeting will be generated so that your comments can be accurately recorded.

Date: Tuesday, January 27, Scoping Meeting, 6 to 8 p.m.

Location: Best Western, Forest Motor Inn & Restaurant, 1909 Main St., Franklin, LA 70538.

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 proposed project. This includes all landowners whose property may be used temporarily for project purposes, who have existing easements from the pipeline, 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 HGS formally files its applications with the Commission, you may want to become an ''intervenor,'' which is an official party to the proceeding. Intervenors 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 ''e-filing'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until formal applications are filed with the Commission.

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* 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.*

Finally, 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1348 Filed 1–22–09; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9988–015–Georgia; King Mill Hydroelectric Project]

Augusta Canal Authority; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included In or Eligible for Inclusion In the National Register of Historic Places

January 14, 2009.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Georgia State Historic Preservation Officer (Georgia SHPO) pursuant to the Council's regulations, 36 CFR Part 800, implementing section 106 of the National Historic Preservation Act, *as amended*, (16 U.S.C. 470f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the King Mill Project No. 9988–015 (Georgia SHPO Reference Number HP–060707–003). The Commission staff will also provide the Advisory Council on Historic Preservation an opportunity to comment.

The programmatic agreement, when executed by the Commission and the Georgia SHPO, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the King Mill Project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

The Augusta Canal Authority, as licensee for Project No. 9988–015 is invited to participate in consultations to develop the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for the aforementioned project as follows:

Dayton Sherrouse, Executive Director, Augusta Canal Authority, 1450 Green Street, Suite 400, Augusta, GA 30901.

Don Klima or Representative, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW., Washington, DC 20004.

Elizabeth Shirk or Representative, Historic Preservation Division, Department of Natural Resources, 34 Peachtree Street, NW., Suite 1600, Atlanta, GA 30303.

Alan Stuart, Kleinschmidt Associates, 204 Caughman Farm Lane, Suite 301, Lexington, SC 29072.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

An original and 8 copies of any such motion must be filed with Kimberly D. Bose, the Secretary of the Commission (888 First Street, NE., Washington, DC

[1] 18 CFR 385.2010.

20426) and must be served on each person whose name appears on the official service list. Please put the project name ''King Mill Project'' and number ''P–9988–015'' on the front cover of any motion. If no such motions are filed, the restricted service list will be effective at the end of the 15-day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15-day period.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–1357 Filed 1–22–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

White River Minimum Flows—Final Determination of Federal and Non-Federal Hydropower Impacts

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of final determination.

SUMMARY: Section 132 of Public Law 109–103 (2005) authorized and directed the Secretary of the Army to implement alternatives BS–3 and NF–7, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004.

The law states that the Administrator, Southwestern Power Administration (Southwestern), in consultation with the project licensee and the relevant state public utility commissions, shall determine any impacts on electric energy and capacity generated at Federal Energy Regulatory Commission (FERC) Project No. 2221 caused by the storage reallocation at Bull Shoals Lake. Further, the licensee of Project No. 2221 shall be fully compensated by the Corps of Engineers for those impacts on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

The law also states that losses to the Federal hydropower purpose of the Bull Shoals and Norfork Projects shall be offset by a reduction in the costs allocated to the Federal hydropower purpose.

Further, such reduction shall be determined by the Administrator of Southwestern on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

Southwestern's draft determination was published by **Federal Register** Notice (73 FR 6717) dated February 5, 2008. Written comments were invited through March 6, 2008. All public comments received were considered, and Southwestern's draft determination was revised as necessary to incorporate the public comments. Since there were significant changes to Southwestern's draft determination, Southwestern published a proposed determination for additional public review and comment prior to its final determination.

Southwestern's proposed determination was published by **Federal Register** Notice (73 FR 38198) on July 3, 2008. Written comments were invited through August 4, 2008. After receiving several requests for additional time to provide public comments, Southwestern reopened the public comment period through September 18, 2008. All public comments received were considered in revising the proposed determination, and Southwestern is publishing notification of its final determination. Southwestern's final determination is fully documented in its Final Determination Report dated January 2009, which was prepared in consultation with the licensee and the relevant public service commissions.

Southwestern's Final Determination Report documents the procedure to be used to calculate the present value of the future lifetime replacement cost of the electrical energy and capacity lost due to the White River Minimum Flows project at the non-Federal FERC Project No. 2221 and the Federal Bull Shoals and Norfork projects. The actual hydropower compensation values are to be calculated using the method presented in the final determination and current values for the specified parameters based on the official implementation date.

Assuming a January 1, 2011, date of implementation for the White River Minimum Flows project and November 2008 values for the specified parameters, Southwestern's determination results in a present value for the estimated future lifetime replacement costs of the electrical energy and capacity at FERC Project No. 2221 of $41,319,400. Southwestern's determination results in a present value for the estimated future lifetime replacement costs of the electrical energy and capacity for Federal hydropower of $109,920,200.

An electronic copy of Southwestern's Final Determination Report is available on Southwestern's Web site at *http://www.swpa.gov/pdfs/WRMF_SWPA_FinalDeterminationReport.pdf.*

FOR FURTHER INFORMATION CONTACT: Mr. George Robbins, Director, Division of Resources and Rates, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6680, *george.robbins@swpa.gov.*

SUPPLEMENTARY INFORMATION: Originally established by Secretarial Order No. 1865 dated August 31, 1943, as an agency of the U.S. Department of the Interior, Southwestern is now an agency within the U.S. Department of Energy which was created by an Act of the U.S. Congress, entitled the Department of Energy Organization Act, Public Law 95–91 (1977). Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these states plus Kansas and Louisiana.

Southwestern developed a procedure for calculating projected energy and capacity losses for FERC Project No. 2221 and the Bull Shoals and Norfork projects, including additional losses related to the reallocation for minimum flows as appropriate. Based on November 2008 values for the specified parameters, the calculated compensation due to the licensee of FERC Project.

No. 2221 is $41,319,400, and the calculated credit due to Federal hydropower is $109,920,200. The values were calculated on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity assuming an implementation date of January 1, 2011, for the White River Minimum Flows project.

The final calculation will depend on the official date of implementation as specified by the Corps of Engineers and the value of the specified parameters in effect at that time.

FERC Project No. 2221, the non-Federal Ozark Beach hydroelectric project, will be directly affected by the minimum flow plan. The implementation of the authorized plan will result in a reduction of the amount of gross head (headwater elevation minus the tailwater elevation) available for generation at the non-Federal project at Ozark Beach. The reduction in gross head will result in an annual energy loss of 6,029 megawatt-hours (MWh) of on-peak energy and 2,969 MWh of off-peak energy, or an annual total energy loss of 8,998 MWh. Also associated with the loss of gross head, there will be a

capacity loss of 3.00 megawatts (MW) at the project.

Section 132 of Public Law 109–103 (2005) authorized alternative BS–3 at Bull Shoals, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004. Under the authorized plan for the Bull Shoals project, five feet of storage for minimum flows will be reallocated from the flood control pool with provisions to provide a portion of the reallocated storage for hydropower's use to maintain the yield of the current hydropower storage. The current seasonal pool plan will be superimposed on the new top of conservation pool. As a result, both the conservation and seasonal pool levels at Bull Shoals will be raised five feet. The additional downstream releases for minimum flows will be accomplished by generating with one of the main units at a low, inefficient rate. Since the current hydropower yield will be maintained, there will be no loss of marketable capacity or peaking energy at Bull Shoals.

The energy loss, 23,855 MWh per year of off-peak energy, will be the result of making the required minimum downstream releases by generating energy at a much lower plant efficiency than normal generation.

Since the energy that is produced from the minimum flow releases will be generated at a time when the energy is not needed to fulfill Federal peaking energy contracts, it is similar in value to the off-peak energy normally generated during flood control operations.

Operating a main unit at the lower efficiency will also increase the average maintenance costs at the project by an estimated $68,000 per year. Section 132 of Public Law 109–103 (2005) authorized alternative NF–7 at Norfork, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004. Under the authorized plan for the Norfork project, 3.5 feet of storage will be reallocated for minimum flows. One-half of the storage for minimum flows will be reallocated from the flood control pool and the other half from hydropower storage. The reallocation portion from the flood control storage is similar to the storage reallocation at Bull Shoals in that the hydropower storage yield for that portion will be maintained and the existing seasonal pool plan will be superimposed on the new top of conservation pool. As a result, both the conservation and seasonal pool levels at Norfork will be raised 1.75 feet. Unlike Bull Shoals, all minimum flow releases at Norfork, whether from reallocated flood or hydropower storage, will be spilled through a siphon with no energy generated from the water. Although there is no marketable capacity loss associated with the flood control storage portion of the reallocation, there will be an off-peak energy loss. The portion of the reallocation from the hydropower storage will reduce the yield available to hydropower and will directly impact the marketable capacity and on-peak energy available at Norfork. The annual energy loss at Norfork associated with the reallocation will be 6,762 MWh of off-peak energy and 6,762 MWh of on-peak energy, for a total annual energy loss of 13,524 MWh. The marketable capacity loss will be 3.93 MW.

Dated: January 12, 2009.

Jon C. Worthington,

Administrator.

Comments on Southwestern's June 2008 Proposed Determination

Southwestern received comments from 176 entities and individuals during the public comment period. All of the comments received were considered, and responses to all comments are included in Southwestern's Final Determination Report. The major comments, by categories, and Southwestern's responses thereto, included the following:

A. Energy and Capacity Losses

1. *Comment.* The non-Federal licensee reiterated the comments they provided on Southwestern's Draft Determination Report concerning the SUPER program and Southwestern's calculation of the lost energy.

Response: Southwestern addressed Empire's previous comments in its **Federal Register** Notice (73 FR 38198) dated July 3, 2008. Responses to the comments are also included in Appendix K of Southwestern's Proposed Determination Report and Final Determination Report.

2. *Comment.* The non-Federal licensee stated its ''calculations have resulted in a lost energy value that is approximately 40% higher than the most recent lost energy value calculated by SWPA'' and suggested that ''there must be significant differences in the modeling process as well.''

Response: Southwestern's calculations were performed on a daily basis for the period of record modeled in SUPER and were based on the daily calculated value of head available at Ozark Beach. Empire's calculations were based on a different period of record and assumed that the loss of head would be five feet every day. The loss of head will vary on a daily basis and will not be a constant five feet. Southwestern's analysis correctly accounts for the daily variation in available head at the project. The different head calculation/assumption accounts for the majority of the difference in the energy loss determination noted by Empire.

3. *Comment.* The non-Federal licensee requested access to the SUPER model, including the data files used by Southwestern to calculate the lost energy at Ozark Beach, and the user's manual. It also requested copies of the model output showing benchmarking results that correlate the SUPER program output with the actual amount of energy generated at Ozark Beach through the historical period.

Response: Southwestern has provided the data files used in its SUPER analysis and the calculations and output used in comparing the SUPER output with historical generation at Ozark Beach. Southwestern advised Empire, and Empire acknowledged that the SUPER program and user's manual is the property of the Corps of Engineers and Empire would need to ask the Corps for that material.

4. *Comment.* The non-Federal licensee agrees with the 67% on-peak and 33% off-peak split for the lost energy at Ozark Beach.

Response: Concur.

5. *Comment.* The non-Federal licensee agrees with Southwestern's determination of the 3.00 MW capacity loss at Ozark Beach.

Response: Concur.

6. *Comment.* The commenters stated that they ''continue to support Southwestern's technical approach to the calculation of lost capacity and energy from water storage reallocations.''

Response: Concur.

7. *Comment.* The commenter ''strongly supports the process Southwestern uses for identifying and quantifying the energy and capacity lost due to reallocation of storage at Bull Shoals and Norfork, as well as the process for determining whether particular energy lost is peaking energy versus off-peak energy.''

Response: Concur.

8. *Comment.* The commenter ''concurs with the use of the drought of record to determine the loss of dependable capacity'' and also stated ''since Southwestern's system is entirely hydro-based and Southwestern markets firm capacity, use of the drought of record is the only acceptable method to determine capacity losses due to storage reallocation.''

Response: Concur.

9. *Comment.* The commenter questioned whether Southwestern's

calculations for Bull Shoals and Norfork included Hydropower Yield Protection Operation (HYPO) storage and Dependable Yield Mitigation Storage (DYMS) storage. They stated ''storage not available to meet minimum flow should not be included in the energy compensation calculations at Bull Shoals and Norfork.''

Response: Concur. Southwestern's determination of the hydropower impacts at Bull Shoals and Norfork due to the implementation of minimum flows was based on comparing current conditions and conditions after the implementation of minimum flows. The HYPO and DYMS storage provided as a result of the flood control storage reallocations has never been included as part of the minimum flows storage in the SUPER simulation or in Southwestern's calculations.

10. *Comment.* The commenter questioned Southwestern's characterization of all energy produced from minimum flow releases at Bull Shoals as off-peak. They noted that ''generation occurring between 6 a.m. and 10 p.m. (16 hours) is considered on-peak, and electricity produced between 10 p.m. and 6 p.m. (8 hours) is considered off-peak.'' They suggested that ''a split of 67% on-peak and 33% off-peak should be used to value energy produced by minimum flows at Bull Shoals.''

Response: Southwestern's marketing plan and the limited storage in Bull Shoals dictate that in a conservation pool operation, the Bull Shoals project may be run for only a few hours during the day to meet customers' contractual peaking energy demands. Releases for minimum flows will be made through one of the main units during all other hours of the day. Even though minimum flows may be released during the industry standard on-peak hours of the day (6 a.m. to 10 p.m. weekdays, excluding holidays), the energy that results from those releases will be produced at a time when it is not needed to fulfill Southwestern's contractual obligations. That energy will be marketed by Southwestern to its customers as ''supplemental'' energy. While supplemental energy is valuable to Southwestern's customers, it is not nearly as valuable to them as firm peaking energy. Southwestern will continue to consider all energy produced by minimum flows at Bull Shoals to be off-peak energy. If the lost energy were valued as on-peak energy as suggested, the credit to the Federal hydropower purpose would increase.

11. *Comment.* The commenter questioned the use of the current seasonal pool in the base condition SUPER run stating ''Base runs for the determining of energy loss at Bull Shoals and Norfork should not include seasonal pools. If included, we would consider the use of seasonal pools on both reservoirs a significant federal action and subject to NEPA.''

Response: Releases have been required from Bull Shoals and Norfork since the 1960s in order to maintain water temperatures suitable for the downstream trout fishery. Those releases are dependent on the forecasted air temperature to assure more cold water releases on hotter days. Since storage was not specifically allocated to the trout fishery, releases were made from hydropower storage. The increase in reliability of the cold water for the fishery reduced the flexibility of the hydropower operation. The water was still being used for power production, but the schedule was based on fishery requirements rather than electrical demand. Minimum release requirements from Bull Shoals and Norfork were increased in the late 1970s in an effort to achieve desired water temperatures in the river all the way down to Sylamore.

During the mid-1970s, the Corps and Southwestern negotiated the development of seasonal use of a portion of the flood control storage for hydropower use. That seasonal use of flood storage was an attempt to minimize the losses to power production caused by the releases necessary to maintain the trout fishery. The current seasonal pools at Bull Shoals and Norfork Lakes were officially implemented as a permanent part of the Corps' water control plan in the late 1970s in order to provide a more dependable supply of water from hydropower storage for the trout fishery, while partially mitigating the hydropower losses due to those releases. The seasonal pools are a part of the current approved water control plans as shown in the Corps' ''White River Basin, Arkansas and Missouri, Water Control Master Manual,'' dated March 1993. As such, the seasonal pools were included in both the base and minimum flow SUPER runs for the Corps' and Southwestern's analysis.

Exclusion of the seasonal pools from the base condition, as suggested, and inclusion of the seasonal pools in the ''with project'' condition, as authorized, would result in even higher energy and capacity losses to the non-Federal licensee of FERC project number 2221.

12. *Comment.* The commenter questioned Southwestern's computed capacity loss at Ozark Beach, stating that ''compensation for energy loss alone seems to be a more reasonable approach.''

Response: Since the Ozark Beach project is a run of river project and not a storage project, the capacity loss calculation was developed with a slightly different type of analysis than that performed at Bull Shoals and Norfork. The capacity loss was computed by comparing the plant capacity values in the base SUPER run and the minimum flows SUPER run. The average difference in capacity over the 23,376 days in the period of record is 1.87 MW. The median difference is 2.34 MW. A duration analysis of the daily differences in capacity revealed that the difference was 3.00 MW or greater about 30 percent of the time. In addition, the difference was 3.00 MW or greater about 30 percent of the time during the typically high electrical load months of July and August. For a storage project, a reduction of capacity during the critical period is considered to be a capacity loss to the project. For a run of river project, capacity that is unavailable 30 percent of the time, especially during the peak electrical demand months, is not reliable or marketable. Electrical consumers expect their lights to work 100 percent of the time, not 70 percent. Empire computed the capacity loss independently by a different method and also determined a 3.00 MW capacity loss. The capacity loss at Ozark Beach is 3.00 MW.

13. *Comment.* ''It appears as though worst case scenarios and drought environmental conditions were used to calculate all energy and capacity losses for both SWPA and Empire District Electric. When SWPA calculated energy losses what was the basis of these calculations?''

Response: Energy losses for both the Federal and non-Federal hydropower projects were computed based on average annual results over the 1940–2003 period of record modeled with the Corps' SUPER reservoir simulation model.

Capacity losses at the Federal projects were computed based on the 1953–1954 drought. Southwestern bases its marketable capacity on the worst drought in the period of record in order to provide reliable, dependable electrical capacity. The critical drought occurred in Southwestern's system during the period from June 1953 through August 1954, with August 1954 being the critical month. Thus, the computed capacity loss was also determined based on that drought period. Any reduction in the yield of the hydropower storage will result in a reduction of the marketable capacity that can be supported by the storage. A reduction in the supportable capacity results in a capacity loss. There was no

capacity loss at Bull Shoals. There was a capacity loss computed at Norfork that was due to the conservation storage portion of the reallocation.

The capacity loss calculated for the non-Federal project was discussed in the previous response.

B. Replacement Costs of Energy and Capacity

1. *Comment.* The non-Federal licensee agreed with Southwestern's use of the Platts High Fuel Value energy costs for replacement on-peak and off-peak energy and combined cycle plant capacity cost for replacement capacity.

Response: Concur.

2. *Comment.* The commenter stated that ''on average, the Platts forecast of electricity prices provides a reasonable basis for estimating the economic value of the energy lost by Empire District Electric Company at its Ozark Beach Hydroelectric Plant on the White River.''

Response: Concur.

3. *Comment.* The commenter stated that they ''believe that Platts Power Outlook Research Service offers as reliable a forecast as is currently available. We have no objection to the use of the Platts long-term forecast, on the understanding that the forecast will be updated at the time the minimum flow program is implemented.''

Response: Concur.

4. *Comment.* The commenter ''commends Southwestern for adopting recommendations it received in the previous comment period to utilize Platt's energy price forecasts as the proxy for the value of on-peak and off-peak energy losses.''

Response: Concur.

5. *Comment.* ''According to the SWPA report, energy and capacity losses were calculated utilizing the Platts and FERC methods. Is it prudent to assume that the methods used for calculating energy losses and capacity losses should be the same?''

Response: The Corps' Hydropower Analysis Center (HAC) is responsible for developing the energy and capacity values used by the Corps in their evaluation of hydropower projects. Prior to mid-2005, HAC typically used the PROSYM production cost model, a proprietary computer model, to develop energy values and used procedures developed by FERC to develop capacity values. The FERC model also computed energy values; however, HAC did not use those values in its computations. Southwestern concluded based on purchasing experience that the PROSYM model produced energy values considerably below market rates. Although the FERC method energy values were also typically below market rates, they better reflected market values than the PROSYM model values. Absent another source, Southwestern would typically use the FERC method energy values to determine the impacts of various changes on hydropower production. Southwestern, like HAC, used the FERC method in determining the value of capacity losses.

Southwestern used the FERC method calculations for valuation of both lost energy and capacity in its Draft Determination Report. Southwestern recognized that the FERC-based values for energy, particularly off-peak energy, were significantly below real-life market conditions. However, Southwestern used the FERC-based values to be consistent with its previous comments on Corps reallocation studies.

The Corps' HAC began exploring other sources to provide realistic energy values during the study period. In late 2005, HAC started using the Platts Power Outlook Research Service, a North American power market forecast subscription service, for determining energy values. Although FERC no longer supported its model, HAC continued using the FERC model for determination of capacity values by indexing upward to current prices. Southwestern began searching for more appropriate methods to determine both energy and capacity values when it was assigned responsibility of determining the hydropower impacts of the minimum flows to both the Federal and non-Federal projects. Comments on Southwestern's Draft Determination Report from electrical industry participants strongly supported the use of an industry source such as Platts to overcome the wide disparity between the low energy prices used in the initial report and actual market conditions. Southwestern's research revealed that the Platts values for on-peak and off-peak energy are much more reflective of the current market than the FERC values and closely match Southwestern's energy purchases during the 2005–2006 drought period. A discussion of Southwestern's research is included in Appendix L in Southwestern's Final Determination Report. Like HAC, Southwestern eventually concluded that Platts was the best source for energy values and, because of a lack of other sources, the FERC method would continue to be the best source for determining the capacity value.

Additionally, the Corps and Empire had agreed to the use of the Platts energy values prior to Southwestern's legislative obligation to determine the hydropower impacts. Electrical industry participants also commented that the FERC-based values for capacity were ''reasonable'' but ''conservative''. Sources for valuing energy and capacity are limited. Southwestern attempted to use sources that closely reflect market conditions.

6. *Comment.* ''According to the SWPA study, energy losses were calculated utilizing on peak energy replacement costs only. Since generation can occur at on and off peak times, shouldn't on and off peak rates be utilized in this calculation?''

Response: Both on-peak and off-peak energy rates were utilized in the calculation as determined appropriate according to when the losses were expected to occur. The energy loss at Bull Shoals was considered 100% off-peak. The energy loss at Norfork was considered 50% on-peak and 50% off-peak. The energy loss at Ozark Beach was considered 67% on-peak and 33% off-peak. The reasoning behind those on-peak/off-peak splits is detailed in Southwestern's report. Losses considered on-peak were valued as on-peak energy, and losses considered off-peak were valued as off-peak energy.

C. Maintenance Costs

1. *Comment.* ''The sources used by Empire do not include fixed O&M costs as part of the capacity costs. As long as there is agreement that the ultimate source is: a) reflective of the current market for construction costs and b) actually includes fixed O&M costs, Empire will accept this assumption.''

Response: Concur.

D. Inflation

1. *Comment.* The non-Federal licensee agrees that the inflation rate used by Southwestern is ''an acceptable assumption.''

Response: Concur.

2. *Comment.* The commenter stated that ''from 1982 to 2006, inflation has averaged 3.1 percent per year'', and reiterated their recommendation that Southwestern utilize ''an industry specific producer price index which more closely mirrors the increased costs associated with electric power generation.''

Response: Southwestern recognizes that historical inflation rates, including the Bureau of Labor Statistics data cited by the commenter, have been higher than the EIA ''reference case'' rate proposed by Southwestern in its proposed determination. Economic conditions over the next 50 years are difficult if not impossible to reliably predict. Southwestern has been unable to locate a long-term, energy-specific inflation forecast. The EIA is an independent statistical and analytical

agency within the U.S. Department of Energy, which is a recognized source of policy-neutral data, forecasts, and analyses. Southwestern will continue to use the ''reference case'' inflation rate in the latest Annual Energy Outlook in the determination of the Federal and non-Federal hydropower impacts.

3. *Comment.* The commenter urged Southwestern to ''search for another proxy that better reflects the anticipated cost increases to be expected in the electric utility industry.''

Response: See response to Comment 2.

E. Present Value Determination

1. *Comment.* The non-Federal licensee ''agrees with SWPA that the current rate on 30-year Treasury Notes at the time of implementation is the appropriate value to use in the calculation.''

Response: Concur.

2. *Comment.* The commenter stated that they ''support Southwestern's selection of the current rate on 30-year Treasury notes to be used as the discount rate in the present value calculation.''

Response: Concur.

3. *Comment.* ''Per the SWPA study, Empire's loss of hydropower and capacity calculations have been based on a 50 year time frame. Since Ozark Beach Dam's FERC license is only good for another 14 years—to 2022, why would the cost be calculated based on 50 years when their license (FERC license number 2221) expires in 14 years? There is no guarantee that Empire's FERC license will be reissued particularly in light of the potential for other energy options to materialize. Is it legal or ethical for Congress to appropriate taxpayer dollars to pay Empire District Electric for future power that they are not yet licensed to market?''

Response: Southwestern selected a 50-year period for its analysis of the impacts of the White River minimum flows project on hydropower production at the FERC Project No. 2221 and for its determination of the compensation owed to the FERC licensee. The 50-year period does exceed the 14 years remaining on the current FERC license for the project.

The period of analysis used by Southwestern in its determination of the impacts of the White River minimum flows on the Empire District Electric Company's FERC-licensed project is based in part on the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (Principles and Guidelines). The Principles and Guidelines were developed by the U.S. Water Resources Council in 1983 to guide the formulation and evaluation studies of the major Federal water resources development agencies.

Since Empire has successfully completed the relicensing process several times for the project and there are no known environmental or safety issues at the project, there is no reason to believe that the project would not be relicensed again in the future. Empire has stated its intends to continue operation of the project and pursue the relicensing effort when needed. Empire has recently invested heavily in upgrading the power facility with the installation of new turbines.

The non-Federal licensee provided the following response at the request of Southwestern: ''Empire agrees that our current license will expire in 2022. Empire and its predecessors have operated and maintained this plant since it became commercial in 1913. It is our intention to apply for and receive a new FERC license in 2022. Our conversations with FERC staff in Chicago and Washington, DC indicate that every expiring license in the Midwest that has been applied for in the last 20 years has been renewed and that given Empire's excellent record of compliance it would be highly unlikely that Ozark Beach's license would not be renewed. We are not aware of any other energy option that may materialize that would be more cost beneficial than hydroelectric power. The law as enacted requires compensation to Empire for the future lifetime costs to our customers. It is our belief that a dam will continue to exist at the location of the present Ozark Beach dam as long as society exists. Even if a new dam were constructed, there would be 5 feet less head and the new dam would have much less economic value. The economic and biological impacts of removing the Ozark Beach dam would be large.''

Regarding the legality of paying Empire for losses beyond the 14 years remaining on its current license, Southwestern believes the law is very explicit that payment to Empire be based on the ''future lifetime replacement costs of the electrical energy and capacity'' loss ''caused by the storage reallocation at Bull Shoals Lake.'' The legislation places no condition on the status of Empire's license.

F. Carbon Tax and Renewable Portfolio Standard

1. *Comment.* The non-Federal licensee reiterated previous comments concerning a carbon tax and renewable risk premium and requested ''that a methodology be implemented to compensate it for the loss of renewable capacity and energy associated with the White River Reallocation at its Ozark Beach dam.''

Response: Southwestern maintains the position stated in its response to the previous comments in its **Federal Register** Notice (73 FR 38198) dated July 3, 2008: Since there is no way to reliably estimate if, when, or how a carbon dioxide tax would be implemented, Southwestern did not include losses based on a carbon dioxide tax. The impacts to both Federal and non-Federal hydropower should be quantified and included in the compensation calculation if any carbon dioxide tax legislation is implemented before the final payment or offset is completed.

Also, since there is no way to reliably estimate if, when, or how a renewable portfolio standard would be implemented, the impacts would be difficult to quantify. At the time of Southwestern's Draft and Proposed Determinations, the state of Missouri had a voluntary standard for adopting renewable energy but no mandatory targets. Voters in Missouri approved a state renewable energy standard in November 2008, and the voluntary standard was repealed. However, the Ozark Beach project does not appear to qualify under the new standard. Southwestern maintains the same position on a renewable risk premium as on a possible carbon dioxide tax: If a state or Federal mandatory renewable portfolio standard that qualifies any of the three projects studied is implemented before the final payment or offset is completed, the impacts to both Federal and non-Federal hydropower should be quantified and included in the compensation calculation.

The authorizing legislation for the White River Minimum Flows project states that Empire will be compensated with a one-time payment ''on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.'' If the compensation to Empire were changed from a one-time payment to payments over a number of years, compensation for the impacts of a carbon dioxide tax or a renewable portfolio standard for the remainder of the payments should be computed and applied if either were implemented during that series of payments.

G. Operational Considerations

1. *Comment.* The commenter stated that they ''support Southwestern's analysis and recommendations concerning the operational considerations in Section 8.''

Response: Concur.

2. *Comment.* ''In Section 8.2 Water Temperature Control states minimum flows should be considered meeting a portion of the 3-day, 6,000 cfs-day generation releases designed to maintain suitable water temperatures in the downstream trout fishery and SWPA's generation requirements should be reduced accordingly, or additional compensation provided. We agree releases are needed to maintain suitable water temperatures and commend SWPA for providing these releases. However, we do not agree these volumes should be reduced since (1) seasonal pools have been provided to mitigate SWPA for these generations, (2) neither the timing nor volume of these releases are optimal for addressing temperature needs of the downstream trout fishery.''

Response: Southwestern does not concur. The 3-day requirement is for a specific amount of water to be released over each 3-day period. The modeling and computation performed by both the Corps and Southwestern of the hydropower impacts and associated compensation were based upon the assumption that the minimum flow releases would be used to help meet those downstream requirements. If it is decided that such an operation is not desirable, then the assumption would need to be changed, the impact to hydropower would need to be recomputed, and the compensation increased accordingly.

[FR Doc. E9–1454 Filed 1–22–09; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2008–0548; FRL–8765–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Criteria for Classification of Solid Waste Disposal Facilities and Practices (Renewal), EPA ICR Number 1745.06, OMB Control Number 2050–0154

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: Additional comments may be submitted on or before February 23, 2009.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2008–0548, to (1) EPA, either online using *www.regulations.gov* (our preferred method), or by e-mail to *rcra-docket@epa.gov,* or by mail to: RCRA Docket (28221T), U.S. Environmental Protection Agency, 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: Craig Dufficy, Office of Solid Waste, (5306P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 703–308–9037; *fax number:* 703–308–8686; *e-mail address: Dufficy.Craig@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 September 05, 2008 (73 *FR* 51807), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2008–0548, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270.

Use EPA's electronic docket and comment system at *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 *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 *www.regulations.gov.*

Title: Criteria for Classification of Solid Waste Disposal Facilities and Practices (Renewal)

ICR numbers: EPA ICR No. 1745.06, OMB Control No. 2050–0154.

ICR Status: This ICR is scheduled to expire on January 31, 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, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA), as amended, mandated that the U.S. Environmental Protection Agency (EPA) revise the Criteria for Solid Waste Disposal Facilities that may receive household hazardous wastes and conditionally exempt small quantity generator (CESQG) wastes. In order to effectively implement and enforce these regulations (found at 40 CFR part 257, subpart B) on a State level, owners/operators of construction and demolition waste landfills that receive CESQG hazardous wastes have to comply with reporting and recordkeeping requirements. This ICR documents the ongoing recordkeeping and reporting burdens associated with the location and ground-water

monitoring provisions contained in 40 CFR part 257, subpart B.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 74 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.

Estimated Number of Respondents: 152.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 11,219.

Estimated Total Annual Cost (in thousands of dollars): $2,014,382, which includes $1,577,659 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 2,362 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to the reduction in the total number of Construction & Demolition landfills.

Dated: January 14, 2009.

John Moses,

Acting Director, Collection Strategies Division.

[FR Doc. E9–1276 Filed 1–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2008–0914, FRL–8765–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reporting Requirements Under EPA's National Partnership for Environmental Priorities, EPA ICR Number 2076.02, OMB Control Number 2050–0190

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on May 31, 2009. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 24, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2008–0914, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *rcra-docket@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* 1301 Constitution Ave., NW., Room 3334, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2008–0914. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *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.*

FOR FURTHER INFORMATION CONTACT: Newman Smith, Office of Solid Waste (5302W), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–8757; fax number: 703–308–8433; e-mail address: *smith.newman@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2008–0914, which is available for online viewing at *www.regulations.gov*, or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 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 RCRA Docket is (202) 566–0270.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does this Apply to?

Affected entities: Entities potentially affected by this action are business and other for-profit, as well as State, Local, and Tribal governments.

Title: Reporting Requirements Under EPA's National Partnership For Environmental Priorities.

ICR numbers: EPA ICR No. 2076.03, OMB Control No. 2050–0190.

ICR status: This ICR is currently scheduled to expire on May 31, 2009. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA currently has an ongoing national program that, through source reduction, reuse, and recycling, encourages a reduction in use or the minimization of release of hazardous chemicals. Participation in the National Partnership for Environmental Priorities (NPEP) (previously the National Waste Minimization Partnership Program) is completely voluntary. Participation begins when the *Enrollment Form* is submitted and accepted by EPA. The form asks for basic site identification information as well as information on the company's chemical reduction goals under the program.

Once in the program, partners will also have an opportunity to complete and submit a *Success Story* when they have accomplished steps toward reaching the goal(s) established during their enrollment in the program. The *Success Story* also serves as the application for the NPEP Achievement Award. These Success Stories will be available on EPA's National Waste Minimization Program Web site. Each success story will describe a partner's waste minimization techniques, implementation problems, lessons learned, benefits, and relevant implications. These forms will enable the Agency to establish a partner's progress and the overall success of the program. They will also allow the Agency to recognize partner accomplishments in a formal manner, if appropriate (*e.g.*, at a recognition ceremony or by congratulatory letter).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 16 hours per response for the Enrollment Form and 9 hours per response for the Success Stories. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 163.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 642.

Estimated total annual costs: $0. This includes an estimated burden cost of $0 capital investment and $0 maintenance and operational costs.

What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: January 9, 2009.

Matt Hale,

Director, Office of Solid Waste.

[FR Doc. E9–1424 Filed 1–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–FRL–8765–6]

Beaches Environmental Assessment and Coastal Health Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of 2009 BEACH Act Grants.

SUMMARY: The Beaches Environmental Assessment and Coastal Health (BEACH) Act, signed into law on October 10, 2000, amended the Clean Water Act (CWA), to incorporate provisions to reduce the risk of illness to users of the Nation's recreational waters. Section 406(b) of the CWA, as amended by the BEACH Act, authorizes the U.S. Environmental Protection Agency (EPA) to award grants to eligible States, Territories, Tribes, and local governments to develop and implement programs for monitoring coastal recreation waters, including the Great Lakes, and notifying the public of the potential exposure to disease-causing

microorganisms in these waters. EPA encourages coastal and Great Lakes States to apply for BEACH Act grants to implement effective and comprehensive coastal recreation water monitoring and public notification programs (''implementation grants''). EPA also encourages coastal and Great Lakes Tribes to apply for BEACH Act grants to develop effective and comprehensive coastal recreation water monitoring and public notification programs (''development grants'').

DATES: States, Erie County Pennsylvania, and those Tribes that previously received BEACH Act grants, must submit applications on or before March 24, 2009. Other eligible Tribes should notify the relevant EPA Regional BEACH Act grant coordinator of their interest in applying for a grant on or before March 9, 2009. Upon receipt of a Tribe's notice of interest, EPA will establish an appropriate application deadline.

ADDRESSES: You must send your application to the appropriate EPA Regional Grant Coordinator listed in this notice under **SUPPLEMENTARY INFORMATION**, Section VI.

FOR FURTHER INFORMATION CONTACT: Rich Healy, 1200 Pennsylvania Ave., NW., (4305T), Washington, DC 20460, 202–566–0405, *healy.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Grant Program

What Is the Statutory Authority for BEACH Act Grants?

The general statutory authority for BEACH Act grants is section 406(b) of the Clean Water Act, as amended by the BEACH Act, Public Law 106–284, 114 Stat. 970 (2000). It provides that ''(T)he Administrator may make grants to States and local governments to develop and implement programs for monitoring and notification for coastal recreation waters adjacent to beaches or similar points of access that are used by the public.'' CWA section 406(b)(2)(A), however, limits EPA's ability to award implementation grants only to those States and Tribes that meet certain requirements (see Section II, Funding and Eligibility, below for information on specific requirements).

What Activities Are Eligible for Funding Under the FY 2009 Grants?

In fiscal year 2009, EPA intends to award grants authorized under CWA section 406(b) to eligible States to support the implementation of coastal recreation water monitoring and public notification programs that are consistent with EPA's required performance criteria for implementation grants. Also in fiscal year 2009, EPA intends to award development grants to eligible Tribes to support the development of coastal recreation water monitoring and public notification programs that are consistent with EPA's performance criteria for grants. EPA published the required performance criteria for grants in its National Beach Guidance and Required Performance Criteria for Grants (EPA–823–B–02–004), on July 19, 2002. A notice of availability of the document was published in the **Federal Register** (67 FR 47540, July 19, 2002). This document can be found on EPA's Web site at *http://www.epa.gov/waterscience/beaches/grants.* Copies of the document may also be obtained by writing, calling, or e-mailing: Office of Water Resource Center, U.S. Environmental Protection Agency, Mail Code RC–4100, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. (Phone: 202–566–1731 or email: *center.water-resource@epa.gov*).

II. Funding and Eligibility

Who Is Eligible To Apply for These Implementation Grants?

Coastal and Great Lake States that meet the requirements of CWA section 406(b)(2)(A) are eligible for grants in fiscal year 2009 to implement monitoring and notification programs. The definition of the term ''State'' in CWA section 502 includes the District of Columbia, and current U.S. Territories: The Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Are Local Governments Eligible for Funding?

CWA section 406(b)(2)(B) authorizes EPA to make a grant to a local government for implementation of a monitoring and notification program only if, after July 19, 2003, EPA determines that the State within which the local government has jurisdiction is not implementing a program that meets the requirements of CWA section 406(b), which includes a requirement that the program is consistent with the performance criteria in National Beach Guidance and Required Performance Criteria for Grants. EPA awards an implementation grant to Erie County, Pennsylvania, the local government implementing the beach monitoring and notification program for all of Pennsylvania's coastal recreation waters. Local governments may contact their EPA Regional office for further information about BEACH Act grants.

How May Tribes Apply for BEACH Act Development Grants and How Much Funding Is Available for Tribes?

Section 518(e) of the CWA authorizes EPA to treat eligible Indian Tribes in the same manner as States for the purpose of receiving CWA section 406 grant funding. For fiscal year 2009, EPA will make $100,000 available for development grants to eligible Tribes. In order to be eligible for a CWA section 406 development grant, a Tribe must have coastal recreation waters adjacent to beaches or similar points of access that are used by the public. The phrase ''coastal recreation waters'' is defined in CWA section 502(21) to mean the Great Lakes and marine coastal waters (including coastal estuaries) that are designated under CWA section 303(c) for use for swimming, bathing, surfing, or similar water contact activities. The statute explicitly excludes from the definition inland waters and waters upstream of the mouth of a river or stream having an unimpaired natural connection with the open sea. In addition, a Tribe must demonstrate that it meets the ''treatment in the same manner as a State'' (TAS) criteria contained in CWA section 518(e) for purposes of receiving a CWA section 406 grant. To demonstrate TAS, the Tribe must show that it: (1) Is federally recognized; (2) has a governing body carrying out substantial governmental duties and powers; (3) will be exercising functions pertaining to waters within the reservation; and (4) is reasonably expected to be capable of carrying out the functions consistent with the CWA and all applicable regulations. EPA encourages those Tribes with coastal recreation waters to contact their EPA Regional BEACH Act grant coordinator for further information regarding the application process as soon as possible.

Are There Any Additional Eligibility Requirements and Grant Conditions Applicable to States and Tribes?

Yes, there are additional eligibility requirements and grant conditions. First, CWA section 406(b)(2)(A) provides that EPA may only award a grant to implement a monitoring and notification program if:

(i) The program is consistent with the performance criteria published by the Administrator under CWA section 406(a);

(ii) The State or local government prioritizes the use of grant funds for particular coastal recreation waters based on the use of the water and the risk to human health presented by pathogens or pathogen indicators;

(iii) The State or local government makes available to the Administrator the factors

used to prioritize the use of funds under clause (ii);

(iv) The State or local government provides a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided that specifies any coastal recreation waters for which fiscal constraints will prevent consistency with the performance criteria under CWA section 406(a); and

(v) The public is provided an opportunity to review the program through a process that provides for public notice and an opportunity for comment.

Second, CWA section 406(c) requires that as a condition of receipt of a CWA section 406 grant, a State or local government program for monitoring and notification must identify:

(1) Lists of coastal recreation waters in the State, including coastal recreation waters adjacent to beaches or similar points of access that are used by the public;

(2) In the case of a State program for monitoring and notification, the process by which the State may delegate to local governments responsibility for implementing the monitoring and notification program;

(3) The frequency and location of monitoring and assessment of coastal recreation waters based on—

(A) The periods of recreational use of the waters;

(B) The nature and extent of use during certain periods;

(C) The proximity of the waters to known point sources and nonpoint sources of pollution; and

(D) Any effect of storm events on the waters;

(4)(A) the methods to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health; and

(B) the assessment procedures for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters (including increases in relation to storm events);

(5) measures for prompt communication of the occurrence, nature, location, pollutants involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for pathogens and pathogen indicators to—

(A) the Administrator, in such form as the Administrator determines to be appropriate; and

(B) a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which the failure to meet applicable standards is identified;

(6) measures for the posting of signs at beaches or similar points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators; and

(7) measures that inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards.

Third, as required by CWA section 406(b)(3)(A) and the and the National Beach Guidance and Required Performance Criteria for Grants, recipients of a CWA section 406 grant must submit to EPA, in such format and at such intervals as EPA determines to be appropriate, a report that describes:

(1) Data collected as part of the program for monitoring and notification as described in section 406(c), and

(2) actions taken to notify the public when water quality standards are exceeded.

Grant recipients must submit to EPA both the monitoring and notification reports for any beach season by January 31 of the year following the beach season. For the 2009 beach season, the deadline for states to submit complete and correct reports is January 31, 2010. EPA first established this report submission deadline in the **Federal Register** notice for the fiscal year 2003 grants (68 FR 15446, 15449 (March 31, 2003)).

Fourth, grant recipients must report to EPA, latitude, longitude and mileage data on:

(1) The extent of beaches and similar points of public access adjacent to coastal recreation waters, and

(2) the extent of beaches that are monitored.

EPA first established this requirement in the **Federal Register** notice for the fiscal year 2003 grants (68 FR 15446, 15447 (March 31, 2003)). EPA is continuing this requirement in order to capture any changes States, tribes or local governments may make to their beach monitoring and notification programs. States, tribes or local governments must report to EPA any changes to either the extent of their beaches or similar points of access, or to the extent of their beaches that are monitored.

How Much Funding Is Available?

For fiscal year 2009, the total available for BEACH Act grants is expected to be $9,900,000. EPA expects to award all but $100,000 to eligible States for implementation grants. EPA intends to award the remaining $100,000 in development grants to eligible Tribes. If EPA does not award any grants to eligible Tribes, EPA will redistribute the money to eligible States using the allocation formula described below.

How Will the Funding for States Be Allocated?

For fiscal year 2009, EPA expects to award grants to all eligible States who apply for funding based on the allocation formula that the Agency developed for awarding BEACH Act grant funds in 2002. The allocation formula uses three factors: (1) Beach season length, (2) beach miles, and (3) beach use.

(1) Beach Season Length

EPA selected beach season length as a factor because it determines the part of the year when a government would conduct its monitoring program. The longer the beach season, the more resources a government would need to conduct monitoring. The Agency obtained the information on the length of a beach season from the National Health Protection Survey of Beaches for the States that submitted a completed survey. EPA estimated the beach season length for Alaska based on air and water temperature, available information on recreation activities, and data from the 1993 National Water Based Recreation Survey. EPA grouped the States into four categories of beach season lengths:

For beaches in:	The beach season category is:
Alaska	<3 months.
Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Virginia, Washington, Wisconsin.	3–4 months.
Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina.	5–6 months.
American Samoa, California, Florida, Guam, Hawaii, Northern Marianas, Puerto Rico, Texas, U.S. Virgin Islands.	9–12 months.

(2) Beach Miles

EPA selected miles of beach as a factor because it determines the geographical extent over which a government would conduct monitoring. The more miles of beaches, the more resources a government would need to conduct monitoring. EPA does not have beach mileage data in a format that can be used for the allocation formula at this time. Therefore, EPA is using shoreline miles as a surrogate for beach miles in the allocation formula. Shoreline miles data overestimates beach miles in some States; however, this is the best way to estimate beach miles until complete beach mile data become available. EPA used the National Oceanic and Atmospheric Administration (NOAA)

publication, The Coastline of the United States, to quantify shoreline miles.

(3) Beach Use

EPA selected beach use as a factor because it reflects the magnitude of potential human exposure to pathogens at recreational beaches. Greater use of beaches makes it more likely that a government would need to increase monitoring frequency due to the larger number of people potentially exposed to pathogens. EPA continues to use the coastal population of counties (based on the 2000 Census data) to quantify the coastal population that is wholly or partially within the State's legally-defined coastal zone, as a surrogate for actual beach usage.

The allocation formula sums the three parts. The first part is a base amount for all States that varies with the length of the beach season. The second part distributes 50% of the total remaining funds based on the ratio of shoreline miles in a State to the total length of shoreline miles across the entire United States. For example, if a State has 4% of the total coastal and Great Lakes shoreline, that State would receive 4% of 50% (or 2%) of total funds remaining after the Agency distributed the funds for part one. The third part distributes the remaining 50% based on the ratio of coastal population in a State to the total coastal population in the United States. For example, if a State has 2% of the total coastal and Great Lakes population, that State would receive 2% of 50% (or 1%) of the total funds remaining after the Agency distributes the funds based on the first two parts. The following table summarizes the allocation formula:

For the factor:	The part of the allocation is:
Beach season length.	< 3 months: $150,000 (States with a season <3 months receive season-based funding only.) 3–4 months: $200,000 5–6 months: $250,000 >6 months: $300,000
Shoreline miles.	determined based on the ratio of shoreline miles in a State/Territory to the total length of shoreline miles across the United States and is taken from 50% of funds remaining after allocation of season-based funding.
Coastal population.	determined based on the ratio of coastal population in a State/Territory to the total coastal population in the United States and is taken from 50% of funds remaining after allocation of season-based funding and funding based on shoreline miles.

For 2009, the total available for BEACH Act grants to States is expected to be $9,800,000. Assuming all 35 States with coastal recreation waters apply and meet the statutory eligibility requirements for implementation grants (and have met the statutory grant conditions applicable to previously awarded section 406 grants), the distribution of the funds for year 2009 is expected to be:

For the State of:	The year 2009 allocation is expected to be:
Alabama	$262,000
Alaska	150,000
American Samoa	302,000
California	517,000
Connecticut	223,000
Delaware	211,000
Florida	528,000
Georgia	286,000
Guam	303,000
Hawaii	323,000
Illinois	243,000
Indiana	206,000
Louisiana	322,000
Maine	255,000
Maryland	269,000
Massachusetts	254,000
Michigan	278,000
Minnesota	204,000
Mississippi	257,000
New Hampshire	205,000
New Jersey	278,000
New York	348,000
North Carolina	302,000
Northern Marianas	303,000
Ohio	224,000
Oregon	229,000
Pennsylvania	222,000
Puerto Rico	328,000
Rhode Island	213,000
South Carolina	297,000
Texas	383,000
U.S. Virgin Islands	303,000
Virginia	277,000
Washington	270,000
Wisconsin	225,000

How does the allocation described above relate to the August 13, 2008 ***Federal Register*** *Notice regarding the Beach Grant Allocation Formula?*

On August 13, 2008, EPA published proposed changes to the allocation formula that the Agency expects to implement starting with the BEACH Act grants to be awarded in 2010 (73 FR 47154). Today's notice announcing the availability of BEACH Act grants to be awarded in 2009 is not affected by the notice EPA published on August 13, 2008.

What If a State Does Not Apply or Does Not Qualify for Funding?

EPA expects that all 35 States will apply for a grant. If fewer than 35 States apply for the allocated amount, or if any applicant fails to meet the statutory eligibility requirements (or the statutory conditions applicable to previously awarded section 406 grants), then EPA will distribute available grant funds to eligible States in the following order:

(1) States that meet the eligibility requirements for implementation grants and that have met the statutory conditions applicable to previously awarded section 406 grants will be awarded the full amount of funds allocated to the State under the formula described above.

(2) EPA may award program implementation grants to local governments in States that the Agency determines have not met the requirements for implementation grants.

(3) Consistent with CWA Section 406(h), EPA will use grant funds to conduct a beach monitoring and notification program in the case of a State that has no program for monitoring and notification that is consistent with EPA's grant performance criteria.

What If a State or Tribe Cannot Use All of Its Allocation?

If a State or Tribe cannot use all of its allocation, the Regional Administrator may award the unused funds to any eligible coastal or Great Lake grant recipient in the Region for the continued development or implementation of their coastal recreation water monitoring and notification program(s). If, after re-allocation, there are still unused funds within the Region, EPA Headquarters will redistribute these funds to any eligible coastal or Great Lake BEACH Act grant recipient.

How Will the Funding for Tribes Be Allocated?

EPA expects to apportion the funds set aside for tribal grants evenly among all eligible Tribes that apply for funding.

What Is the Expected Duration of Funding and Projects?

The expected funding and project periods for implementation grants awarded in fiscal year 2009 is one year.

Does EPA Require Matching Funds?

Recipients do not have to provide matching funds for BEACH Act grants. EPA may establish a match requirement in the future based on a review of State program activity and funding levels.

III. Eligible Activities

Recipients of implementation grants may use funds for activities to support implementing a beach monitoring and notification program that is consistent with the required performance criteria for grants specified in the document, National Beach Guidance and Required Performance Criteria for Grants (EPA–823–B–02–004). Recipients of development grants may use the funds to develop a beach monitoring and notification program consistent with the performance criteria.

IV. Selection Process

EPA Regional offices will award CWA section 406 grants through a non-competitive process. EPA expects to award grants to all eligible State, Tribe, and Territory applicants that meet the applicable requirements described in this notice.

Who Has the Authority To Award BEACH Act Grants?

The Administrator has delegated the authority to award BEACH Act grants to the Regional Administrators.

V. Application Procedure

What Is the Catalog of Federal Domestic Assistance (CFDA) Number for the BEACH Monitoring and Notification Program Implementation Grants?

The number assigned to the BEACH Act Grants is 66.472, Program Code CU.

Can BEACH Act Grant Funds Be Included in a Performance Partnership Grant?

For fiscal year 2009, BEACH Act Grants cannot be included in a Performance Partnership Grant.

What Is the Application Process?

Your application package should contain completed:

- EPA SF–424 Application for Federal Assistance, and
- Program Summary.

In order for EPA to determine that a State or local government is eligible for an implementation grant, the applicant must submit documentation with its application to demonstrate that its program is consistent with the performance criteria. The Program Summary must contain sufficient technical detail for EPA to confirm that your program meets the statutory eligibility requirements and statutory grant conditions for previously awarded CWA section 406 grants listed in section II (Funding and Eligibility) of this notice. The Program Summary must also describe how the State or local government used BEACH Act Grant funds to develop and implement the beach monitoring and notification program, and how the program is consistent with the nine performance criteria in National Beach Guidance and Required Performance Criteria for Grants (EPA–823–B–02–004) which is found at *http://www.epa.gov/waterscience/beaches/grants/guidance/index.html.* The Program Summary should also describe the State or local program's objectives for the next year.

States, Erie County, and Tribes that have previously been awarded BEACH Act grants must submit application packages to the appropriate EPA Regional Office by March 24, 2009. EPA will make an award after the Agency reviews the documentation and confirms that the program meets the applicable requirements. The Office of Management and Budget has authorized EPA to collect this information (BEACH Act Grant Information Collection Request, OMB control number 2040–0244). Please contact the appropriate EPA Regional Office for a complete application package. See Section VI for a list of EPA Regional Grant Coordinators or visit the EPA Beaches Web site at *http://www.epa.gov/waterscience/beaches/contact.html* on the Internet.

What Should a Tribe's Notice of Interest Contain?

The Notice of Interest should include the Tribe's name and the name and telephone number of a contact person.

Are Quality Assurance and Quality Control (QA/QC) Required for Application?

Yes. Three specific QA/QC requirements must be met to comply with EPA's performance criteria for grants:

(1) Applicants must submit documentation that describes the quality system implemented by the State, Territory, Tribe, or local government. Documentation may be in the form of a Quality Management Plan or equivalent documentation.

(2) Applicants must submit a quality assurance project plan (QAPP) or equivalent documentation.

(3) Applicants are responsible for submitting documentation of the quality system and QAPP for review and approval by the EPA Quality Assurance Officer or his designee before they take primary or secondary environmental measurements. More information about the required QA/QC procedures is available in Chapter Four and Appendix H of National Beach Guidance and Required Performance Criteria for Grants (EPA–823–B–02–004).

Are There Reporting Requirements?

Recipients must submit annual performance reports and financial reports as required in 40 CFR 31.40 and 31.41. The annual performance report explains changes to the beach monitoring and notification program during the grant year. It also describes how the grant funds were used to implement the program to meet the performance criteria listed in National Beach Guidance and Required Performance Criteria for Grants (EPA–823–B–02–004). The annual performance report required under 40 CFR 31.40 is due no later than 90 days after the grant year ends. Recipients must also submit annual monitoring and notification reports required by the National Beach Guidance and Required Performance Criteria for Grants (EPA–823–B–02–004). Sections 2.2.3 and 4.3 of the document contain the performance criterion requiring an annual monitoring report, and sections 2.2.8 and 5.4 contain the performance criterion requiring an annual notification report. This document can be found at *http://www.epa.gov/waterscience/beaches/grants/.* These reports, required to be submitted to EPA under CWA section 406(b)(3)(A) and the National Beach Guidance and Required Performance Criteria for Grants, include data collected as part of a monitoring and notification program. As a condition of award of an implementation grant, EPA requires that the monitoring report and the notification report for any beach season be submitted not later than January 31 of the year following the beach season. (See Section II, Funding and Eligibility, above.)

What Regulations and OMB Cost Circular Apply to the Award and Administration of These Grants?

The regulations at 40 CFR Part 31 govern the award and administration of grants to States, Tribes, local governments, and Territories under CWA section 406(b). Allowable costs will be determined according to the cost principles outlined in 2 CFR Part 225.

VI. Grant Coordinators

Headquarters—Washington, DC

Rich Healy USEPA, 1200 Pennsylvania Ave., NW.–4305,

Washington, DC 20460; T: 202–566–0405; F: 202–566–0409; *healy.richard@epa.gov.*

Region I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island

Matt Liebman USEPA Region I, One Congress St., Suite 1100–COP, Boston, MA 02114–2023; T: 617–918–1626; F: 617–918–1505; *liebman.matt@epa.gov.*

Region II—New Jersey, New York, Puerto Rico, U.S. Virgin Islands

Helen Grebe USEPA Region II, 2890 Woodbridge Ave., MS220, Edison, NJ 08837–3679; T: 732–321–6797; F: 732–321–6616; *grebe.helen@epa.gov.*

Region III—Delaware, Maryland, Pennsylvania, Virginia

Denise Hakowski USEPA Region III, 1650 Arch Street, 3WP30, Philadelphia, PA 19103–2029; T: 215–814–5726; F: 215–814–2318; *hakowski.denise@epa.gov.*

Region IV—Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina

Joel Hansel USEPA Region IV, 61 Forsyth St., 15th Floor, Atlanta, GA 30303–3415; T: 404–562–9274; F: 404–562–9224; *hansel.joel@epa.gov.*

Region V—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Holly Wirick USEPA Region V, 77 West Jackson Blvd., WT–16J, Chicago, IL 60604–3507; T: 312–353–6704; F: 312–886–0168; *wirick.holiday@epa.gov.*

Region VI—Louisiana, Texas

Mike Schaub USEPA Region VI, 1445 Ross Ave., 6WQ–EW, Dallas, TX 75202–2733; T: 214–665–7314; F: 214–665–6689; *schaub.mike@epa.gov.*

Region IX—American Samoa, Commonwealth of the Northern Mariana Islands, California, Guam, Hawaii

Terry Fleming USEPA Region IX, 75 Hawthorne St., WTR–2, San Francisco, CA 94105; T: 415-972–3462; F: 415–947–3537; *fleming.terrence@epa.gov.*

Region X—Alaska, Oregon, Washington

Rob Pedersen USEPA Region X, 120 Sixth Ave., OW–134, Seattle, WA 98101; T: 206–553–1646; F: 206–553–0165; *pedersen.rob@epa.gov.*

Dated: January 14, 2009.

Benjamin H. Grumbles,

Assistant Administrator for Water.

[FR Doc. E9–1397 Filed 1–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8589–7]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 01/12/2009 Through 01/16/2009

Pursuant to 40 CFR 1506.9.

EIS No. 20090007, Draft EIS, BLM, CA, Carrizo Plain National Monument, Draft Resource Management Plan, Implementation, San Luis Obispo County and Portion of western Kern County, CA, *Comment Period Ends:* 04/22/2009, *Contact:* Katherine Worn 661–391–6067.

EIS No. 20090008, Draft EIS, FHW, WY, Jackson South Project, Proposes to Improve Seven Miles of U.S. 26/89/189/191/, Funding and Right-of-Way Approval, Teton County, WY, *Comment Period Ends:* 03/09/2009, *Contact:* Lee Potter 307–772–2004 Ext. 146.

EIS No. 20090009, Final EIS, AFS, WA, Republic Ranger Station Excess Residence Sale Project, Proposes to Sell a 0.72 Acre Parcel of Land with a Residential Building, Republic Ranger District, Colville National Forest, Ferry County, WA, *Wait Period Ends:* 02/23/2009, *Contact:* James L. Parker 509–775–7462.

EIS No. 20090010, Draft EIS, USN, WA, Swimmer Interdiction Security System (SISS) Project, Construction and Operation, Naval Base Kitsap—Bangor, Silverdale, Kitsap County, WA, *Comment Period Ends:* 03/09/2009, *Contact:* Shannon Kasa 619–553–3889.

EIS No. 20090011, Draft EIS, SFW, CA, Tehachapi Uplands Multiple Species Habitat Conservation Plan (TUMSHCP), Propose Issuance of a 50–Year Incidental Take Permit for 27 Federal- and State-Listed and Unlisted Species, Kern County, CA, *Comment Period Ends:* 04/22/2009, *Contact:* Mary Grim 916–414–6464.

EIS No. 20090012, Final EIS, NOA, 00, Proposed Acceptable Biological Catch (ABC) and Optimum Yield (OY) Specifications and Management Measures for the 2009–2010 Pacific Coast Groundfish Fishery Management Plan, Implementation, WA, OR and CA, *Wait Period Ends:* 02/23/2009, *Contact:* Robert Lohn 206–526–6150.

EIS No. 20090013, Draft EIS, CGD, 00, Programmatic—Future of the U.S. Coast Guard Long Range Aids to Navigation (LORAN–C) Program, Implementation, *Comment Period Ends:* 03/09/2009, *Contact:* CDR. Bob I. Feigenblatt 202–372–1558

EIS No. 20090014, Final EIS, NOA, OR, Bull Run Water Supply Habitat Conservation Plan, Application for and Incidental Take Permit to cover the Continued Operation and Maintenance, Sandy River Basin, City of Portland, OR, *Wait Period Ends:* 02/23/2009, *Contact:* D. Robert Lohn 301–713–1632.

EIS No. 20090015, Final EIS, FHW, TN, TN–397 (Mack Hatcher Parkway Extension) Construction from US–31 (TN–6, Columbia Avenue) South of Franklin to US–341 (TN–106, Hillsboro Road) North of Franklin, Additional Information on the Build Alternative (Alternative G), Williamson County and City of Franklin, TN, *Wait Period Ends:* 02/23/2009, *Contact:* Bobby Blackmon 615–781–5770.

Amended Notices

EIS No. 20080460, Draft EIS, FHW, CO, I–70 East Project, Transportation Improvement from I–70 East from 1–25 to Tower Road, Funding, City and County Denver, CO, *Comment Period Ends:* 03/31/2009, *Contact:* Chris Horn 720–963–3017. *Revision to FR Notice Published 11/14/2008:* Extending 12/31/2009 to 03/31/2009.

EIS No. 20080470, Final EIS, FHW, VT, Middlebury Spur Project, Improvements to the Freight Transportation System in the Town of Middlebury in Addison County to the Town of Pittsford in Rutland County, VT, *Wait Period Ends:* 01/30/2009, *Contact:* Kenneth Sikora, Jr.802–828–4573. *Revision to FR Published 11/21/2008:* Extending Wait Period from 12/23/2008 to 01/30/2009.

EIS No. 20080538, Second Draft Supplement, NRC, VA, North Anna Power Station Unit 3, Combined License (COL) application for Construction and Operation a Based-Load Nuclear Power Plant, (NUREG–1917), in the Town of Mineral, Louisa County, VA, *Comment Period Ends:* 03/20/2009, *Contact:* Alicia Williamson 301–415–1878. *Revision to FR Notice Published 01/02/2009:* Extending Comment Period from 03/16/2009 to 03/20/2009.

Dated: January 16, 2009.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E9–1394 Filed 1–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

ER–FRL–8589–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7146.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 6, 2008 (73 FR 19833).

Draft EISs

EIS No. 20080415, ERP No. D–FHW–L40235–ID, I–90 Post Falls Access Improvements Project, Transportation Improve from Spokane Street Interchange through the State Highway 41 (SH–41) Interchange, Kootenai County, ID

Summary: EPA has no objections to the proposed project. Rating LO.

EIS No. 20080389, ERP No. DA–AFS–L65369–00, Southwest Idaho Ecogroup Land and Resource Management Plan, Provide Additional Information to Reanalyzes the Effects of Current and Proposed Management on Rock Mountain Bighorn Sheep Viability in the Payette National Forest 2003 FEIS, Boise National Forest, Payette National Forest and Sawtooth National Forest, Forest Plan Revision, Implementation, Several Counties, ID; Malhaur County, OR and Box Elder County, UT.

Summary: EPA expressed environmental concerns about disease transmission between bighorn sheep and domestic sheep, the uncertainty in modeling, and monitoring details. Rating EC2.

EIS No. 20080442, ERP No. DS–AFS–J65469–CO, White River National Forest Travel Management Plan, Updated Information for the Preferred Alternative, To Accommodate and Balance Transportation Needs, Implementation, Eagle, Garfield, Gunnison, Mesa, Moffat, Pitkin, Rio Blanco, Routt and Summit Counties, CO.

Summary: EPA's previous concerns were resolved, therefore EPA has no objections to the proposed action. Rating LO.

Final EISs

EIS No. 20080487, ERP No. F–AFS–F65035–WA, Cayuga Project, Proposed Vegetation and Transportation Management Activities northeast of Clam Lake, Preferred Alternative Selected Alternative 7, Great Divide Ranger District, Chequamegon-Nicolet National Forest, Ashland County, WI.

Summary: EPA's concerns about marten habitat have been addressed. Therefore, EPA has no objections to the project.

EIS No. 20080488, ERP No. F–FHW–F40442–MI, Detroit River International Crossing Study, Propose Border Crossing System between the International Border Cities of Detroit, Michigan and Windsor, Ontario, Wayne County, MI.

Summary: EPA has no objections to the proposed project.

EIS No. 20080495, ERP No. F–USN–K10011–CA, Southern California (SOCAL) Range Complex, To Organize, Train, Equip, and Maintain Combat-Ready Naval Forces, San Diego, Orange and Los Angeles Counties, CA.

Summary: EPA continues to have environmental concerns about impacts to marine resources and ocean water quality from munitions.

EIS No. 20080501, ERP No. F–AFS–J65500–00, Wild and Scenic River Suitability Study for National Forest System Lands on the Ashley, Dixie, Fishlake, Manti-La Sal, Uinta and Wasatch-Cache National Forests in UT and Portion of National Forests extend into Colorado and Wyoming, several counties, UT, Montrose County, CO and Uinta County, WY.

Summary: No formal comment letter was sent to the preparing agency.

Dated: January 16, 2009.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E9–1395 Filed 1–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8765–5]

Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC); Notification of Public Teleconferences; of the Ambient Air Monitoring & Methods (AAMM) Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces two public teleconferences of the Clean Air Scientific Advisory Committee (CASAC) Ambient Air Monitoring & Methods Subcommittee (AAMMS or Subcommittee) to conduct consultations concerning ambient air monitoring issues related to the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter.

DATES: The meeting dates are Tuesday, February 10, 2009, from 11 a.m. to 2 p.m. (Eastern Time) and Wednesday, February 11, 2009, from 1 p.m. to 4 p.m. (Eastern Time).

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to obtain further information concerning this public teleconference may contact: Ms. Kyndall Barry, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9868; fax: (202) 233–0643; or e-mail at *barry.kyndall@epa.gov.* General information concerning the CASAC can be found on the EPA Web site at *http://www.epa.gov/casac/.*

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and NAAQS under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC Ambient Air Monitoring & Methods Subcommittee (AAMMS) was established in 2004 as a standing subcommittee of CASAC to provide advice and recommendations to the EPA Administrator on topics specific to ambient air monitoring, methods and networks. The Subcommittee will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including both ozone (O_3) and particulate matter (PM).

a. AAMMS Teleconference, February 10, 2009—Ozone Network Design

In March 2008, the final rule for the Ozone NAAQS was published (73 FR 16436). The rule revised both the primary and secondary standards and set identical, 8-hour standards of 0.075 ppm expressed to three decimal places for both public health and welfare. In the March 2008 rule, EPA committed to develop separate rulemaking to support changes in the monitoring network requirements based on the revisions of the primary and secondary O_3 NAAQS. EPA is also considering changes to the required O_3 monitoring season. EPA's Office of Air and Radiation (OAR) requested the consultative advice of the AAMMS on the options for network design and O_3 monitoring season to guide the development of potential monitoring requirements. Additional information on the O_3 monitoring issues is available on the OAR Web page at *http://www.epa.gov/ttn/naaqs/standards/ozone/s_o3_index.html*.

b. AAMMS Teleconference, February 11, 2009—Coarse Particle Speciation

In October 2006, EPA issued the final rule to revise both the primary and secondary NAAQS for PM (71 FR 61144). The Agency decided to retain PM10 as the indicator for thoracic coarse particles as promulgated in July 1997 (62 FR 38652). The final rule establishes ambient air monitoring requirements for a $PM_{10-2.5}$ indicator of thoracic coarse particles to support research on particle distribution, sources, and health effects. A new Federal Reference Method (FRM) was also promulgated in the rule for measuring the mass concentration of $PM_{10-2.5}$ in ambient air. As part of the revisions to the Ambient Air Monitoring Regulations, $PM_{10-2.5}$ speciation monitoring will be required at National Core (NCore) multi-pollutant monitoring stations by January 1, 2011. EPA OAR requested AAMMS consultative advice on the issues related to $PM_{10-2.5}$ speciation and monitoring. Additional information on the monitoring issues specific to coarse particles is available on the OAR Web page at *http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html*.

Technical Contacts: Any technical questions concerning the indicator and ambient air monitoring issues related to the O_3 or PM NAAQS can be directed Mr. Lewis Weinstock, OAQPS, at phone: (919) 541–3661, or e-mail *weinstock.lewis@epa.gov*.

Availability of Meeting Materials: The Agency documents for both consultations will be posted on the EPA Technology Transfer Network (TTN) Web site on the respective pages for the Ozone and PM NAAQS at *http://www.epa.gov/ttn/naaqs/*. Prior to the meetings, the agendas and other materials for these AAMMS teleconferences will be accessible through the calendar link on the blue navigation bar at *http://www.epa.gov/casac/*.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for consideration on the topics included in this advisory activity. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact Ms. Barry, DFO, in writing (preferably via e-mail), by February 6, 2009, at the contact information noted above, to be placed on the list of public speakers for this meeting.

Written Statements: Written statements should be received in the SAB Staff Office by the same date, so that the information may be made available to the CASAC Panel for its consideration prior to this teleconference. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature and one electronic copy via e-mail (acceptable file formats: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Submitters are asked to provide versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Ms. Barry at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: January 15, 2009.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E9–1396 Filed 1–22–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:03 p.m. on Thursday, January 15, 2009, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to an open bank assistance transaction.

In calling the meeting, the Board determined, on motion of Vice Chairman Martin J. Gruenberg, seconded by Director John C. Dugan (Director, Comptroller of the Currency), and concurred in by Director Thomas J. Curry (Appointive), Director John M. Reich (Director, Office of Thrift Supervision), and Chairman Sheila C. Bair, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: January 15, 2009.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E9–1360 Filed 1–22–09; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[Notice 2009–2]

Agency Procedures

AGENCY: Federal Election Commission.

ACTION: Reopening of comment period.

SUMMARY: This notice reopens the comment period for a Notice of public hearing on the policies and procedures of the Federal Election Commission. The comment period will be open until February 18, 2009. The Notice of public hearing addresses Federal Election Commission policies and procedures including, but not limited to, policy statements, advisory opinions, and public information, as well as various

elements of the compliance and enforcement processes such as audits, matters under review, report analysis, administrative fines, and alternative dispute resolution. The Commission also seeks comment from the public on the procedures contained in the Federal Election Campaign Act of 1971 (''FECA''), as well as the Commission's implementing regulations.

DATES: Comments must be received on or before February 18, 2009.

ADDRESSES: All comments must be in writing, must be addressed to Stephen Gura, Deputy Associate General Counsel, or Mark Shonkwiler, Assistant General Counsel, and must be submitted in either e-mail, facsimile, or paper copy form. Commenters are strongly encouraged to submit comments by e-mail to ensure timely receipt and consideration. E-mail comments must be sent to *agencypro2008@fec.gov.* If e-mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments must be sent to (202) 219–3923, with paper copy follow-up. Paper comments and paper copy follow-up of faxed comments must be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter or they will not be considered. The Commission will post comments on its website after the comment period ends.

FOR FURTHER INFORMATION CONTACT: Stephen Gura, Deputy Associate General Counsel, or Mark Shonkwiler, Assistant General Counsel, Office of General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

The Commission is currently reviewing, and seeks further public comment on, its policies, practices and procedures. The Commission will use the comments received to determine whether its policies, practices or procedures should be adjusted, and whether rulemaking in this area is advisable. The Commission has made no decisions in this area, and may choose to take no action.

The Commission published a Notice of public hearing. See 73 FR 74494 (Dec. 8, 2008) (''Notice''). The Notice explored possible modifications to the Agency's policies, practices, and procedures in the areas of enforcement, alternative dispute resolution, administrative fines, reports analysis, audits, advisory opinions, and policy statements. The Notice also sought general comment on the procedures contained in the FECA, (2 U.S.C. 431 *et seq.*), as well as the Commission's implementing regulations. The comment period for the Notice ended on January 5, 2009, and a hearing was held on January 14–15, 2009. Written comments in response to the Notice and hearing documents can be found at *http://www.fec.gov/law/policy/enforcement/publichearing011409.shtml.* A transcript of the hearing will be posted on this Web site no later than January 30, 2009.

Given the complexity and importance of the issues raised by the Notice, the Commission has decided to reopen the comment period to seek additional information that may assist the Commission in its decisionmaking.

On behalf of the Commission.

Dated: January 15, 2009.

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. E9–1325 Filed 1–22–09; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Web site (*http://www.fmc.gov*) or contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012011–001.

Title: MSC/YML Space Charter Agreement.

Parties: Mediterranean Shipping Co. S.A., and YangMing (UK) Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment reduces the amount of space Mediterranean Shipping will charter to Yang Ming in the trade between U.S. Atlantic Coast ports and ports in Italy and Spain.

Agreement No.: 012055–001.

Title: Maersk Line/CMA CGM Cooperative Working Agreement.

Parties: A.P. Moller-Maersk A/S, and CMA CGM S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher and Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment would add ports in the Mediterranean to the geographic scope of the agreement. The parties request expedited review.

By order of the Federal Maritime Commission.

Dated: January 16, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–1502 Filed 1–22–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

WS Project Services, Inc., 16800 Imperial Valley Drive, #374, Houston, TX 77060, Officers: Yan Wang, Vice President, (Qualifying Individual), Liang Yan, President.

Art Van Lines USA, Inc., 501 Penhorn Ave., Unit 2, Secaucus, NJ 07094, Officer: Shinichi Hada, Secretary, (Qualifying Individual).

Dolphin Logistics, Inc. dba ASL Logistics USA, 2440 S. Hacienda Blvd., #101, Hacienda Heights, CA 91745, Officer: Kenny I. Tsal, CEO, (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant

Sunship International Acquisitions Incorporated dba Global Bridge Imports Exports, Inc., 6815 W. 95th Street, Suite #1, Oaklawn, IL 60453, Officer: Andrew Krzeptowski, President, (Qualifying Individual).

Bermol, Inc. dba Molcan Freight Forwarding Services, 13501 SW. 16 Court, Davie, FL 33325, Officer: Brenton J. King, President, (Qualifying Individual).

Dated: January 16, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–1500 Filed 1–22–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 17, 2009.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. Franklin Resources, Inc., San Mateo, California, to acquire up to 5.9 percent of the voting shares of CIT Group, Inc., New York, New York, and thereby indirectly acquire voting shares of CIT Bank, Salt Lake City, Utah.

Board of Governors of the Federal Reserve System, January 16, 2009.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E9–1377 Filed 1–22–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 p.m., Monday, January 26, 2009.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, January 16, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–1513 Filed 1–21–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council

TIME AND DATE: 10 a.m. (EST) February 4, 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 June 30, 2008 ETAC meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Potential Legislative items:
   a. Automatic enrollment.
   b. L Fund default.
   c. Roth feature.
   d. Mutual fund window.
   e. Immediate employer contributions.
   f. Surviving spouse accounts.
   g. Administrative subpoena authority.
4. RMD suspension for 2009.
5. 2008 TSP Participant Survey results.
6. Agency review of the latest REIT industry proposal.
7. L Fund allocations.
8. New Business.

CONTACT PERSON FOR MORE INFORMATION: Thomas K. Emswiler, Committee Management Officer, (202) 942–1660.

Dated: January 16, 2009.

Thomas K. Emswiler,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. E9–1557 Filed 1–21–09; 4:15 pm]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the HHS poverty guidelines to account for last calendar year's increase in prices as measured by the Consumer Price Index.

DATES: *Effective Date:* Date of publication, unless an office administering a program using the guidelines specifies a different effective date for that particular program.

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services (HHS), Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: For information about how the guidelines are used or how income is defined in a particular program, contact the Federal, state, or local office that is responsible for that program. Contact information for two frequently requested programs is given below:

For information about the Hill-Burton Uncompensated Services Program (free or reduced-fee health care services at certain hospitals and other facilities for persons meeting eligibility criteria involving the poverty guidelines), contact the Office of the Director, Division of Facilities Compliance and Recovery, Health Resources and Services Administration, HHS, Room 10–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland

20857. To speak to a staff member, please call (301) 443–5656. To receive a Hill-Burton information package, call 1–800–638–0742 (for callers outside Maryland) or 1–800–492–0359 (for callers in Maryland). You also may visit *http://www.hrsa.gov/hillburton/default.htm.* The Division of Facilities Compliance and Recovery notes that as set by 42 CFR 124.505(b), the effective date of this update of the poverty guidelines for facilities obligated under the Hill-Burton Uncompensated Services Program is sixty days from the date of this publication.

For information about the percentage multiple of the poverty guidelines to be used on immigration forms such as USCIS Form I–864, Affidavit of Support, contact U.S. Citizenship and Immigration Services at 1–800–375–5283.

For information about the number of people in poverty or about the Census Bureau poverty thresholds, visit the Poverty section of the Census Bureau's Web site at *http://www.census.gov/hhes/www/poverty/poverty.html* or contact the Census Bureau's Demographic Call Center Staff at (301) 763–2422 or 1–866–758–1060 (toll-free).

For general questions about the poverty guidelines themselves, contact Gordon Fisher, Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201—telephone: (202) 690–7507—or visit *http://aspe.hhs.gov/poverty/.*

SUPPLEMENTARY INFORMATION:

Background

Section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C. 9902(2)) requires the Secretary of the Department of Health and Human Services to update, at least annually, the poverty guidelines, which shall be used as an eligibility criterion for the Community Services Block Grant program. The poverty guidelines also are used as an eligibility criterion by a number of other Federal programs. The *poverty guidelines* issued here are a simplified version of the *poverty thresholds* that the Census Bureau uses to prepare its estimates of the number of individuals and families in poverty.

As required by law, this update is accomplished by increasing the latest published Census Bureau poverty thresholds by the relevant percentage change in the Consumer Price Index for All Urban Consumers (CPI–U). The guidelines in this 2009 notice reflect the 3.8 percent price increase between calendar years 2007 and 2008. After this inflation adjustment, the guidelines are rounded and adjusted to standardize the differences between family sizes. The same calculation procedure was used this year as in previous years. (Note that these 2009 guidelines are roughly equal to the poverty thresholds for calendar year 2008 which the Census Bureau expects to publish in final form in August 2009.) The guideline figures shown represent annual income.

2009 Poverty Guidelines for the 48 Contiguous States and the District of Columbia

Persons in family	Poverty guideline
1	$10,830
2	14,570
3	18,310
4	22,050
5	25,790
6	29,530
7	33,270
8	37,010

For families with more than 8 persons, add $3,740 for each additional person.

2009 Poverty Guidelines for Alaska

Persons in family	Poverty guideline
1	$13,530
2	18,210
3	22,890
4	27,570
5	32,250
6	36,930
7	41,610
8	46,290

For families with more than 8 persons, add $4,680 for each additional person.

2009 Poverty Guidelines for Hawaii

Persons in family	Poverty guideline
1	$12,460
2	16,760
3	21,060
4	25,360
5	29,660
6	33,960
7	38,260
8	42,560

For families with more than 8 persons, add $4,300 for each additional person.

Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. (Note that the Census Bureau poverty thresholds—the version of the poverty measure used for statistical purposes—have never had separate figures for Alaska and Hawaii.) The poverty guidelines are not defined for Puerto Rico or other outlying jurisdictions. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office that administers the program is generally responsible for deciding whether to use the contiguous-states-and-DC guidelines for those jurisdictions or to follow some other procedure.

Due to confusing legislative language dating back to 1972, the poverty guidelines have sometimes been mistakenly referred to as the ''OMB'' (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty guidelines may be formally referenced as ''the poverty guidelines updated periodically in the **Federal Register** by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).''

Some programs use a percentage multiple of the guidelines (for example, 125 percent or 185 percent of the guidelines), as noted in relevant authorizing legislation or program regulations. Non-Federal organizations that use the poverty guidelines under their own authority in non-Federally-funded activities can choose to use a percentage multiple of the guidelines such as 125 percent or 185 percent.

The poverty guidelines do not make a distinction between farm and non-farm families, or between aged and non-aged units. (Only the Census Bureau poverty thresholds have separate figures for aged and non-aged one-person and two-person units.)

Note that this notice does not provide definitions of such terms as ''income'' or ''family.'' This is because there is considerable variation in how different programs that use the guidelines define these terms, traceable to the different laws and regulations that govern the various programs. Therefore, questions about how a particular program applies the poverty guidelines (for example, Is income before or after taxes? Should a particular type of income be counted? Should a particular person be counted in the family or household unit?) should be directed to the organization that administers the program; that organization has the responsibility for making decisions about definitions of such terms as ''income'' or ''family'' (to the extent that the definition is not already contained in legislation or regulations).

Dated: January 16, 2009.

Michael O. Leavitt,

Secretary of Health and Human Services.

[FR Doc. E9–1510 Filed 1–22–09; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Luk Van Parijs, PhD, Harvard Medical School, Brigham and Women's Hospital, California Institute of Technology, and Massachusetts Institute of Technology: Based on the reports of separate investigations conducted by Harvard Medical School (HMS)/Brigham and Women's Hospital (BWH), California Institute of Technology (CalTech), and Massachusetts Institute of Technology (MIT) and additional analysis conducted by the Office of Research Integrity (ORI) in its oversight review, the U.S. Public Health Service (PHS) found that Dr. Luk Van Parijs, former Graduate Student, Department of Pathology, HMS, former Research Fellow and Instructor of Pathology, BWH, former Postdoctoral Fellow, Department of Biology, CalTech, and former Associate Professor, Department of Biology, Center for Cancer Research, MIT, engaged in scientific misconduct in research supported by National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH), grants U19 AI56900, R21 AI49897, R01 AI42100, P01 AI35297, R37 AI25022, R01 AI32531, National Cancer Institute, NIH, grant R01 CA51462, and National Institute of Environmental Health Sciences (NIEHS), NIH, grant P30 ES02109, and National Institute of General Medical Sciences (NIGMS), NIH, grant R01 GM57931.

PHS found that Respondent engaged in scientific misconduct by including false data in NIAID, NIH, grant applications R01 AI54519–01A1, R01 AI54973–01, and R01 AI54973–01A1, NCI, NIH, grant application 2P30 CA14051–34, and National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), NIH, grant application R21 DK69277–01.

Specifically, PHS found that Respondent engaged in scientific misconduct by including false data in seven published papers, three submitted papers (with two earlier versions submitted for one of these), one submitted book chapter, and multiple presentations as follows:

1. While at HMS/BWH, Dr. Luk Van Parijs falsified the expression of IFN–γ and KJ–126 in flow cytometry dot plots for the immunized, naive, tolerized and tolerized + IL–12 experimental groups in Figure 4, *JEM* 186:1119–1128, 1997, by using the same non-stained cell population in the lower left quadrant to falsely represent CD4+ T cells negative for IFN–γ and KJ–126 in each experimental group.

2. That Dr. Luk Van Parijs falsified the expression of different proteins in flow cytometry dot plots in Figure 1, *Immunity,* 8:265–274, 1998, in Figure 1C, *Immunity,* 11:281–288, September 1999, and in Figure 5, *Immunity* 11:763–770, December 1999, by using portions of the same dot plot to represent different cell populations expressing different proteins. Specifically:

a. While at HMS/BWH, Dr. Van Parijs used portions of the same dot plot to represent T cell populations expressing the 3A9 T cell receptor and CD4+ (top panel) or CD8+ (bottom panel) in 3A9+ (wild type), in 3A9/lpr (Fas^-), or in 3A9/gld ($FasL^-$) transgenic mice in Figure 1, *Immunity* 1998, where:

i. The CD4/3A9 dot plots for the 3A9+ and 3A9/gld transgenic mice were the same, and the 3A9+ dot plot was a subset of the 3A9/lpr dot plot;

ii. The CD8/3A9 dot plots for the 3A9+ and 3A9/lpr transgenic mice were the same in the lower left and lower right quadrants, and the 3A9/gld dot plot was a subset of the wild type dot plot

b. While at CalTech, Dr. Van Parijs used portions of the same dot plot to represent the expression of hIL–2Rβ and GFP in T cells infected with WT or Δ355+8F IL–2R mutant in Figure 1C, *Immunity,* September 1999, where the Δ355+8F dot plot was a subset of the WT dot plot

c. While at CalTech, Dr. Van Parijs used portions of the same dot plot to represent the expression of B220 and IgM in infected (GFP+) and not infected (GFP^-) spleen cells isolated from reconstituted mice in Figure 5, *Immunity,* December 1999, where the Infected (GFP+) dot plot for control mice was a subset of the Not Infected (GFP^-) dot plot for FLIP mice.

3. While at MIT, Dr. Luk Van Parijs falsely claimed in the text of *RNA Interference Technology* (Cambridge University Press, July 2004) and in Figure 2 of *Nature Genetics* 33:401–406 (2003) that experiments depicting the functional silencing of genes in hematopoietic stem cells (HSCs) and in non-cycling dendritic cells by lentiviral-mediated RNAi were performed, when they were not. Specifically, in *Nature Genetics:*

a. *Figure 2b* falsely showed the transduction of bone marrow-derived dendritic cells infected with pLL3.7 Bim by flow cytometry, and knockdown of Bim expression by Western blot

b. *Figure 2d* falsely showed the efficiency of pLL3.7 CD8 lentiviral infection in HSCs by flow cytometry for GFP expression (left panel), and falsely showed stable gene expression in progeny by flow cytometry for GFP expression in spleen cells from chimeras derived from infected HSCs (right panel)

c. *Figure 2e* falsely showed the reduction of CD8+ T cells in spleen cells from chimeras derived from pLL3.7 CD8 infected HSCs (right panel) and controls (left panel).

4. While at MIT, Dr. Luk Van Parijs falsified figures in grant applications submitted to the National Institutes of Health (NIH), a presentation in 2003, and Figure 6A, *Immunity* 19:243–255 (2003), by falsely claiming that the image in the figure represented an immunoprecipitation assay for Ras-GTP and a Western blot for total Ras protein, when it actually represented a Western blot for Bcl–2 and β-actin in T cells, previously published as Figure 5C, *J. Immunol.,* 168:597–603 (2002).

Dr. Van Parijs also admitted to falsification or fabrication of data in multiple submitted manuscripts, grant applications submitted to NIH, and presentations as follows.

5. While at MIT, Dr. Luk Van Parijs admitted that in multiple presentations and submitted manuscripts in 2004, he falsely claimed that the bifunctional lentiviral vectors, U6–shRNA–rat insulin promoter (RIP)-Myc had been made, when they had not, and that transgenic mice carrying these lentiviral vectors with shRNA silencing Bim or Pten proteins in pancreatic cells showed accelerated tumorigenesis and death.

6. While at MIT, Dr. Luk Van Parijs admitted that in multiple presentations in 2003 and 2004 and in grant application R21 DK69277–01 submitted to NIH in 2003, he falsely claimed that the number of CD8+ T cells and the incidence of diabetes was reduced by silencing CD8 expression with the pLL3.7 CD8 lentivirus in non-obese diabetic (NOD) transgenic mice, when the NOD transgenic mice data did not exist.

7. While at MIT, Dr. Luk Van Parijs admitted that in multiple presentations,

submitted manuscripts, and grant applications submitted to NIH in 2004, he falsely claimed that transgenic mice had been generated with the mono-functional lentiviral vectors with c–Myc, Ras or Akt under the control of the CD4 promoter, when they had not, and that transgenic mice had been generated with the bi-functional lentiviral vectors with CD4–c–Myc, Ras or Akt– and U6–shRNAs targeting luciferase, Bcl–2, or Bim proteins, when they had not. The effect of these misrepresentations was the reported false conclusion that a cytokine-stimulated proto-oncogene network regulated CD4+ T-cell survival and responses to foreign and self antigens.

8. While at MIT, Dr. Luk Van Parijs admitted that in presentations and submitted manuscripts in 2004, he falsely claimed that mice injected with plasmids carrying shRNAs for Bcl–2, Akt1 and Akt2, complexed to polyethylene imine (PEI) showed a significant reduction in c–myc-induced tumor growth, when the experiments had not been done.

9. While at MIT, Dr. Luk Van Parijs admitted that in presentations in 2004, he falsely claimed that shRNAs designed using algorithms developed in 2004 were more effective to silence target genes than the shRNAs designed with algorithms in 2002.

10. While at MIT, Dr. Luk Van Parijs admitted that in multiple presentations, submitted manuscripts, a grant application submitted to NIH, and in the text of *Current Opinions in Molec. Therapeutics,* 6:136, 2004, he falsely claimed that an in vivo RNAi screen was developed to identify genes in cytokine and apoptosis pathways that accelerated or suppressed Myc-induced tumorigenesis in lethally irradiated mice, by using bi-functional lentiviral vectors that expressed c-Myc under control of the CMV enhancer-β-actin promoter (CAG) and U6-driven shRNAs designed to silence 168 selected genes, when the experiments had not been done.

11. While at MIT, Dr. Luk Van Parijs admitted that in a submitted manuscript in 2004 and a grant application submitted to NIH in 2003, he falsely claimed that with the use of retroviral vectors with Bim and activated Ras, Akt or Myc, he showed that the IL–2-stimulated activation of proto-oncogene pathways functioned to promote the survival of T cells following antigen encounter by regulating Bim and Bcl–2 pathways, when the experiments that were performed were inconclusive.

Dr. Van Parijs has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed, for a period of five (5) years, beginning on December 22, 2008:

(1) to exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility or involvement in nonprocurement programs of the United States Government referred to as ''covered transactions'' pursuant to HHS' Implementation (2 CFR Part 376 *et seq.*) of OMB Guidelines to Agencies on Government wide Debarment and Suspension (2 CFR, Part 180); and

(2) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

Dated: January 14, 2009.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. E9–1453 Filed 1–22–09; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Full Committee Meeting.

Time and Date:

February 25, 2009, 9 a.m.–3 p.m. February 26, 2009, 10 a.m.–4 p.m.

Place: Hubert Humphrey Building, 200 Independence Avenue, SW., Room 505A, Washington, DC 20201.

Status: Open.

Purpose: At this meeting the Committee will hear presentations and hold discussions on several health data policy topics. On the morning of the first day the Committee will hear updates from the Department, the HHS Data Council, the Center for Medicare and Medicaid Services, as well as update on the transition to the new administration. There will also be an ONC update on the NHIN Conference. In the afternoon there will be a speaker on de-identification of health data from the Center for Democracy and Technology.

On the morning of the second day there will be a briefing on international terminology and an update on Health Statistics for the 21st Century. There will also be an update from NCHS Board of Scientific Counselors and an overview of emerging and innovative sources of health data.

The times shown above are for the full Committee meeting. Subcommittee breakout sessions can be scheduled for late in the afternoon of the first day and second day and in the morning prior to the full Committee meeting on the second day. Agendas for these breakout sessions will be posted on the NCVHS website (URL below) when available.

For Further Information Contact: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/,* where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: January 12, 2009.

James Scanlon,

Deputy Assistant Secretary for Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. E9–1445 Filed 1–22–09; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10273]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Evaluation of the Medicare Care Management Performance Demonstration (MCMP) and the Electronic Health Records Demonstration (EHRD); *Use:* The MCMP demonstration was authorized under Section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. This is a three year pay for performance demonstration with physicians to promote the adoption and use of health information technology (HIT) to improve the quality of care for eligible chronically ill Medicare beneficiaries. MCMP targets small to medium sized primary care practices with up to 10 physicians. Practices must provide care to at least 50 Medicare beneficiaries. Physicians will receive payments for meeting or exceeding performance standards for quality of care. They will also receive an additional incentive payment for electronic submission of performance measures via their electronic health record (EHR) system. These payments are in addition to their normal payments for providing service to Medicare beneficiaries. The Office System Survey (OSS) will be used to assess progress of physician practices in implementation and use of EHRs and related HIT functionalities.

The EHR demonstration is authorized under section 402 of the Medicare Waiver Authority. The goal of this six year pay for performance demonstration is to foster the implementation and adoption of EHRs and HIT in order to improve the quality of care provided by physician practices. The EHRD expands upon the MCMP Demonstration and will test whether performance-based financial incentives (1) increase physician practices' adoption and use of electronic health records (EHRs), and (2) improve the quality of care that practices deliver to chronically ill patients. The EHRD targets small to medium sized primary care practices with up to 20 physicians. Practices must provide care to at least 50 Medicare beneficiaries. Approximately 2,400 practices will be enrolled in the demonstration across 12 sites. Practices will be randomly assigned to a treatment and control group. The OSS will be used to assess progress of physician practices in implementation and use of EHRs and related HIT functionalities, and to determine incentive payments for treatment practices. In-person and telephone discussions with community partners and physician practices will be used to learn about practices' experiences and strategies in adopting and using EHRs, as well as the factors that help or hinder their efforts. *Form Number:* CMS–10273 (OMB# 0938—New); *Frequency:* Annually, Biennially and Once; *Affected Public:* Business or other for-profit; *Number of Respondents:* 3434; *Total Annual Responses:* 3434; *Total Annual Hours:* 2586.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *March 24, 2009:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number __, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 14, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–1435 Filed 1–22–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2899–FN]

Medicare and Medicaid Programs; Approval of the Accreditation Commission for Health Care, Incorporated for Continued Deeming Authority for Home Health Agencies

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This notice announces our decision to approve the Accreditation Commission for Health Care, Incorporated (ACHC) for continued recognition as a national accreditation program for home health agencies (HHAs) seeking to participate in the Medicare or Medicaid programs.

DATES: *Effective Date:* This final notice is effective February 24, 2009 through February 24, 2015.

FOR FURTHER INFORMATION CONTACT: Lillian Williams, (410) 786–8636. Patricia Chmielewski, (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive selected covered services from a home health agency (HHA) provided certain requirements are met. Sections 1861(m) and (o), 1891, and 1895 of the Social Security Act (the Act) authorize the Secretary to establish distinct criteria for facilities seeking designation as an HHA. Under this authority, the minimum requirements that an HHA must meet to participate in Medicare are set forth in regulations at 42 CFR part 484 and 42 CFR part 409, which determine the basis and scope of HHA-covered services, and the conditions for Medicare payment for home health care. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488.

Generally, to enter into an agreement, an HHA must first be certified by a State survey agency as complying with conditions or requirements set forth in part 484 of our regulations. Then, the HHA is subject to regular surveys by a State survey agency to determine whether it continues to meet those requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(a)(1) of the Act (as redesignated under section 125 of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275) provides that, if a provider entity demonstrates through accreditation by an approved national accreditation organization that all applicable Medicare conditions are met or exceeded, we may ''deem'' those provider entities as having met Medicare requirements. (We note that section 125 of MIPPA redesignated subsections (b) through (e) of subsection 1865 of the Act as (a) through (d) respectively.) Accreditation by an accreditation organization is voluntary

and is not required for Medicare participation.

If an accreditation organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, a provider entity accredited by the national accrediting body's approved program may be deemed to meet the Medicare conditions. A national accreditation organization applying for approval of deeming authority under part 488, subpart A must provide us with reasonable assurance that the accreditation organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning reapproval of accrediting organizations are set forth at § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accreditation organizations to reapply for continued approval of deeming authority every 6 years, or sooner as we determine. The Accreditation Commission for Health Care, Incorporated's (ACHC) term of approval as a recognized accreditation program for HHAs expires February 24, 2009.

II. Deeming Applications Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. The Act provides us with 210 calendar days after the date of receipt of an application to complete our survey activities and application review process. Within 60 days of receiving a completed application, we must publish a notice in the **Federal Register** that identifies the national accreditation body making the request, describes the request, and provides no less that a 30-day public comment period. At the end of the 210-day period, we must publish an approval or denial of the application.

III. Provisions of the Proposed Notice

In the August 22, 2008 **Federal Register** (73 FR 49681), we published a proposed notice announcing the ACHC's request for reapproval as a deeming organization for HHAs. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and our regulations at § 488.4 (Application and reapplication procedures for accreditation organizations), we conducted a review of the ACHC application in accordance with the criteria specified by our regulation, which include, but are not limited to the following:

- An onsite administrative review of ACHC's (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- A comparison of ACHC's HHA accreditation standards to our current Medicare HHA conditions of participation (COPs).
- A documentation review of ACHC's survey processes to—

++ Determine the composition of the survey team, surveyor qualifications, and the ability of ACHC to provide continuing surveyor training;

++ Compare ACHC's processes to those of State survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities;

++ Evaluate ACHC's procedures for monitoring providers or suppliers found to be out of compliance with ACHC program requirements. The monitoring procedures are used only when ACHC identifies noncompliance. If noncompliance is identified through validation reviews, the State survey agency monitors corrections as specified at § 488.7(d);

++ Assess ACHC's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner;

++ Establish ACHC's ability to provide us with electronic data and reports necessary for effective validation and assessment of ACHC's survey process;

++ Determine the adequacy of staff and other resources;

++ Review ACHC's ability to provide adequate funding for performing required surveys;

++ Confirm ACHC's policies with respect to whether surveys are announced or unannounced; and,

++ Obtain ACHC's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the August 22, 2008 proposed notice (73 FR 49681) solicited public comments regarding whether ACHC's requirements met or exceeded the Medicare conditions of coverage for HHAs. We received no public comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between the ACHC's Standards and Requirements for Accreditation and Medicare's Conditions and Survey Requirements

We compared the standards contained in ACHC's accreditation requirements for HHAs and its survey process in ACHC's application for renewal of deeming authority for HHAs with the Medicare HHA conditions for participation and our State Operations Manual (SOM). Our review and evaluation of ACHC's deeming application, which were conducted as described in section III. of this final notice, yielded the following:

- To meet the requirements at § 488.4(a)(3)(iii), ACHC revised their record retention policy to require all survey documentation be kept for a minimum of 3 years.
- To meet the requirements at § 484.4(a)(4), ACHC revised its surveyor training and evaluation policy to include a process for addressing unsatisfactory performance.
- To comply with the requirement at § 488.4(b)(3)(i), ACHC developed an action plan to resolve issues related to timely data submissions.
- ACHC modified its policies regarding timeframe for sending and receiving a plan of correction (PoC) to comply with the requirements of section 2728 of the SOM.
- To meet the Medicare requirements related to a plan of correction (PoC), ACHC amended its policies to ensure approved PoCs contain all the required elements specified in section 2728 of the SOM.
- ACHC revised its accreditation decision letters to ensure they are accurate and contain all the required elements necessary for the CMS Regional Office to render a decision regarding deemed status of a provider.

B. Term of Approval

Based on the review and observations described in section III. of this final notice, we have determined that the ACHC requirements for HHA meet or exceed our requirements. Therefore, we approve ACHC as a national accreditation organization for HHAs that request participation in the Medicare program, effective February 24, 2009 through February 24, 2015.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and

Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Authority: Section 1865 of the Social Security Act (42 U.S.C. 1395bb).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program); (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Programs)

Dated: November 21, 2008.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9–684 Filed 1–22–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2298–N]

Medicaid Program; Town Hall Forum on Access to Dental Care for Medicaid-Eligible Children; April 6, 2009

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a town hall forum to discuss access to dental care for Medicaid eligible children. Beneficiaries, providers, dentists, industry representatives, and other interested parties are invited to this meeting to present their views, concerns, and recommendations related to oral health issues. The forum is open to the public, but attendance is limited to space available.

DATES: *Meeting Date:* The town hall forum will be held on Monday, April 6, 2009, from 1 p.m. to 4 p.m., eastern daylight time (e.d.t.).

Deadline for Meeting Registration: Registrations must be received by Wednesday, April 1, 2009, by 5 p.m., e.d.t.

Deadline for Requesting Special Accommodations: Participants requiring special accommodations should contact Cindy Ruff at the address specified in the **ADDRESSES** section of this notice by Friday, March 27, 2009, by 5 p.m., e.d.t.

ADDRESSES: Meeting Location: The town hall forum will be held in the auditorium at the Center for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244.

Meeting Registration: Participants may register via e-mail at *Cynthia.Ruff@cms.hhs.gov* or by regular mail at the Centers for Medicare and Medicaid Services, Center for Medicaid and State Operations, Family and Children's Health Programs Group, 7500 Security Boulevard, S2–01–16, Baltimore, MD 21244.

Inquires: Send inquiries about this meeting via email to *Cynthia.ruff@cms.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Cindy Ruff, 410–786–5916.

SUPPLEMENTARY INFORMATION:

I. Background

In response to Congressional hearings and Federal studies regarding access to dental care for Medicaid eligible children, we performed 16 State dental reviews in 2008. We recently published a National Summary of those State reviews and identified several opportunities for improving dental care for individuals eligible for Medicaid. We proposed to have a Town Hall Forum to discuss these opportunities. The Forum will provide a venue for participants to provide feedback to us on various oral health issues and to discuss best practices and innovative delivery models for dental care. We will work with co-facilitators, the National Association of State Medicaid Directors and the American Dental Association, in presenting the Forum.

II. Meeting Format

The meeting will begin with introductions of the individuals participating in the meeting and an overview of the goal and objectives of the meeting. There will be a brief overview of the role and functions of Federal and State programs in delivering dental care to individuals eligible for Medicaid. There will be an opportunity for several States to briefly present information on a promising oral health practice in their State. The third portion of the Forum will focus on discussion of delivery of dental services through managed care organizations, payment issues, best practices/innovative delivery models, and recommendations for education and outreach to dental providers and Medicaid enrollees.

Prior to the Town Hall Forum, we will distribute information via the CMS Web site including an agenda and a set of questions to be addressed at the Forum. The materials will be posted on the CMS web site at *http://www.cms.hhs.gov/MedicaidSCHIPQualPrac/02_whatsnewinquality.asp#TopOfPage.* Registered participants may submit additional questions/comments to be considered for discussion at the Forum.

III. Registration Instructions

There is no registration fee associated with attending the meeting. All individuals must register to attend. Because this meeting will be located on Federal property, for security reasons any persons wishing to attend must register at one of the addresses specified in the **ADDRESSES** section of this notice by the date specified in the **DATES** section of this notice. Please provide your full name (as it appears on your State-issued driver's license), address, organization, telephone, fax number(s), and e-mail address. You will receive a registration confirmation with instructions for your arrival at the CMS complex or you will be notified the seating capacity has been reached. The meeting is limited to registered persons, and seating capacity is limited to the first 250 registrants.

Individuals requiring sign language interpretation for the hearing impaired or other special accommodations should contact Cindy Ruff at the address listed in the **ADDRESSES** section of this notice by the date specified in the **DATES** section of this notice.

IV. Security, Building, and Parking Guidelines

This meeting will be held in a Federal government building; therefore, Federal security measures are applicable. We recommend that confirmed registrants arrive at CMS reasonably early, but no earlier than 45 minutes prior to the start of the meeting, to allow additional time to clear security. Security measures include the following:

- Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel.
- Inspection of vehicle's interior and exterior (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.
- Inspection, via metal detector or other applicable means of all persons brought entering the building. We note that all items brought into CMS, whether personal or for the purpose of presentation or to support a presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for presentation or to support a presentation.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the

meeting. The public may not enter the building earlier than 45 minutes prior to the convening of the meeting.

All visitors must be escorted in areas other than the lower and first floor levels in the Central Building.

Authority: Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program.

Dated: January 14, 2009.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9–1294 Filed 1–22–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1562–N]

Medicare Program; Meeting of the Practicing Physicians Advisory Council, March 9, 2009

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces a quarterly meeting of the Practicing Physicians Advisory Council (the Council). The Council will meet to discuss certain proposed changes in regulations and manual instructions related to physicians' services, as identified by the Secretary of Health and Human Services. This meeting is open to the public.

DATES: *Meeting Date:* Monday, March 9, 2009, from 8:30 a.m. to 5 p.m. e.d.t.

Deadline for Registration without Oral Presentation: Thursday, March 5, 2009, 12 noon, e.s.t.

Deadline for Registration of Oral Presentations: Friday, February 20, 2009,
12 noon, e.s.t.

Deadline for Submission of Oral Remarks and Written Comments: Wednesday, February 25, 2009, 12 noon, e.s.t.

Deadline for Requesting Special Accommodations: Monday, March 2, 2009, 12 noon, e.s.t.

ADDRESSES: *Meeting Location:* The meeting will be held in Room 705A, in the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Submission of Testimony: Testimonies should be mailed to Kelly Buchanan, Designated Federal Official (DFO), Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail stop C4–13–07, Baltimore, MD 21244–1850, or contact the DFO via e-mail at *PPAC_hhs@cms.hhs.gov*.

FOR FURTHER INFORMATION CONTACT: Kelly Buchanan, DFO, (410) 786–6132, or e-mail *PPAC_hhs@cms.hhs.gov*. News media representatives must contact the CMS Press Office, (202) 690–6145. Please refer to the CMS Advisory Committees' Information Line (1–877–449–5659 toll free), (410) 786–9379 local) or the Internet at *http://www.cms.hhs.gov/home/regsguidance.asp* for additional information and updates on committee activities.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces the quarterly meeting of the Practicing Physicians Advisory Council (the Council). The Secretary of Health and Human Services (the Secretary) is mandated by section 1868(a)(1) of the Social Security Act (the Act) to appoint a Practicing Physicians Advisory Council based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and manual instructions related to physician services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the Council's consultation must occur before **Federal Register** publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services (CMS) not later than December 31 of each year.

The Council consists of 15 physicians, including the Chair. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 members of the Council must be physicians as described in section 1861(r)(1) of the Act; that is, State-licensed doctors of medicine or osteopathy. The remaining 4 members may include dentists, podiatrists, optometrists, and chiropractors. Members serve for overlapping 4-year terms.

Section 1868(a)(2) of the Act provides that the Council meet quarterly to discuss certain proposed changes in regulations and manual issuances that relate to physicians' services, identified by the Secretary. Section 1868(a)(3) of the Act provides for payment of expenses and per diem for Council members in the same manner as members of other advisory committees appointed by the Secretary. In addition to making these payments, the Department of Health and Human Services and CMS provide management and support services to the Council. The Secretary will appoint new members to the Council from among those candidates determined to have the expertise required to meet specific agency needs in a manner to ensure appropriate balance of the Council's membership.

The Council held its first meeting on May 11, 1992. The current members are: John E. Arradondo, M.D., MPH; Vincent J. Bufalino, M.D., Chairperson; Joseph A. Giaimo, D.O.; Pamela A. Howard, M.D.; Roger L. Jordan, O.D.; Janice A. Kirsch, M.D.; Tye J. Ouzounian, M.D.; Gregory J. Przybylski, M.D.; Jeffrey A. Ross, DPM, M.D.; Jonathan E. Siff, M.D., MBA; Fredrica E. Smith, M.D.; Arthur D. Snow, Jr., M.D.; M. Leroy Sprang, M.D.; Christopher J. Standaert, M.D.; and Karen S. Williams, M.D.

II. Meeting Format and Agenda

The meeting will commence with the Council's Executive Director providing a status report, and the CMS responses to the recommendations made by the Council at the December 8, 2008 meeting, as well as prior meeting recommendations. Additionally, an update will be provided on the Physician Regulatory Issues Team. In accordance with the Council charter, we are requesting assistance with the following agenda topics:

- Value-Based Purchasing.
- 9th Scope of Work.
- Recovery Audit Contractors (RAC) Update.
- Local Coverage Determination Process.
- National Coverage Determination Process.
- Medicare Appeals Process.

For additional information and clarification on these topics, contact the DFO as provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individual physicians or medical organizations that represent physicians wishing to present a 5-minute oral testimony on agenda issues must register with the DFO by the date listed in the **DATES** section of this notice. Testimony is limited to agenda topics only. The number of oral testimonies may be limited by the time available. A written copy of the presenter's oral remarks must be submitted to the DFO for distribution to Council members for review before the meeting by the date listed in the **DATES** section of this notice. Physicians and medical organizations

not scheduled to speak may also submit written comments to the DFO for distribution by the date listed in the **DATES** section of this notice.

III. Meeting Registration and Security Information

The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at the number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date specified in the **DATES** section of this notice.

Since this meeting will be held in a Federal Government Building, the Hubert H. Humphrey Building, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security. To gain access to the building, participants will be required to show a government-issued photo identification (for example, driver's license, or passport), and must be listed on an approved security list before persons are permitted entrance. Persons not registered in advance will not be permitted into the Hubert H. Humphrey Building and will not be permitted to attend the Council meeting.

All persons entering the building must pass through a metal detector. In addition, all items brought to the Hubert H. Humphrey Building, whether personal or for the purpose of presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for the purpose of presentation.

Individuals requiring sign language interpretation or other special accommodations must contact the DFO via the contact information specified in the **FOR FUTHER INFORMATION CONTACT** section of this notice by the date listed in the **DATES** section of this notice.

Authority: (Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, section 10(a)).)

Dated: January 15, 2009.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9–1434 Filed 1–22–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Community-Based Abstinence Education Performance Progress Report.

OMB No.: 0970–0272.

Description: The discretionary funding Community-Based Abstinence Education Program (CBAE) is authorized by Title XI, Section 1110, of the Social Security Act (using the definitions contained in Title V, Section 510(b)(2) of the Social Security Act).

Performance Progress Report/Program Narrative

The CBAE Performance Progress Report/Program Narrative is a semiannual report form through which grantees report performance information used by the Administration for Children and Families (ACF) to evaluate each grantee's compliance with Federal law and progress toward achieving its goals. Performance information includes:

Description of major activities and accomplishments during the reporting period;

Description of deviations or departures from the original project;

Description of significant findings and events;

Description of dissemination activities;

Description of other activities; and

Description of activities planned for the next reporting period, including goals and objectives.

Program-Specific Performance Measure

The CBAE program is developing a program-specific performance measure in response to the PART review (a process by which the Office of Management and Budget analyzes and rates a Federal program's procedures and strategies for evaluating its effectiveness), for which the program received a rating of Adequate. In an effort to gather program-specific data on rates of abstinence pre- and post-program participation, ACF and the Office of Management and Budget determined that a program-specific performance measure should be developed to assess key outcomes among program participants. The CBAE office convened a panel of abstinence education experts to gather input on the measure, and, based on the input provided, the CBAE office is developing the measure. CBAE grantees will be required to ask ten to fifteen questions of the youth served in a pre- and post-survey, as well as a representative sample of the youth served in a post-post survey.

The questions are being carefully constructed by an experienced evaluator to measure initiation and discontinuation of sexual intercourse as well as two key predictors of initiation: Sexual values and behavioral intentions.

The program office will collect and compile data to establish baselines and ambitious targets for the program specific performance measure. The data will be aggregated and results will be shared with the public as they become available.

Respondents: Performance Progress Report/Program Narrative—Non-profit community-based organizations, faith based organizations, schools/school districts, universities/colleges, hospitals, public health agencies, local governments, Tribal councils, small businesses/for profit entities, housing authorities, etc.

Program-Specific Performance Measure—Youth Participants

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Community-Based Abstinence Education Program Announcement Performance Progress Report/Program Narrative	60	2	50	6,000
Community-Based Abstinence Education Program—Program—Specific Performance Measure	1,000,000	3	0.17	510,000

Estimated Total Annual Burden Hours: 516,000.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: January 14, 2009.

Janean Chambers

Reports Clearance, Officer.

[FR Doc. E9–1316 Filed 1–22–09; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biobehavior and Learning.

Date: January 29, 2009.

Time: 9 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Biao Tian, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; SRO Conflict: Clinical Neuroscience and Neurodegeneration.

Date: January 29, 2009.

Time: 9 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, One Nob Hill, San Francisco, CA 94108.

Contact Person: Jerry L. Taylor, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, (301) 435–1175, *taylorje@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Arthritis, Connective Tissue and Skin Study Section.

Date: February 2–3, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton LAX, 9750 Airport Boulevard, Los Angeles, CA 90045.

Contact Person: Aftab A. Ansari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, (301) 594–6376, *ansaria@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Vascular Pathophysiology.

Date: February 4–5, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ai-Ping Zou, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, (301) 435–1777, *zouai@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Clinical and Integrative Diabetes and Obesity Study Section.

Date: February 5, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nancy Sheard, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–E, MSC 7892, Bethesda, MD 20892, (301) 435–1154, *sheardn@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Health of the Population Integrated Review Group; Epidemiology of Cancer Study Section.

Date: February 5–6, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street, San Francisco, CA 94102.

Contact Person: Denise Wiesch, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684, *wieschd@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cognition and Perception.

Date: February 6, 2009.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Cheri Wiggs, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261, *wiggsc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ELB Conflicts.

Date: February 6, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Manjit Hanspal, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7804, Bethesda, MD 20892, 301–435–1195, *hanspalm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Structure and Regeneration Study Section.

Date: February 9–10, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: John P. Holden, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–496–8551, *holdenjo@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group, Aging Systems and Geriatrics Study Section.

Date: February 9–10, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina, 530 West Pico Boulevard, Santa Monica, CA 90405,

Contact Person: James P. Harwood, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7840, Bethesda, MD 20892, 301–435–1256, *harwoodj@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: February 9–10, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Tamizchelvi Thyagarajan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016K, MSC 7814, Bethesda, MD 20892, 301–451–1327, *tthyagar@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pregnancy and Neonatology Study Section.

Date: February 9, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael Knecht, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Discovery for the Nervous System.

Date: February 9, 2009.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Mary Custer, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Aging and Development.

Date: February 9, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sherry L. Dupere, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7843, Bethesda, MD 20892, (301) 435–1021, *duperes@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; IRG Member Conflicts.

Date: February 11–12, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Amy L. Rubinstein, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, MSC 7849, Bethesda, MD 20892, 301–435–1159, *rubinsteinal@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group; International and Cooperative Projects—I Study Section.

Date: February 12, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Manana Sukhareva, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–1116, *sukharem@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cellular, Molecular and Integrative Reproduction Study Section.

Date: February 12, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Stuart B. Moss, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–1044, *mossstua@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group; Cardiovascular and Sleep Epidemiology Study Section.

Date: February 12–13, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: J. Scott Osborne, PhD, MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782, *osbornes@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetic Variation and Evolution Study Section.

Date: February 12–13, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: David J. Remondini, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210, MSC 7890, Bethesda, MD 20892, 301–435–1038, *remondid@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group; Social

Sciences and Population Studies Study Section.

Date: February 12, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Bob Weller, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694, *wellerr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; CVD and Neurocognitive Epidemiology.

Date: February 12, 2009

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Scott Osborne, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782, *osbornes@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.

Date: February 13, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Michael Micklin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; SRO Conflict: Biobehavioral Regulation, Learning and Ethology.

Date: February 13, 2009.

Time: 8 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: The Hotel Rouge, 1315 16th Street, NW., Washington, DC 20036.

Contact Person: Biao Tian, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Social Science and Population Studies R03s, R15s, and R21s.

Date: February 13, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Valerie Durrant, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 435–3554, *durrantv@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group; Biostatistical Methods and Research Design Study Section.

Date: February 13, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Denise Wiesch, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684, *wieschd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Skeletal Muscle Small Business.

Date: February 13, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, Main Building, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Richard J. Bartlett, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, 301–435–6809, *bartletr@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Vector Biology Study Section.

Date: February 13, 2009.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Liangbiao Zheng, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; System Dynamics Methodologies.

Date: February 13, 2009.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting,)

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 13, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–1170 Filed 1–22–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee J—Population and Patient-Oriented Training.

Date: February 13, 2009.

Time: 7:45 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Ilda M. Mckenna, Ph.D., Scientific Review Officer, Research Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8111, Bethesda, MD 20892, 301–496–7481, *mckennai@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 14, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–1339 Filed 1–22–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications/contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications/contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Development of Protein Expression Technologies.
Date: January 26, 2009.
Time: 10:30 a.m. to 1 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call)
Contact Person: Shamala K. Srinivas, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8133, Bethesda, MD 20892, 301–594–1224. *ss537t@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Cancer Institute Special Emphasis Panel, Development of shRNA Library Screening Technology for Cancer-Related Targets.
Date: February 24, 2009.
Time: 10 a.m. to 12 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 6116 Executive Boulevard, Conference Room 406, Rockville, MD 20852. (Telephone Conference Call)
Contact Person: Adriana Stoica, PhD, Scientific Review Officer, Special Review & Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Ste. 703, Room 7072, Bethesda, MD 20892–8329, 301–594–1408, *Stoicaa2@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel Integration of Mouse Models into Human Cancer Research.
Date: February 25–26, 2009.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Crowne Plaza, 3 Research Court, Rockville, MD 20850.
Contact Person: Jeffrey E. Declue, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8059, Bethesda, MD 20892–8329, 301–496–7904, *decluej@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel Cancer Care Outcomes Research & Surveillance Consortium.
Date: March 5, 2009.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Joyce C. Pegues, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892–8329, 301–594–1286, *peguesj@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel, Mobile Computing for Consumer-Centered Cancer Prevention and Control.
Date: March 10, 2009.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate contract proposals.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Viatcheslav A. Soldatenkov, PhD, MD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8050a, Bethesda, MD 20892–8329, 301–451–4758, *soldatenkovv@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel, Development of User Interfaces.
Date: March 17, 2009.
Time: 8 a.m. to 12 p.m.
Agenda: To review and evaluate contract proposals.
Place: Hilton Alexandria at Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Marvin L. Salin, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–496–0694, *msalin@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel, Biomarkers Development Strategies.
Date: March 17, 2009.
Time: 12:30 p.m. to 5 p.m.
Agenda: To review and evaluate contract proposals.
Place: Hilton Alexandria at Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Marvin L. Salin, PhD, Scientific Review Officer, Special Review And Logistics Branch, Division Of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–496–0694, *msalin@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel, Gene Environment & Health Initiative.
Date: March 31–April 1, 2009.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton at Old Town Alexandria, 1767 King Street, Alexandria, VA 22314.
Contact Person: Marvin L. Salin, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–496–0694, *msalin@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel, Small Grants Program for Cancer Epidemiology.
Date: April 2–3, 2009.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Legacy Hotel, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Joyce C. Pegues, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892–8329, 301–594–1286, *peguesj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 14, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–1340 Filed 1–22–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Eye Council.

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/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Eye Council.

Date: January 22, 2009.

Closed: 8:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Center, Bethesda, MD 20892.

Open: 1 p.m. to 5 p.m.

Agenda: Following opening remarks by the Director, NEI there will be presentations by the staff of the Institute and discussions concerning Institute programs.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Center, Bethesda, MD 20892.

Contact Person: Andrew P Mariani, PhD, Acting Executive Secretary, National Advisory Eye Council, Division of Extramural Research, National Eye Institute, National Institutes of Health, Bethesda, MD 20892, (301) 451–2020, *apm@nei.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

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.

Information is also available on the Institute's/Center's home page: *http://www.nei.nih.gov*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: January 13 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–1167 Filed 1–22–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2009–0003]

Homeland Security Information Network Advisory Committee

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Homeland Security Information Network Advisory Committee (HSINAC) will meet from February 10–February 12, 2009, in Potomac, MD. The meeting will be open to the public.

DATES: The HSINAC will meet Tuesday, February 10, 2009, from 8 a.m. to 6 p.m., Wednesday, February 11, 2009, from 8 a.m. to 6 p.m. and on Thursday, February 12, 2009, from 8 a.m. to 1:30 p.m. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at the Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854–4436. Send written material, comments, and requests to make oral presentations to Niklaus Welter, Department of Homeland Security, 245 Murray Lane, SW., Bldg. 410, Washington, DC 20528. Requests to make oral statements at the meeting should reach the contact person listed below by February 3, 2009. Requests to have a copy of your material distributed to each member of the committee prior to the meeting should reach the contact person at the address below by February 3, 2009. Questions and comments must be identified by DHS–2009–0003 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: Niklaus.Welter@dhs.gov*. Include the docket number, DHS–2009–0003 in the subject line of the message.
- *Fax*: 202–282–8806.
- *Mail*: Niklaus Welter, Department of Homeland Security, 245 Murray Lane, SW., Building 410, Washington, DC 20528.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the Homeland Security Information Network Advisory Committee, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Niklaus Welter, 245 Murray Lane, SW., Bldg. 410, Washington, DC 20528, *Niklaus.Welter@dhs.gov*, 202–282–8336, fax 202–282–8806.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The mission of the Homeland Security Information Network Advisory Committee is to identify issues and provide independent advice and recommendations for the improvement of the Homeland Security Information Network (HSIN) to senior leadership of the Department, in particular the Director of Operations Coordination and Planning. The agenda for this meeting will include an update on efforts concerning the improvement of HSIN, a presentation on civil-military information sharing, discussions pertaining to the governance of HSIN, and discussions pertaining to the HSIN law enforcement community.

Procedural:

This meeting is open to the public. The chairperson of the Homeland Security Information Network Advisory Committee shall conduct the meeting in a way that will, in his judgment, facilitate the orderly conduct of business. Please note that the meeting may end early if all business is completed.

Participation in HSINAC deliberations is limited to committee members and Department of Homeland Security officials.

All visitors to Bolger Center will have to pre-register to be admitted to the building. Please provide your name, telephone number by close of business on February 03, 2009, to Niklaus Welter (202–282–8336) (*Niklaus.Welter@dhs.gov*). Seating may be limited and is available on a first-come, first-served basis.

Information on Services for Individuals with Disabilities. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Niklaus Welter as soon as possible.

Roger T. Rufe, Jr.,

Director of Operations Coordination and Planning.

[FR Doc. E9–1341 Filed 1–22–09; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; Revision of a currently approved collection, OMB Number 1660–0073, FEMA Form 089–10, FEMA Form 089–11, FEMA Form 089–12, FEMA Form 089–13, FEMA Form 089–14, FEMA Form 089–15.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revised information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the National Urban Search and Rescue (US&R) Cooperative Agreement program.

SUPPLEMENTARY INFORMATION: Section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5144, authorizes the President of the United States to form emergency Support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Section 403(a)(3)(B) of the Stafford Act provides that the President may authorize Federal agencies to perform work on public or private lands essential to save lives and protect property, including search and rescue and emergency medical care, and other essential needs. FEMA established the National Urban Search and Rescue Response System (US&R) under these authorities. The information collection activity authorized under 44 CFR part 208 is the collection of program and administrative information from US&R Sponsoring Organizations relating to preparedness and response Cooperative Agreement awards.

Collection of Information

Title: National Urban Search and Rescue Grant Program.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0073.

Form Numbers: FEMA Form 089–10, Narrative Statement, FEMA Form 089–11, Performance Reports, FEMA Form 089–12, Extensions/Budget Changes, FEMA Form 089–13, Memorandum of Agreement Revisions, FEMA Form 089–14, Self Evaluations, FEMA Form 089–15, Task Force Deployment Data.

Abstract: The information collection activity is the collection of financial, program and administrative information for US&R Sponsoring Organizations relating to preparedness and response Cooperative Agreement awards. This information includes a narrative statement that FEMA uses to evaluate a grantee's proposed use of funds, progress reports to monitor overall progress on managing FEMA grant program, extension or change requests used to consider changing or extending the time or the performance period of the preparedness or response cooperative agreement, evaluation and information to assess and ensure operational readiness and a memorandum of agreement between DHS/FEMA and the Sponsoring Organizations of US&R task forces.

Affected Public: State, Local or Tribal Government, Not-for-profit institutions.

Estimated Total Annual Burden Hours: 476 hours.

TABLE A.12: ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate ($)	Total annual respondent cost ($)
State, Local or Tribal Government (US&R Task Forces).	Narrative Statement/FEMA Form 10.	28	1	4	112	32.67	3,659
State, Local or Tribal Government (US&R Task Forces).	Performance Reports/FEMA Form 11.	28	2	2	112	32.67	3,659
State, Local or Tribal Government (US&R Task Forces).	Extensions/Budget Changes/FEMA Form 12.	28	2	1	56	32.67	1,830
State, Local or Tribal Government (US&R Task Forces).	Memorandum of Agreement Revisions/FEMA Form 13.	28	1	4	112	32.67	3,659
State, Local or Tribal Government (US&R Task Forces).	Self Evaluations/FEMA Form 14.	28	1	2	56	32.67	1,830
State, Local or Tribal Government (US&R Task Forces).	Task Force Deployment Data/FEMA Form 15.	28	1	1	28	32.67	915
Total	.....	28	.....	.....	476	.....	15,552

Estimated Cost: The estimated annualized cost to respondents based on wage rate categories is $15,552. The estimated annual cost to the Federal Government is $171,000.

Comments: Written comments are solicited to (a) Evaluate whether the proposed data collection is necessary for

the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments must be submitted on or before March 24, 2009.

ADDRESSES: Interested persons should submit written comments to Office of Management, Records Management Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, Mail Drop Room 301.

FOR FURTHER INFORMATION CONTACT: Contact Wanda Casey, Chief, Program Management Section, National Urban Search and Rescue Program, (202) 646–4013 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov.*

Samuel C. Smith,

Acting Director, Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–1284 Filed 1–22–09; 8:45 am]

BILLING CODE 9110–69–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; Revision of a currently approved collection, OMB Number 1660–0014, FEMA Form—None.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Collection of Information

Title: Reimbursement for Cost of Fighting Fire on Federal Property.

OMB Number: 1660–0014.

Form Number(s): No Forms.

Abstract: The Federal Emergency Management Agency (FEMA), the Administrator of the United States Fire Administration (USFA); and the United States Treasury will use the information to ensure proper expenditure of Federal funds. Once a claim is received, a copy of FEMA determination and the claim is forwarded to the Treasury Department. The Treasury Department will pay for fire services or its parent jurisdiction for any moneys in the treasurer subject to reimbursement, to the Federal department or agency under whose jurisdiction the fire occurred.

Affected Public: Federal Government; State, Local or Tribal Government.

Number of Respondents: 4.

Estimated Time per Respondent: 1.5 Hours.

Estimated Total Annual Burden Hours: 6 Hours.

Frequency of Response: On Occasion.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–6974. Comments must be submitted on or before February 23, 2009.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Acting Director, Records Management Division, 500 C Street, SW., Washington, DC 20472, Mail Drop Room 301, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

Samuel C. Smith,

Acting Director, Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–1285 Filed 1–22–09; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; Reinstatement, with change, of a previously approved collection for which approval has expired, 1660–0059, FEMA Form 517–1, FEMA Form 512–1.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Collection of Information

Title: National Flood Insurance Program Call Center and Agent Referral Enrollment Form.

OMB Number: 1660–0059.

Form Number(s): FEMA Form 517–1, Agent Referral Program Enrollment and FEMA Form 512–1, FEMA Inbound Script.

Abstract: The information collection serves two purposes: (1) Allows the NFIP to service requests for flood insurance information or agent referral services from potential purchasers through calls to the toll-free number or by visiting the Web site, and (2) allows insurance agents to enroll in the Agent Referral Program and Agent Co-Op Program. Should the request include an insurance agent referral, the name and business address of insurance agents in the caller's geographic area, who are enrolled in the referral service, are provided.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 81,796.

Estimated Time per Respondent: .048 minutes.

Estimated Total Annual Burden Hours: 3,943 Hours.

Frequency of Response: Once.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–6974. Comments must be submitted on or before February 23, 2009.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Acting Director, Records Management Division, 500 C Street, SW., Washington, DC 20472, Mail Drop Room 301, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

Samuel C. Smith,

Acting Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–1287 Filed 1–22–09; 8:45 am]

BILLING CODE 9110–41–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; Extension, without change, of a currently approved collection, OMB Number 1660–0038, FEMA Form—None.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Collection of Information

Title: Write Your Own (WYO) Company Participation Criteria; New Applicant.

OMB Number: 1660–0038.

Form Number(s): None.

Abstract: The Federal Government is a guarantor of flood insurance coverage issued under the WYO arrangement, which allows private insurance to write flood insurance policies. To determine eligibility for participation in the WYO Program, the National Flood Insurance Program requires a one-time application for participation from each new private insurance company seeking entry into the program. FEMA will review each application to determine eligibility to participate in the program.

Affected Public: Business or other for-profit.

Number of Respondents: 5.

Estimated Time per Respondent: 7 Hours.

Estimated Total Annual Burden Hours: 35 Hours.

Frequency of Response: Once Only.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–6974. Comments must be submitted on or before February 23, 2009.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Acting Director, Records Management Division, 500 C Street, SW., Washington, DC 20472, Mail Drop Room 301, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

Samuel C. Smith,

Acting Director, Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–1288 Filed 1–22–09; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–03]

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: January 23, 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: January 15, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E9–1250 Filed 1–22–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5200–FA–03]

Announcement of Funding Awards for the Housing Choice Voucher Family Self Sufficiency Program for Fiscal Year 2008

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development

Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the Fiscal Year (FY) 2008 Notice of Funding Availability (NOFA) for the Housing Choice Voucher (HCV) Family Self Sufficiency (FSS) funding for FY2008. This announcement contains the consolidated names and addresses of award recipients selected for funding based on the rating and ranking of all applications and the allocation of funding available for each state.

FOR FURTHER INFORMATION CONTACT: For questions concerning the FY2008 HCV FSS awards, contact the Office of Public and Indian Housing's Grant Management Center, Acting Director, Keia L. Neal, Department of Housing and Urban Development, Washington, DC 20410–5000, telephone (202) 475–8908. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1 (800) 877–8339. (Other than the ''800'' TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The authority for the $49,000,000 in one-year budget authority HCV FSS program coordinators is found in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2008 (Pub. L. 110–161). The allocation of housing assistance budget authority is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213(d) of the Housing and Community Development Act of 1974, as amended.

This program is intended to promote the development of local strategies to coordinate the use of assistance under the Housing Choice Voucher program with public and private resources to enable participating families to achieve economic independence and self-sufficiency. A FSS program coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

The FY2008 awards announced in this notice were selected for funding in a competition announced in the NOFA published on May 12, 2008. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 638 awards made under the HCV FSS competitions.

Dated: January 12, 2009.

Paula O. Blunt,

General Deputy Assistant Secretary for Public and Indian Housing.

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM

Recipient	Address/city/state/zip code	Amount
Housing Choice Voucher Family Self-Sufficiency		
Alaska Housing Finance Corporation	4300 Boniface Parkway, P.O. Box 101020, Anchorage, AK 99510.	$64,909
Albertville Housing Authority	711 South Broad Street, Albertville, AL 35950	41,410
Alexander City Housing Authority	2110 County Road, Alexander City, AL 35010	32,949
Bessemer Housing Authority	1515 Fairfax Avenue South, Bessemer, AL 35020	35,912
Florence Housing Authority	110 South Cypress Street, Suite 1, Florence, AL 35630	47,277
Housing Authority of the Birmingham District	1826 3rd Avenue South, Birmingham, AL 35233	64,909
Housing Authority of the City of Decatur, Alabama	P.O. Box 878, 100 Wilson Street Northeast, Decatur, AL 35601.	34,434
Jefferson County Housing Authority	3700 Industrial Parkway, Birmingham, AL 35217	49,300
Mobile Housing Board	151 S. Claiborne Street, Mobile, AL 36602	79,472
Prichard Housing Authority	4559 St. Stephens Road, Eight Mile, AL 36613	45,688
The Housing Authority of the City of Huntsville	200 Washington Street, Huntsville, AL 35804	56,870
The Housing Authority of the City of Montgomery, Alabama	1020 Bell Street, Montgomery, AL 36104	50,780
Tuscaloosa Housing Authority	2808 10th Avenue, Tuscaloosa, AL 35401	50,941
Conway County Housing Authority	P.O. Box 229, Morrilton, AR 72110	72,120
Housing Authority of Lonoke County,	P.O. Box 74 617, North Greenlaw Street, Carlisle, AR 72024	36,774
Housing Authority of the City of Hope	720 Texas Street, Hope, AR 71801	31,004
Housing Authority of the City of Pine Bluff	P.O. Box 8872 2503, Belle Meade, Pine Bluff, AR 71611	74,450
Housing Authority of the City of West Memphis	2820 Harrison Street, West Memphis, AR 72301	40,700
Jonesboro Urban Renewal and Housing Authority	330 Union Street, Jonesboro, AR 72401	41,624
Lee County Housing Authority	100 West Main, Marianna, AR 72360	24,172
McGehee Public Residential Housing Facilities Board	P.O. Box 725 300, Shady Lane, McGehee, AR 71654	31,848
Mississippi County Public Facilities Board	810 West Keiser, Osceola, AR 72370	73,685
North Little Rock Housing Authority	P.O. Box 516, 2201 Division Street, North Little Rock, AR 72115.	108,950
Northwest Regional Housing Authority	P.O. Box 2568 114, Sisco Avenue, Harrison, AR 72602	40,207
Pope County Public Facilities Board	P.O. Box 846, 301 East 3rd Street, Russellville, AR 72811	35,342
Pulaski County Housing Agency	201 South Broadway, Suite 220, Little Rock, AR 72201	35,158
White River Regional Housing Authority	P.O. Box 650, Melbourne, AR 72556	38,814
Wynne Housing Authority	200 Fisher Place, Wynne, AR 72396	27,323
Chandler, City of	P.O. Box 4008, Mail Stop #101, Chandler, AZ 85244	53,903
City of Douglas Public Housing Authority	1815 East 9th Street, Douglas, AZ 85607	66,000
City of Mesa	P.O. Box 1466, Mesa, AZ 85211	96,575
City of Phoenix Housing Department	251 West Washington, 4th Floor, Phoenix, AZ 85003	198,000
City of Scottsdale Housing Agency	7515 East 1st Street, Scottsdale, AZ 85251	54,574
City of Tempe Housing Services	21 East 6th Street, Suite 214, Tempe, AZ 85281	129,818
City of Tucson	310 N. Commerce Park Loop, P.O. Box 27210, Tucson, AZ 85726.	117,944
Housing Authority of Cochise County	P.O. Box 167, 100 Clawson Avenue, Bisbee, AZ 85603	54,383
Housing Authority of Maricopa County	2024 North 7th Street, Suite 101, Phoenix, AZ 85006	44,698
Housing Authority of the City of Yuma	420 South Madison Avenue, Yuma, AZ 85364	129,974

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address/city/state/zip code	Amount
Mohave, County of	P.O. Box 7000, Kingman, AZ 86402	49,604
Pinal County Division of Housing	970 No. Eleven Mile Corner Road, Casa Grande, AZ 85294	50,603
Yuma County Housing Department	8450 West Highway 95, #88, Somerton, AZ 85350	36,967
Area Housing Authority of the County of Ventura	1400 West Hillcrest Drive, Ventura, CA 91320	63,500
City of Benicia Housing Authority	28 Riverhill Drive, Benicia, CA 94510	127,008
City of Norwalk	12035 Firestone Boulevard, Norwalk, CA 90650	63,363
City of Oceanside Community Development Commission	300 N. Coast Hwy., Oceanside, CA 92054	132,000
City of Pomona Housing Authority	505 S. Garey Avenue, Pomona, CA 91769	66,000
City of Santa Monica Housing Authority	2121 Cloverfield Blvd., Santa Monica, CA 90404	64,266
Consolidated Area Housing Authority of Sutter County	448 Garden Highway, Yuba City, CA 95991	50,953
Culver City Housing Agency	9770 Culver Boulevard, Culver City, CA 90232	64,909
El Dorado County Community Services	937 Spring Street, Placerville, CA 95667	93,953
Fairfield Housing Authority	823–B Jefferson St., Fairfield, CA 94533	131,000
Garden Grove Housing Authority	11277 Garden Grove Boulevard STE. 101–C, Garden Grove, CA 92842.	66,000
Housing Authority of the City of Fresno	Post Office Box 11985, Fresno, CA 93776	254,240
Housing Authority of the City of Glendale	141 N. Glendale Avenue, Room 202, Glendale, CA 91206	65,650
Housing Authority of the City of Long Beach	521 East 4th Street, Long Beach, CA 90802	262,600
Housing Authority of the City of Madera	205 North G Street, Madera, CA 93637	120,036
Housing Authority of the City of Oxnard	435 South D Street, Oxnard, CA 93030	66,000
Housing Authority of the City of Redding	P.O. Box 4196071, Redding, CA 96049	57,560
Housing Authority of the City of San Jose	505 West Julian Street, San Jose, CA 95110	66,000
Housing Authority of the City of San Luis Obispo	487 Leff Street, San Luis Obispo, CA 93401	50,560
Housing Authority of the City of Santa Ana	P.O. Box 22030, Santa Ana, CA 92702	63,690
Housing Authority of the City of Santa Barbara	808 Laguna Street, Santa Barbara, CA 93101	132,000
Housing Authority of the City of Vallejo	200 Georgia Street, Vallejo, CA 94590	132,000
Housing Authority of the County of Alameda	22941 Atherton Street, Hayward, CA 94541	198,000
Housing Authority of the County of Contra Costa	3133 Estudillo Street, P.O. Box 2759, Martinez, CA 94553	132,000
Housing Authority of the County of Fresno	Post Office Box 11985, Fresno, CA 93776	302,982
Housing Authority of the County of Kings	P.O. Box 355, 680 North Douty Street, Hanford, CA 93232	56,106
Housing Authority of the County of Marin	4020 Civic Center Drive, San Rafael, CA 94903	132,000
Housing Authority of the County of Monterey	123 Rico Street, Salinas, CA 93907	63,258
Housing Authority of the County of Riverside	5555 Arlington Avenue, Riverside, CA 92504	65,650
Housing Authority of the County of San Bernardino	715 East Brier Drive, San Bernardino, CA 92408	120,436
Housing Authority of the County of San Diego	3989 Ruffin Road, San Diego, CA 92123	66,000
Housing Authority of the County of San Joaquin	448 South Center Street, Stockton, CA 95203	129,818
Housing Authority of the County of San Mateo	264 Harbor Boulevard, #A, Belmont, CA 94002	132,000
Housing Authority of the County of Santa Barbara	815 West Ocean Avenue, Lompoc, CA 93436	66,000
Housing Authority of the County of Santa Clara	505 W. Julian Street, San Jose, CA 95110	132,000
Housing Authority of the County of Santa Cruz	2931 Mission Street, Santa Cruz, CA 95060	64,909
Housing Authority of the County of Stanislaus	P.O. Box 581918, 1701 Robertson Road, Modesto, CA 95358	55,010
Imperial Valley Housing Authority	1401 D Street, Brawley, CA 92227	60,546
Oakland Housing Authority	1619 Harrison Street, Oakland, CA 94612	129,818
Orange County Housing Authority	1770 North Broadway, Santa Ana, CA 92706	127,421
Pasadena Community Development Commission	649 North Fair Oaks Avenue, Suite 202, Pasadena, CA 91001	41,624
Pico Rivera Housing Assistance Agency	P.O. Box 1016, Pico Rivera, CA 90660	64,625
Roseville Housing Authority	311 Vernon Street, Roseville, CA 95678	64,908
San Diego Housing Commission	1122 Broadway, 5th Floor, San Diego, CA 92101	396,000
Shasta County Housing Authority	1450 Court Street, Suite 108, Redding, CA 96001	40,177
Solano County Housing Authority	40 Eldridge Avenue, Suite 2, Vacaville, CA 95688	112,010
Sonoma County Community Development Commission	1440 Guerneville Road, Santa Rosa, CA 95403	64,909
Vacaville Housing Authority	40 Eldridge Avenue, Suite 2, Vacaville, CA 95688	129,818
Yuba County Housing Authority	915 8th Street, Suite 130, Marysville, CA 95901	55,979
Adams County Housing Authority	7190 Colorado Boulevard, Commerce City, CO 80022	92,131
Arvada Housing Authority	8001 Ralston Road, Arvada, CO 80002	38,122
Boulder County Housing Authority	P.O. Box 471, Boulder, CO 80306	122,282
Colorado Department of Local Affairs, Division of Housing	1313 Sherman Street, Room 518, Denver, CO 80203	62,483
Fort Collins Housing Authority	1715 West Mountain Avenue, Fort Collins, CO 80521	132,000
Grand Junction Housing Authority	1011 North 10th Street, Grand Junction, CO 81501	44,818
Housing Authority of the City & County of Denver	777 Grant Street, Denver, CO 80203	132,072
Housing Authority of the City of Aurora	10745 East Kentucky Avenue, Aurora, CO 80012	43,967
Housing Authority of the City of Englewood	3460 South Sherman, Suite 101, Englewood, CO 80113	43,260
Housing Authority of the City of Pueblo	1414 North Santa Fe Avenue, Pueblo, CO 81003	41,959
Lakewood Housing Authority	480 S. Allison Parkway, Lakewood, CO 80226	37,371
The Housing Authority of the City of Loveland	375 West 37th Street, Suite 200, Loveland, CO 80538	82,220
Bristol Housing Authority	164 Jerome Street, Bristol, CT 6010	66,000
City of Derby Housing Authority	45 Minerva Street, Derby, CT 6418	51,400
Housing Authority of the City of Ansonia	36 Main Street, Ansonia, CT 6401	104,862
Housing Authority of the City of Meriden	P.O. Box 911, 22 Church Street, Meriden, CT 6451	95,733
Housing Authority of the City of Norwalk	P.O. Box 508, 24½ Monroe Street, Norwalk, CT 6856	195,818

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address/city/state/zip code	Amount
District of Columbia Housing Authority	1133 North Capitol Street, NE, Suite 150B, Washington, DC 20002.	198,000
Boca Raton Housing Authority	201 W. Palmetto Park Road, Palm Beach, FL 33432	50,500
Broward County Housing Authority	4780 North State Road 7, Lauderdale Lakes, FL 33319	60,592
City of Pensacola Department of Housing	P.O. Box 12910, Pensacola, FL 32521	30,300
Clearwater Housing Authority	908 Cleveland Street, Clearwater, FL 33755	84,289
County of Volusia, FL	110 W. Rich Avenue, DeLand, FL 32720	55,901
Deerfield Beach Housing Authority	533 South Dixie Highway, Deerfield Beach, FL 33441	15,474
Hialeah Housing Authority	75 East 6th Street, Hialeah, FL 33040	70,927
Hillsborough County B.O.C.C.	3620 West Humphrey Street, Tampa, FL 33614	59,110
Hollywood Housing Authority	7350 N. Davie Rd. Ext., Hollywood, FL 33024	19,908
Housing Authority City of Daytona Beach	211 North Ridgewood Avenue, Suite 200, Daytona Beach, FL 32114.	36,862
Housing Authority of Brevard County	615 Kurek Court, Merritt Island, FL 32953	59,437
Housing Authority of Lakeland	430 Hartsell Avenue, Lakeland, FL 33815	48,140
Housing Authority of the City of Fort Lauderdale	437 SW 4th Avenue, Fort Lauderdale, FL 33315	63,018
Housing Authority of the City of Fort Myers	4224 Michigan Avenue, Fort Myers, FL 33916	49,375
Housing Authority of the City of Fort Pierce	707 North 7th Street, Fort Pierce, FL 34950	62,541
Housing Authority of the City of Miami Beach	200 Alton Road, Miami Beach, FL 33139	63,000
Housing Authority of the City of Orlando, Florida	390 N. Bumby Avenue, Orlando, FL 32803	99,974
Housing Authority of the City of Pompano Beach	321 West Atlantic Boulevard, Pompano Beach, FL 33060	45,198
Housing Authority of the City of Tampa	1529 West Main Street, Tampa, FL 33607	150,111
Jacksonville Housing Authority	1300 Broad Street, Jacksonville, FL 32202	45,312
Lee County Housing Authority	14170 Warner Circle Northwest, North Fort Myers, FL 33903	45,955
Ocala Housing Authority	1629 NW 4th Street, Ocala, FL 34475	49,893
Palm Beach Housing Authority	3432 West 45th Street, West Palm Beach, FL 33407	72,537
Pasco County Housing Authority	14517 7th Street, Dade City, FL 33523	32,425
Tallahassee Housing Authority	2940 Grady Road, Tallahassee, FL 32312	51,828
West Palm Beach Housing Authority	1715 Division Avenue, West Palm Beach, FL 33407	58,937
City of Marietta Housing Choice Voucher Program	268 Lawrence Street, Suite 200, Marietta, GA 30060	56,133
Georgia Department of Community Affairs	60 Executive Park South, NE, Atlanta, GA 30329	355,591
Housing Authority of Columbus, Georgia	P.O. Box 630, 1000 Wynnton Road, Columbus, GA 31902	45,000
Housing Authority of Fulton County	4273 Wendell Drive, Atlanta, GA 30336	45,645
Housing Authority of the City of Augusta, Georgia	1435 Walton Way, Augusta, GA 30901	100,582
Housing Authority of the City of College Park	2000 West Princeton Avenue, College Park, GA 30337	63,118
Housing Authority of the City of East Point, Georgia	3056 Norman Berry Drive, East Point, GA 30364	66,000
Housing Authority of the City of Marietta	95 Cole Street, P.O. Drawer K, Marietta, GA 30061	55,950
Northwest Georgia Housing Authority	800 North Fifth Avenue, Rome, GA 30162	41,000
The Housing Authority of the City of Brunswick	P.O. Box 1118, Brunswick, GA 31521	42,517
Guam Housing and Urban Renewal Authority	117 Bien Venida Avenue, Sinajana, GU 96910	53,672
City and County of Honolulu	Honolulu Hale, Honolulu, HI 96813	126,976
Hawaii County Housing Agency	50 Wailuku Drive, Hilo, HI 96720	64,900
Hawaii Public Housing Authority	P.O. Box 17907, Honolulu, HI 96808	65,500
Kauai, County of; DBA Kauai County Housing Agency	4444 Rice Street, Suite 330, Lihue, HI 96766	126,959
Central Iowa Regional Housing Authority	1201 Gateway Drive, Grimes, IA 50111	56,395
City of Cedar Rapids	1211 6th Street, SW, Cedar Rapids, IA 52404	7,732
City of Des Moines Municipal Housing Agency	100 East Euclid, Suite 101, Des Moines, IA 50313	66,000
City of Dubuque	350 West 6th Street, Suite 312, Dubuque, IA 52001	68,847
City of Sioux City Housing Authority	405 6th Street, Suite 107, Sioux City, IA 51102	129,818
Eastern Iowa Regional Housing Authority	3999 Pennsylvania Avenue, Suite 200, Dubuque, IA 52002	65,650
Iowa City Housing Authority	410 East Washington Street, Iowa City, IA 52240	119,322
Mid Iowa Regional Housing Authority	1605 1st Avenue, No., Ste. 1, Fort Dodge, IA 50501	46,128
Municipal Housing Agency of Council Bluffs, IA	505 South 6th Street, Council Bluffs, IA 51501	47,717
Municipal Housing Agency of the City of Fort Dodge	700 South 17th Street, Fort Dodge, IA 50501	99,624
Northeast Nebraska Joint Housing Agency	1122 Pierce Street, Sioux City, IA 51105	74,308
Region XII Regional Housing Authority	P.O. Box 663, 320 E 7th Street, Carroll, IA 51401	45,197
Southern Iowa Regional Housing Authority	219 North Pine Street, Creston, IA 50801	42,986
Ada County Housing Authority	1276 River Street, Suite 300, Boise, ID 83702	111,708
Boise City Housing Authority	1276 River Street, Suite 300, Boise, ID 83702	111,710
Idaho Housing and Finance Association	P.O. Box 7899, 565 West Myrtle Street, Boise, ID 83707	223,977
Southwestern Idaho Cooperative Housing Authority	1108 West Finch Drive, Nampa, ID 83651	132,654
Chicago Housing Authority	60 East Van Buren, Chicago, IL 60605	524,746
DuPage Housing Authority	711 East Roosevelt Road, Wheaton, IL 60187	88,450
Housing Authority of Champaign County	205 West Park Avenue, Champaign, IL 61820	32,838
Housing Authority of Elgin	120 South State Street, Elgin, IL 60123	66,000
Housing Authority of Marion County	719 East Howard, Centralia, IL 62801	43,886
Housing Authority of the City of Bloomington	104 East Wood Street, Bloomington, IL 61701	50,761
Housing Authority of the City of East St. Louis	700 North 20th Street, East St. Louis, IL 62205	64,266
Housing Authority of the City of Rock Island	227 21st Street, Rock Island, IL 61201	64,909
Kankakee County Housing Authority	P.O. Box 965, 185 North St. Joseph Avenue, Kankakee, IL 60901.	42,428

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address/city/state/zip code	Amount
Madison County Housing Authority	1609 Olive Street, Collinsville, IL 62234	65,000
Menard County Housing Authority	P.O. Box 168, 101 West Sheridan, Petersburg, IL 62675	35,000
Peoria Housing Authority	100 S. Richard Pryor Place, Peoria, IL 61605	48,213
Rockford Housing Authority	223 South Winnebago Street, Rockford, IL 61102	184,763
Springfield Housing Authority	200 North Eleventh Street, Springfield, IL 62703	43,272
Winnebago County Housing Authority	3617 Delaware Street, Rockford, IL 61102	62,973
Housing Authority City of Peru	701 E. Main Street, Peru, IN 46970	34,873
Housing Authority City of Vincennes	P.O. Box 1636, 501 Hart Street, Vincennes, IN 47591	85,550
Housing Authority of South Bend	501 Alonzo Watson Drive, South Bend, IN 46601	36,384
Housing Authority of the City of Bloomington	1007 North Summit Street, Bloomington, IN 47404	90,142
Housing Authority of the City of Columbus, Indiana	799 McClure Road, Columbus, IN 47201	57,270
Housing Authority of the City of Fort Wayne, Indiana	P.O. Box 13489, 7315 South Hanna Street, Fort Wayne, IN 46869.	80,000
Housing Authority of the City of Goshen	1101 West Lincoln Avenue, Suite 100, Goshen, IN 46526	99,914
Housing Authority of the City of Hammond	1402 173rd Street, Hammond, IN 46324	58,248
Housing Authority of the City of Marion, IN	601 South Adams Street, Marion, IN 46953	34,497
Housing Authority of the City of Terre Haute	P.O. Box 3086, Terre Haute, IN 47803	109,986
Housing Authority, City of Elkhart	1396 Benham Avenue, Elkhart, IN 46516	86,157
Indianapolis Housing Agency	1919 North Meridian Street, Indianapolis, IN 46202	209,929
Knox County Housing Authority	11 Powell Street, Bicknell, IN 47512	31,839
Kokomo Housing Authority of the City of Kokomo, IN	P.O. Box 1207, 210 East Taylor Street, Kokomo, IN 46903	40,836
Lafayette Housing Authority	100 Executive Drive, Suite J, Lafayette, IN 47905	39,622
Logansport Housing Authority	719 Spencer Street, Suite 100, Logansport, IN 46947	29,412
The Housing Authority of the City of New Albany, Indiana	P.O. Box 11, New Albany, IN 47150	48,000
City of Olathe Housing Authority	P.O. Box 768, 201 N. Cherry Street, Olathe, KS 66051	48,455
City of Wichita, Kansas Housing Authority	332 North Riverview, Wichita, KS 67203	172,912
ECKAN Housing	P.O. Box 40, 1320 South Ash, Ottawa, KS 66067	34,000
Lawrence-Douglas County Housing Authority	1600 Haskell Avenue, Lawrence, KS 66044	73,842
Manhattan Housing Authority	P.O. Box 1024, 300 North 5th Street, Manhattan, KS 66505	37,009
Salina Housing Authority	P.O. Box 1202, 469 South 5th Street, Salina, KS 67401	56,106
Topeka Housing Authority	2010 South East California Avenue, Topeka, KS 66607	42,721
Barbourville Urban Renewal & CDA	P.O. Box 806, 338 Court Square, Barbourville, KY 40906	32,060
Boone County Fiscal Court	P.O. Box 536, Burlington, KY 41005	64,266
Campbell County Department of Housing	1010 Monmouth Street, Newport, KY 41071	47,378
Campbellsville Housing & Redevelopment Authority	400 Ingram, Campbellsville, KY 42718	28,075
City of Covington CDA	2300 Madison Avenue, Covington, KY 41014	50,500
City of Paducah Section 8 Housing	Post Office Box 2267, 300 South 5th Street, Room 208, Paducah, KY 42002.	37,826
City of Richmond Section 8 Housing	P.O. Box 250, Richmond, KY 40476	35,734
Cumberland Valley Regional Housing Authority	P.O. Box 806, 338 Court Square, Barbourville, KY 40906	46,602
Georgetown Housing Authority	139 Scroggin Park, Georgetown, KY 40324	45,000
Housing Authority of Cynthiana	148 Federal Street, Cynthiana, KY 41031	62,044
Housing Authority of Floyd County	402 John M. Stumbo Drive, Langley, KY 41645	30,300
Housing Authority of Newport, KY	30 East Eighth Street, Newport, KY 41072	51,696
Housing Authority of Somerset	P.O. Box 449, Somerset, KY 42502	83,000
Kentucky Housing Corporation	1231 Louisville Road, Frankfort, KY 40601	150,938
Lexington-Fayette Urban County Housing Authority	300 West New Circle Road, Lexington, KY 40505	49,044
Louisville Metro Housing Authority	420 South Eighth Street, Louisville, KY 40203	378,984
Pineville Urban Renewal & Community	P.O. Box 460, 114 West Kentucky Avenue, Pineville, KY 40977.	31,109
Housing Authority of the City of Monroe	300 Harrison Street, Monroe, LA 71201	26,684
Housing Authority of the Parish of Natchitoches	525 Fourth Street, Natchitoches, LA 71457	45,500
Jefferson Parish Housing Authority	1718 Betty Street, Marrero, LA 70072	107,150
Terrebonne, Parish of	809 Barrow Street, Houma, LA 70360	42,622
Acton Housing Authority	P.O. Box 681, 68 Windsor Avenue, Acton, MA 1720	47,000
Arlington Housing Authority	4 Winslow Street, Arlington, MA 2474	66,000
Attleboro Housing Authority	37 Carlon Street, Attleboro, MA 2703	53,555
Boston Housing Authority	52 Chauncy Street, Boston, MA 2111	191,873
Braintree Housing Authority	25 Roosevelt Street, Braintree, MA 2184	65,796
Chelmsford Housing Authority	10 Wilson Street, Chelmsford, MA 1824	45,456
Chelsea Housing Authority	54 Locke Street, Chelsea, MA 2150	64,266
Commonwealth of Massachusetts	100 Cambridge Steet, Suite 300, Boston, MA 2114	543,762
Dedham Housing Authority	163 Dedham Boulevard, Dedham, MA 2026	64,909
Fall River Housing Authority	85 Morgan Street, Fall River, MA 2722	66,000
Framingham Housing Authority	1 John J. Brady Drive, Framingham, MA 1702	65,650
Gardner Housing Authority	116 Church Street, Gardner, MA 1440	49,763
Gloucester Housing Authority	P.O. Box 1599, 259 Washington Street, Gloucester, MA 1931	42,107
Greenfield Housing Authority	1 Elm Terrace, Greenfield, MA 1301	123,869
Holyoke Housing Authority	475 Maple Street, Suite One, Holyoke, MA 1040	96,396
Leominster Housing Authority	100 Main Street, Leominster, MA 1453	47,299
Lowell Housing Authority	P.O. Box 60, 350 Moody Street, Lowell, MA 1853	120,371

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address/city/state/zip code	Amount
Lynn Housing Authority & Neighborhood Development	10 Church Street, Lynn, MA 1902	59,445
Medford Housing Authority	121 Riverside Avenue, Medford, MA 2155	66,000
Melrose Housing Authority	910 Main Street, Melrose, MA 2176	30,600
Methuen Housing Authority	24 Mystic Street, Methuen, MA 1844	45,193
Milton Housing Authority	65 Miller Avenue, Milton, MA 2186	66,000
North Andover Housing Authority	One Morkeski Meadows, North Andover, MA 1845	43,430
Plymouth Housing Authority	P.O. Box 3537, 69 Allerton Street, Plymouth, MA 2361	45,450
Quincy Housing Authority	80 Clay Street, Quincy, MA 2170	66,000
Revere Housing Authority	70 Cooledge Street, Revere, MA 2151	66,000
Somerville Housing Authority	30 Memorial Road, Somerville, MA 2145	43,935
Taunton Housing Authority	30 Olney Street, Suite B, Taunton, MA 2780	66,000
Wakefield Housing Authority	26 Crescent Street, Wakefield, MA 1880	8,792
Wayland Housing Authority	106 Main Street, Wayland, MA 1778	10,000
Woburn Housing Authority	59 Campbell Street, Woburn, MA 1801	118,121
Worcester Housing Authority	40 Belmont Street, Worcester, MA 1605	64,357
Baltimore County Department of Social Services Housing Office.	6401 York Road, Baltimore, MD 21212	128,874
Cecil County Housing Agency	200 Chesapeake Boulevard, Suite 1800, Elkton, MD 21921	51,009
City of Westminster	56 West Main Street, Westminster, MD 21157	43,705
Commissioners of Carroll County	225 North Center Street, Westminster, MD 21157	53,013
Harford County Housing Agency	15 South Main Street, Suite 106, Bel Air, MD 21014	99,637
Housing Authority of Baltimore City	417 East Fayette Street, Room 923, Baltimore, MD 21202	64,909
Housing Authority of St. Mary's County, Maryland	21155 Lexwood Drive, Suite C, Lexington Park, MD 20619	44,160
Housing Authority of the City of Frederick	209 Madison Street, Frederick, MD 21701	100,912
Housing Authority of the City of Hagerstown	35 W. Baltimore Street, Hagerstown, MD 21740	49,671
Housing Opportunities Commission	10400 Detrick Avenue, Kensington, MD 20895	400,846
Howard County Government	6751 Columbia Gateway Drive, Columbia, MD 21046	124,764
Maryland Development of Housing and Community Development.	100 Community Place, Crownsville, MD 21032	37,154
Queen Anne's County Housing Authority	P.O. Box 327, Centreville, MD 21617	43,050
Rockville Housing Enterprises	621–A Southlawn Lane, Rockville, MD 20850	74,215
Augusta Housing Authority	33 Union Street, Suite 3, Augusta, ME 4330	31,845
Bangor Housing Authority	161 Davis Road, Bangor, ME 4401	44,653
City of Caribou	25 High Street, Caribou, ME 4736	47,769
Housing Authority of the City of Old Town	358 Main Street, Old Town, ME 4468	23,500
Lewiston Housing Authority	1 College Street, Lewiston, ME 4240	39,185
Maine State Housing Authority	353 Water Street, Augusta, ME 4330	53,499
Portland Housing Authority	14 Baxter Boulevard, Portland, ME 4101	51,814
Westbrook Housing Authority	30 Liza Harmon Drive, Westbrook, ME 4092	39,807
Grand Rapids Housing Commission	1420 Fuller Avenue, SE, Grand Rapids, MI 49507	125,503
Kent County Housing Commission	82 Ionia Avenue, NW, Grand Rapids, MI 49503	114,776
Michigan State Housing Development Authority	735 E. Michigan Avenue, P.O. Box 30044, Lansing, MI 48909	528,000
Muskegon Housing Commission	1080 Terrace, Muskegon, MI 49442	43,313
Plymouth Housing Commission	1160 Sheridan Street, Plymouth, MI 48170	43,595
Pontiac Housing Commission	132 Franklin Blvd, Pontiac, MI 48341	47,622
Saginaw Housing Commission	1803 Norman Street, P.O. Box 3225, Saginaw, MI 48605	85,636
Traverse City Housing Commission	10200 East Carter Centre, Traverse City, MI 49684	65,650
Westland Housing Commission	32715 Dorsey Road, Westland, MI 48186	32,742
Wyoming Housing Commission	2450 36th Street, Southwest, Wyoming, MI 49519	66,000
Brainerd Housing and Redevelopment Authority	324 East River Road, Brainerd, MN 56401	43,448
Dakota County CDA	1228 Town Centre Drive, Eagan, MN 55123	24,386
Housing & Redevelopment Authority of Clay County	P.O. Box 99, 116 Center Avenue East, Dilworth, MN 56529	64,452
Housing & Redevelopment Authority of Duluth, MN	P.O. Box 16900, 222 East Second Street, Duluth, MN 55816	64,251
Housing & Redevelopment Authority of Virginia, MN	442 Pine Mill Court, Virginia, MN 55792	57,556
Housing Authority of St. Louis Park	5005 Minnetonka Boulevard, St. Louis Park, MN 55416	20,155
Mankato Economic Development Authority	P.O. Box 3368, 10 Civic Center Plaza, Mankato, MN 56002	104,580
Metropolitan Council Housing and Redevelopment Authority	390 Robert Street North, St. Paul, MN 55101	62,637
Northwest Minnesota Multi-County HRA	205 Garfield Avenue, P.O. Box 128, Mentor, MN 56736	37,710
South Central MN Multi-County HRA	410 E Jachson Street, Suite 300, Mankato, MN 56001	74,961
Southeastern Minnesota Multi-County HRA	134 East Second Street, Wabasha, MN 55981	35,707
Washington County HRA	321 Broadway Avenue, Saint Paul Park, MN 55071	34,194
Franklin County Public Housing Authority	P.O. Box 920, Hillsboro, MO 63050	42,565
Housing Authority of Kansas City, Missouri	301 East Armour, Kansas City, MO 64111	157,144
Housing Authority of St. Louis County	8865 Natural Bridge Road, St. Louis, MO 63121	100,901
Housing Authority of the City of Columbia, Missouri	201 Switzler Street, Columbia, MO 65203	49,389
Housing Authority of the City of Liberty, Missouri	17 East Kansas Street, Liberty, MO 64068	43,765
Housing Authority of the City of Springfield, Missouri	421 West Madison Street, Springfield, MO 65806	26,296
Jasper County Public Housing Agency	P.O. Box 207, 302 Joplin Street, Joplin, MO 64802	27,636
North East Community Action Corporation dba Lincoln Co. PHA.	P.O. Box 470, 16 North Court Street, Bowling Green, MO 63334.	109,689
Phelps County Public Housing Agency	#4 Industrial Drive, St. James, MO 65559	53,458

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address/city/state/zip code	Amount
Ripley County Public Housing Agency	3019 Fair Street, Poplar Bluff, MO 63901	33,540
Saint Francois County Public Housing Agency	107 Industrial Drive, Box N, Park Hills, MO 63601	30,909
St. Clair County PHA	P.O. Box 125, 106 West Fourth Street, Appleton, MO 64724	122,448
St. Louis Housing Authority	4100 Lindell Boulevard, St. Louis, MO 63108	60,581
The Housing Authority of the City of Saint Charles	1041 Olive Street, Saint Charles, MO 63301	46,589
Housing Authority of the City of Biloxi	P.O. Box 447, 330 Benachi Avenue, Biloxi, MS 39533	40,804
Mississippi Regional Housing Authority II	900 Molly Barr Road, Oxford, MS 38655	66,000
Mississippi Regional Housing Authority IV	P.O. Box 1051, Columbus, MS 39703	37,467
Mississippi Regional Housing Authority No. VII	P.O. Box 430, McComb, MS 39649	60,436
Mississippi Regional Housing Authority VI	P.O. Drawer 8746, 2180 Terry Road, Jackson, MS 39284	114,730
MS Regional Housing Authority No. V	298 Northside Drive, Newton, MS 39345	32,575
North Delta Regional Housing Authority	#4 East Second Street, P.O. Drawer 1148, Clarksdale, MS 38614.	36,724
Tennessee Valley Regional Housing Authority	P.O. Box 1329, Corinth, MS 38835	88,172
The Housing Authority of the City of Jackson, MS	2747 Livingston Road, Jackson, MS 39213	51,206
The Housing Authority of the City of Meridian	2425 E. Street, Meridian, MS 39301	48,965
Housing Authority of the City of Billings	2415 1st Avenue North, Billings, MT 59101	40,241
Missoula Housing Authority	1235 34th Street, Missoula, MT 59801	132,000
Charlotte Housing Authority	1301 South Boulevard, Charlotte, NC 28203	47,282
Chatham County Housing Authority	P.O. Box 637, 190 Sanford Road, Pittsboro, NC 27312	47,436
City of Concord Housing Department	P.O. Box 308, 283 Harold Goodman Circle, Concord, NC 28026.	37,404
East Spencer Housing Authority	P.O. Box 367, 206 South Long Street, East Spencer, NC 28039.	44,200
Eastern Carolina Human Services Agency, Inc	246 Georgetown Road, Jacksonville, NC 28540	65,561
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue, Gastonia, NC 28053	46,827
Greensboro Housing Authority	450 N. Church Street, Greensboro, NC 27401	122,959
Housing Authority of the City of Asheville	165 South French Broad Avenue, Asheville, NC 28801	71,600
Housing Authority of the City of Greenville	1103 Broad Street, Greenville, NC 27834	59,488
Housing Authority of the City of High Point	500 East Russell Avenue, High Point, NC 27261	45,133
Housing Authority of the City of Kinston, North Carolina	608 North Queen Street, Kinston, NC 28501	40,911
Housing Authority of the City of Wilmington North Carolina	1524 South 16th Street, Wilmington, NC 28401	99,943
Housing Authority of the City of Winston Salem	500 West Fourth Street, Winston Salem, NC 27101	53,075
Housing Authority of the Town of Laurinburg	1300 Woodlawn Street, Laurinburg, NC 28352	59,839
Isothermal Planning & Development Commission	P.O. Box 841, 111 West Court Street, Rutherford, NC 28139	35,070
Mid-East Regional Housing Authority	809 Pennsylvania Avenue, Washington, NC 27889	40,000
Mountain Projects, Inc	2251 Old Balsam Road, Waynesville, NC 28786	33,106
Northwestern Regional Housing Authority	P.O. Box 2510, 869 Highway 105 Extension, Suite 10, Boone, NC 28607.	204,839
Rowan County Housing Authority	310 Long Meadow Drive, Salisbury, NC 28147	50,000
Sandhills Community Action Program, Inc	103 Saunders Street, Carthage, NC 28327	32,923
Sanford Housing Authority	1000 Carthage Street, Sanford, NC 27330	43,788
Statesville Housing Authority	110 West Allison Street, Statesville, NC 28677	44,524
Twin Rivers Opportunities, Inc	318 Craven Street, New Bern, NC 28563	75,435
Western Carolina Community Action	P.O. Box 685, 220 King Creek Boulevard 28792, Hendersonville, NC 28793.	64,447
Minot Housing Authority	108 Burdick Expressway East, Minot, ND 58701	42,334
The Housing Authority of the City of Grand Forks ND	1405 1 Avenue North, Grand Forks, ND 58203	147,769
Douglas County Housing Authority	5404 No. 107th Plaza, Omaha, NE 68134	51,000
Goldenrod Regional Housing Agency	Box 799, 1017 Avenue East, Wisner, NE 68791	35,703
Housing Authority of the City of Lincoln	5700 R Street, Lincoln, NE 68505	59,751
Housing Authority of the City of Omaha	540 S. 27th Street, Omaha, NE 68105	85,781
Kearney Housing Agency	2715 Avenue I OFC, Kearney, NE 68847	7,535
Dover Housing Authority	62 Whittier Street, Dover, NH 3820	66,000
Keene Housing Authority	831 Court Street, Keene, NH 3431	64,950
Manchester Housing and Redevelopment Authority	198 Hanover Street, Manchester, NH 3104	44,110
New Hampshire Housing Finance Authority	32 Constitution Drive, Bedford, NH 3110	222,417
Atlantic City Housing Authority	227 North Vermont Avenue, 17th Floor, Atlantic, NJ 8401	88,257
County of Burlington, New Jersey	P.O. Box 6000, Mount Holly, NJ 8060	66,000
Fort Lee Housing Authority	1403 Teresa Drive, Fort Lee, NJ 7024	99,970
Housing Authority City of Long Branch	P.O. Box 337, Long Branch, NJ 7740	130,000
Housing Authority County of Morris	99 Ketch Road, Morristown, NJ 7960	31,845
Housing Authority of Gloucester County	100 Pop Moylan Boulevard, Deptford, NJ 8096	85,090
Housing Authority of the Borough of Glassboro	737 Lincoln Boulevard, Glassboro, NJ 8028	47,123
Housing Authority of the Borough of Madison	15 Chateau Thierry Avenue, Madison, NJ 7940	54,145
Housing Authority of the City of Camden	2021 Watson Street, Camden, NJ 8105	39,938
Housing Authority of the City of East Orange	160 Halsted Street, East Orange, NJ 7018	132,000
Housing Authority of the City of Jersey City	400 U.S. Highway #1, Jersey City, NJ 7306	110,617
Housing Authority of the City of Paterson	60 Van Houten Street, Paterson, NJ 7505	49,395
Housing Authority of the City of Perth Amboy	881 Amboy Avenue, P.O. Box 390, Perth Amboy, NJ 8862	196,994
Housing Authority of the Town of Boonton	125 Chestnut Street, Boonton, NJ 7005	65,572

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address/city/state/zip code	Amount
Housing Authority of the Township of Brick	165 Chambers Bridge Road, Brick, NJ 8723	15,578
Housing Authority of the Township of Woodbridge	20 Bunns Lane, Woodbridge, NJ 7095	21,847
Housing Authority Town of Dover	215 E. Blackwell Street, Dover, NJ 7801	63,554
Lakewood Housing Authority	P.O. Box 1599, 317 Sampson Avenue, Lakewood, NJ 8701	64,909
Lakewood Tenants Organization, Inc	P.O. Box 856, 600 West Kennedy Boulevard, Lakewood, NJ 8701.	115,691
Millville Housing Authority	309 Buck Street, Millville, NJ 8332	45,905
Monmouth County Public Housing Agency	3000 Kozloski Road, Freehold, NJ 8724	132,000
The Housing Authority of Plainfield	510 East Front Street, Plainfield, NJ 7060	66,000
Bernalillo County Housing Department	1900 Bridge Boulevard, SW., Albuquerque, NM 87105	116,037
Clovis Housing & Redevelopment Agency, Inc	P.O. Box 1240, 2101 West Grand Avenue, Clovis, NM 88102	40,804
Region VI Housing Authority	106 E. Reed St., Roswell, NM 88201	54,359
Santa Fe Civic Housing Authority	664 Alta Vista Street, Santa Fe, NM 87505	65,650
Santa Fe County Housing Authority	52 Camino de Jacobo, Sante Fe, NM 87507	109,868
Taos County Housing Authority	525 Ranchitos Road, Box 4239 NDCBU, Taos, NM 87571	46,925
Truth or Consequences Housing Authority	108 South Cedar, Truth or Consequences, NM 87901	45,193
Housing Authority of the City of Las Vegas	340 North 11th Street, Las Vegas, NV 89101	193,182
Housing Authority of the City of North Las Vegas	1632 Yale Street, North Las Vegas, NV 89030	111,513
Housing Authority of the City of Reno	1525 East 9th Street, Reno, NV 89512	43,453
Housing Authority of the County of Clark, Nevada	5390 East Flamingo Road, Las Vegas, NV 89122	110,366
Amsterdam Housing Authority	52 Division Street, Amsterdam, NY 12010	49,433
City of Fulton Community Development Agency	125 West Broadway, Fulton, NY 13069	29,917
City of Johnstown	41 East Main Street, Johnstown, NY 12095	32,320
City of North Tonawanda, Belmont Shelter Corp., Agent	1195 Main Street, Buffalo, NY 14209	47,626
City of Oswego Community Development Office	20 West Oneida St., 3rd Floor, Oswego, NY 13126	46,211
City of Utica	1 Kennedy Plaza, Utica, NY 13502	29,723
Cohoes Housing Authority	100 Manor Sites, Cohoes, NY 12047	56,007
Erie County PHA Consortium, Belmont Shelter Corp	1195 Main Street, Buffalo, NY 14209	144,198
Geneva Housing Authority	41 Lewis Street, P.O. Box 153, Geneva, NY 14456	49,921
Gloversville Housing Authority	181 West Street, Gloversville, NY 12078	48,230
Ithaca Housing Authority	800 South Plain Street, Ithaca, NY 14850	62,560
Jamestown Housing Authority	110 West Third Street, Jamestown, NY 14701	34,000
Monticello Housing Authority	76 Evergreen Drive, Monticello, NY 12701	35,350
Municipal Housing Authority of the City of Schenectady	375 Broadway, Schenectady, NY 12305	46,887
New Rochelle Municipal Housing Authority	50 Sickles Avenue, New Rochelle, NY 10801	64,266
North Fork Housing Alliance, Inc	116 South Street, Greenport, NY 11944	37,500
North Hempstead Housing Authority Inc	Pond Hill Road, Great Neck, NY 11020	51,005
NYS Housing Trust Fund Corp/Division of Housing & Comm. Ren.	25 Beaver Street, #732, New York, NY 10004	1,153,678
Poughkeepsie Housing Authority	4 Howard Street, Poughkeepsie, NY 12601	59,590
Ramapo Housing Authority	38 Pondview Drive, Suffern, NY 10901	25,000
Rental Assistance Corporation of Buffalo	470 Franklin Street, Buffalo, NY 14202	145,035
Rochester Housing Authority	675 West Main Street, Rochester, NY 14611	218,060
Syracuse Housing Authority	516 Burt Street, Syracuse, NY 13202	117,435
Town of Babylon Housing Assistance Agency	281 Phelps Lane, Room #9, North Babylon, NY 11703	48,612
Town of Brookhaven	1 Independence Hill, Farmingville, NY 11738	57,125
Town of Colonie	Memorial Town Hall, Newtonville, NY 12128	51,565
Town of Guilderland	Town Hall Route 20, Guilderland, NY 12084	51,005
Town of Islip Housing Authority	963 Montauk Highway, Oakdale, NY 11769	66,000
Town of Poughkeepsie Section 8 Housing Program	1 Overocker Road, Poughkeepsie, NY 12603	52,829
Town of Rotterdam	Town Hall—Vinewood Avenue, Schenectady, NY 12306	53,717
Town of Smithtown	99 West Main Street, Smithtown, NY 11787	48,726
Troy Housing Authority	One Eddy's Lane, Troy, NY 12180	65,714
Village of Ballston Spa	66 Front Street, Ballston Spa, NY 12020	32,643
Village of Corinth	260 Main Street, Corinth, NY 12822	32,582
Village of Highland Falls	303 Main Street, Highland Falls, NY 10928	32,320
Village of Kiryas Joel Housing Authority	51 Forest Road, Suite 360, Monroe, NY 10950	64,905
Village of Scotia	4 North Ten Broeck Street, Scotia, NY 12302	28,212
Adams Metropolitan Housing Authority	401 East Seventh Street, Manchester, OH 45144	38,904
Akron Metropolitan Housing Authority	100 West Cedar Street, Akron, OH 44307	233,234
Allen Metropolitan Housing Authority	600 South Main Street, Lima, OH 45804	38,723
Cambridge Metropolitan Housing Authority	P.O. Box 1388, 1100 Maple Court, Cambridge, OH 43725	32,253
Chillicothe Metropolitan Housing Authority	178 West Fourth Street, Chillicothe, OH 45601	33,966
City of Middletown, Ohio	1040 Central Avenue, Middletown, OH 45044	80,676
Clinton Metropolitan Housing Authority	478 Thorne Avenue, Wilmington, OH 45177	45,450
CMHA	16 West Central Parkway, Cincinnati, OH 45202	332,957
Columbus Metropolitan Housing Authority	880 East 11th Avenue, Columbus, OH 43211	95,304
Cuyahoga Metropolitan Housing Authority	3400 Hamilton Avenue, Cleveland, OH 44114	44,583
Dayton Metropolitan Housing Authority	P.O. Box 8750, 400 Wayne Avenue, Dayton, OH 45401	119,341
Delaware Metropolitan Housing Authority	P.O. Box 1292, 222 Curtis Street, Delaware, OH 43015	46,075
Erie Metropolitan Housing Authority	322 Warren Street, Sandusky, OH 44870	50,633

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address/city/state/zip code	Amount
Fairfield Metropolitan Housing Authority	315 North Columbus Street, Suite 200, Lancaster, OH 43130	51,608
Fayette Metropolitan Housing Authority	121 E. East Street, Washington Court House, OH 43160	32,907
Jackson Metropolitan Housing Authority	P.O. Box 619, 249 West 13th Street, Wellston, OH 45692	39,846
Jefferson Metropolitan Housing Authority	815 North 6th Avenue, Steubenville, OH 43952	28,280
Knox Metropolitan Housing Authority	236 South Main Street, Suite 201, Mount Vernon, OH 43050	45,333
Lake Metropolitan Housing Authority	189 First Street, Painesville, OH 44077	77,214
Logan County Metropolitan Housing Authority	116 N. Everett Street, Bellefontaine, OH 43311	74,312
Lorain Metropolitan Housing Authority	1600 Kansas Avenue, Lorain, OH 44052	48,628
Lucas Metropolitan Housing Authority	P.O. Box 477, 435 Nebraska, Toledo, OH 43604	172,180
Medina Metropolitan Housing Authority	850 Walter Road, Medina, OH 44256	119,270
Meigs Housing Authority	117 East Memorial Drive, Pomeroy, OH 45769	14,504
Morgan Metropolitan Housing Authority	4580 N Street, Route 376 NW., McConnelsville, OH 43756	45,645
Morrow Metropolitan Housing Authority	81 North Rich Street, Mt. Gilead, OH 43338	36,849
Parma Public Housing Agency	1440 Rockside Road, Suite 306, Parma, OH 44134	40,400
Pickaway Metro Housing Authority	176 Rustic Drive, Circleville, OH 43113	35,267
Pike Metropolitan Housing Authority	2626 Shyville Road, Piketon, OH 45661	33,000
Portage Metropolitan Housing Authority	2832 State Route 59, Ravenna, OH 44266	37,704
Springfield Metropolitan Housing Authority	101 West High Street, Springfield, OH 45502	43,765
Trumbull Metropolitan Housing Authority	4076 Youngstown Road, SE., Suite 101, Warren, OH 44484	64,908
Tuscarawas Metropolitan Housing Authority	134 Second Street, Southwest, New Philadelphia, OH 44663	54,602
Vinton Metropolitan Housing Authority	310 West High Street, Post Office Box 487, McArthur, OH 45651.	116,392
Wayne Metropolitan Housing Authority	345 North Market Street, Wooster, OH 44691	42,670
Youngstown Metropolitan Housing Authority	131 W. Boardman Street, Youngstown, OH 44503	57,785
Zanesville Metropolitan Housing Authority	407 Pershing Road, Zanesville, OH 43701	108,845
Housing Authority of the City of Lawton	609 SW. F Avenue, Lawton, OK 73501	32,320
Housing Authority of the City of Norman	700 North Berry Road, Norman, OK 73069	48,243
Housing Authority of the City of Shawnee, OK	P.O. Box 3427, 601 West 7th Street, Shawnee, OK 74801	49,699
Housing Authority of the City of Stillwater	807 S. Lowry, Stillwater, OK 74074	43,428
Housing Authority of the City of Tulsa	415 East Independence, Tulsa, OK 74106	38,520
Oklahoma City Housing Authority	1700 Northeast Fourth Street, Oklahoma City, OK 73117	59,848
Central Oregon Regional Housing Authority	405 Southwest 6th Street, Redmond, OR 97756	132,000
Housing Authority of Yamhill County	P.O. Box 865, 135 Northeast Dunn Place, McMinnville, OR 97128.	192,556
Housing Authority & Community Services Agency of Lane County.	177 Day Island Road, Eugene, OR 97401	105,623
Housing Authority & Urban Renewal Agency of Polk County	P.O. Box 467, 204 Southwest Walnut Avenue, Dallas, OR 97338.	66,000
Housing Authority of Clackamas County	P.O. Box 1510, Oregon, OR 97045	64,887
Housing Authority of Douglas County	902 West Stanton Street, Roseburg, OR 97470	32,750
Housing Authority of Jackson County	2251 Table Rock Road, Medford, OR 97501	92,502
Housing Authority of Malheur County	959 Fortner Street, Ontario, OR 97914	23,152
Housing Authority of Portland	135 Southwest Ash, Portland, OR 97204	249,108
Housing Authority of the City of Salem	360 Church Street SE., Salem, OR 97301	194,310
Housing Authority of Washington County	111 North East Lincoln Street, Suite 200–L, Hillsboro, OR 97124.	101,096
Linn-Benton Housing Authority	1250 Queen Avenue Southeast, Albany, OR 97322	118,299
Marion County Housing Authority	P.O. Box 14500, 555 Court Street Northeast, Salem, OR 97309.	53,530
Mid Columbia Housing Authority	312 Court Street, Suite 419, Dalles, OR 97058	82,190
Northeast Oregon Housing Authority	P.O. Box 3357, 2608 May Lane, La Grande, OR 97850	83,328
Northwest Oregon Housing Authority	P.O. Box 1149, 147 South Main Street, Warrenton, OR 97146	32,857
Adams County Housing Authority	40 East High Street, Gettysburg, PA 17325	47,295
Allegheny County Housing Authority	625 Stanwix Street, Pittsburgh, PA 15222	98,893
Altoona Housing Authority	2700 Pleasant Valley Boulevard, Altoona, PA 16602	55,573
Clarion County Housing Authority	8 West Main Street, Clarion, PA 16214	39,833
Delaware County Housing Authority	1855 Constitution Avenue, Woodlyn, PA 19094	43,066
Fayette County Housing Authority	624 Pittsburgh Road, Uniontown, PA 15401	50,000
Housing Authority of Indiana County	104 Philadelphia Street, Indiana, PA 15701	25,908
Housing Authority of Northumberland County	50 Mahoning Street, Milton, PA 17847	33,206
Housing Authority of the City of Erie	606 Holland Street, Erie, PA 16501	45,450
Housing Authority of the City of Lancaster	325 Church Street, Lancaster, PA 17602	51,285
Housing Authority of the City of Pittsburgh	200 Ross Street, Pittsburgh, PA 15219	189,090
Housing Authority of the City of York	P.O. Box 1963, 31 S. Broad St., York, PA 17403	40,707
Housing Authority of the County of Armstrong	350 South Jefferson Street, Kittanning, PA 16201	26,064
Housing Authority of the County of Butler	114 Woody Drive, Butler, PA 16001	89,164
Housing Authority of the County of Chester	30 West Barnard Street, Suite 2, West Chester, PA 19382	100,900
Housing Authority of the County of Dauphin	P.O. Box 7598, 501 Mohn Street, Steelton, PA 17113	120,303
Housing Authority of the County of Union	1610 Industrial Boulevard, Suite 400, Lewisburg, PA 17837	46,378
Housing/Redevelopment Authority of Cumberland County	114 North Hanover Street, Carlisle, PA 17013	39,551
Lancaster County Housing Authority	202 North Prince Street, Suite 400, Lancaster, PA 17603	102,568

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address/city/state/zip code	Amount
Lycoming Housing Authority	1941 Lincoln Drive, Williamsport, PA 17701	18,076
Montgomery County Housing Authority	104 West Main Street, Suite 1, Norristown, PA 19401	106,353
Philadelphia Housing Authority	12 South 23rd Street, 6th Floor, Philadelphia, PA 19103	291,220
Westmoreland County Housing Authority	154 South Greengate Road, Greensburg, PA 15601	75,923
Municipality of Aguas Buenas	P.O. Box 128, Aguas Buenas, PR 703	23,108
Municipality of Juana Diaz	P.O. Box 1409, Calle Degetau #35, Juana Diaz, PR 795	23,656
Municipality of San German	Avenida Universidad Interamericana #136, San German, PR 683.	17,416
Central Falls Housing Authority	30 Washington Street, Central Falls, RI 2863	63,453
Coventry Housing Authority	14 Manchester Circle, Coventry, RI 2816	50,556
Cumberland Housing Authority	573 Mendon Road, Suite 4, Cumberland, RI 2864	66,000
East Providence Housing Authority	99 Goldsmith Avenue, East Providence, RI 2914	38,764
Housing Authority of the City of Providence	100 Broad Street, Providence, RI 2903	125,228
Housing Authority of the Town of East Greenwich	146 First Avenue, East Greenwich, RI 2818	55,431
Narragansett Housing Authority	25 Fifth Avenue, Narragansett, RI 2882	76,427
Rhode Island Housing	44 Washington Street, Providence, RI 2903	60,000
Town of Bristol Housing Authority	1014 Hope Street, Bristol, RI 2809	36,360
Town of North Providence Housing Authority	945 Charles Street, North Providence, RI 2904	55,151
Warwick Housing Authority	25 Easton Avenue, Warwick, RI 2888	41,000
Beaufort Housing Authority	Post Office Box 1104, Beaufort, SC 29901	25,472
Housing Authority of Anderson	1335 East River Street, Anderson, SC 29624	37,861
Myrtle Beach Housing Authority	P.O. Box 2468, 605 10th Avenue North, Myrtle Beach, SC 29578.	80,948
North Charleston Housing Authority	2170 Ashley Phosphate Road, Suite 700, North Charleston, SC 29406.	45,450
The Housing Authority City of Charleston	550 Meeting Street, Charleston, SC 29403	87,729
The Housing Authority of the City of Greenville, SC	511 Augusta Street, Greenville, SC 29605	37,623
The Housing Authority of the City of Spartanburg	201 Caulder Avenue, P.O. Box 2828, Spartanburg, SC 29304	93,017
Brookings County Housing and Redevelopment Commission	1310 Main Avenue South, Brookings, SD 57006	37,080
Mobridge Housing and Redevelopment Commission	P.O. Box 370, 116 4th Street West, Mobridge, SD 57601	33,558
Sioux Falls Housing and Redevelopment Commission	630 South Minnesota Avenue, Sioux Falls, SD 57104	72,411
Chattanooga Housing Authority	801 North Holtzclaw Avenue, Chattanooga, TN 37404	107,709
Crossville Housing Authority	P.O. Box 425, Crossville, TN 38557	49,583
East Tennessee Human Resource Agency, Inc	9111 Cross Park Drive, Suite D–100, Knoxville, TN 37923	34,065
Jackson Housing Authority	125 Preston Street, Jackson, TN 38301	100,000
Kingsport Housing & Redevelopment Authority	P.O. Box 44, Kingsport, TN 37662	84,430
Knoxville's Community Development Corporation	901 North Broadway, P.O. Box 3550, Knoxville, TN 37927	90,021
Memphis Housing Authority	700 Adams Avenue, Memphis, TN 38105	84,674
Metropolitan Development and Housing Authority	701 South 6th Street, Nashville, TN 37206	181,797
Oak Ridge Housing Authority	10 Van Hicks Lane, Oak Ridge, TN 37830	35,927
TN Housing Development Agency	404 James Robertson Parkway, Suite 1200, Nashville, TN 37243.	198,813
City of Amarillo	509 East 7th, Amarillo, TX 79105	35,300
City of Garland Housing Agency	210 Carver, Suite 201B, Garland, TX 75040	50,355
City of Longview Housing Authority	P.O. Box 1952, 1202 North Sixth Street, Longview, TX 75606	46,609
Deep East Texas Council of Governments	210 Premier Drive, Jasper, TX 75951	71,002
Galveston Housing Authority	4700 Broadway Suite A–100, Galveston, TX 77551	108,754
Housing Authority of the City of Anthony	P.O. Box 1710, 1007 Franklin St., Anthony, TX 79821	37,245
Housing Authority of the City of Arlington	501 W. Sanford Street, Suite 20, Arlington, TX 76001	106,330
Housing Authority of the City of Austin	P.O. Box 6159, Austin, TX 78762	128,704
Housing Authority of the City of Beaumont	1890 Laurel, Beaumont, TX 77701	80,542
Housing Authority of the City of Brownsville	P.O. Box 4420, 2606 Boca Chica Blvd, Brownsville, TX 78523	83,868
Housing Authority of the City of El Paso	5300 Paisano, El Paso, TX 79905	106,612
Housing Authority of the City of Fort Worth	1201 E. 13th Street, Fort Worth, TX 76102	43,946
Housing Authority of the City of Kingsville	1000 West Corral, Kingsville, TX 78363	53,744
Housing Authority of the City of Lubbock	1708 Crickets Avenue, Lubbock, TX 79401	39,000
Housing Authority of the City of Pharr	104 West Polk, Pharr, TX 78577	59,600
Housing Authority of the City of Plano	1740 Avenue G, Plano, TX 75074	35,028
Housing Authority of the City of Port Isabel	P.O. Box 1196, Port Isabel, TX 78578	25,757
Housing Authority of the City of San Angelo, TX	420 E. 28th Street, San Angelo, TX 76903	48,863
Housing Authority of the City of Waco	P.O. Box 978, 4400 Cobbs Drive, Waco, TX 76703	72,465
Housing Authority of the County of Hidalgo	1800 N. Texas Blvd., Weslaco, TX 78596	37,091
Houston Housing Authority	2640 Fountain View Drive, Suite 400, Houston, TX 77057	89,784
Laredo Housing Authority	2000 San Francisco Ave., Laredo, TX 78040	44,608
Midland County Housing Authority	1710 Edwards Street, Midland, TX 79701	41,629
Mission Housing Authority	1300 East 8th, Mission, TX 78572	62,023
San Antonio Housing Authority	818 South Flores, San Antonio, TX 78204	97,853
San Marcos Housing Authority	1201 Thorpe Lane, San Marcos, TX 78666	50,250
South Plains Regional Housing Authority	P.O. Box 610, 1611 FM 300, Levelland, TX 79336	33,766
Tarrant County	100 East Weatherford, Suite 500, Fort Worth, TX 76196	107,692
Texoma Council of Governments	1117 Gallagher Drive, Sherman, TX 75090	60,828

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address/city/state/zip code	Amount
The Housing Authority of the City of Dallas, TX (DHA)	3939 North Hampton Road, Dallas, TX 75212	368,647
Walker County Housing Authority	340 HWY. 75, North #E, Huntsville, TX 77320	45,000
Cedar City Housing Authority	364 S 100 E, Cedar City, UT 84720	51,823
Davis Community Housing Authority	P.O. Box 328, 352 South 200 West, Suite 1, Farmington, UT 84025.	38,205
Housing Authority of Salt Lake City	1776 South West Temple, Salt Lake City, UT 84115	100,265
Housing Authority of the City of Ogden	2661 Washington Boulevard, Suite 102, Ogden, UT 84401	52,624
Housing Authority of the County of Salt Lake	3595 South Main Street, Salt Lake City, UT 84115	90,136
Housing Authority of Utah County	240 East Center Street, Provo, UT 84606	53,539
Provo City Housing Authority	650 West 100 North, Provo, UT 84601	79,750
Bristol Redevelopment and Housing Authority	809 Edmond Street, Bristol, VA 24201	37,177
Chesapeake Redevelopment & Housing Authority	1468 S. Military Highway, Chesapeake, VA 23320	49,488
City of Virginia Beach	2424 Courthouse Road, Virginia Beach, VA 23456	47,955
County of Loudoun	102 Heritage Way Northeast, Suite 103, Leesburg, VA 20176	66,000
Danville Redevelopment and Housing Authority	135 Jones Crossing, Danville, VA 24541	35,379
Hampton Redevelopment and Housing Authority	P.O. Box 280, 22 Lincoln Street, Hampton, VA 23669	45,803
Harrisonburg Redevelopment and Housing Authority	286 Kelley Street, Harrisonburg, VA 22802	23,546
James City County	5320 Palmer Lane, Suite 1A, Williamsburg, VA 23188	47,504
Newport News Redevelopment and Housing Authority	227 27th Street, Newport News, VA 23607	130,457
Norfolk Redevelopment and Housing Authority	201 Granby Street, Norfolk, VA 23510	126,900
Portsmouth Redevelopment & Housing Authority	801 Water Street, 2nd Floor, Portsmouth, VA 23704	41,954
Prince William County Housing and Community Development	15941 Donald Curtis Drive, Suite 112, Woodbridge, VA 22191	107,756
Richmond Redevelopment and Housing Authority	901 Chamberlayne Parkway, Richmond, VA 23220	130,384
Roanoke Redevelopment and Housing Authority	2624 Salem Turnpike, Northwest, Roanoke, VA 24017	50,448
Suffolk Redevelopment and Housing Authority	530 East Pinner Street, Suffolk, VA 23434	51,736
Virginia Housing Development Authority	601 South Belvidere Street, Richmond, VA 23220	194,130
Waynesboro Redevelopment and Housing Authority	P.O. Box 1138, 1700 New Hope Road, Waynesboro, VA 22980.	38,263
Burlington Housing Authority	65 Main Street, Burlington, VT 5401	99,681
Vermont State Housing Authority	One Prospect Street, Montpelier, VT 5602	222,200
City of Longview Housing Authority	1207 Commerce Avenue, Longview, WA 98632	79,065
Housing Authority City of Kelso	1415 South 10th, Kelso, WA 98626	23,072
Housing Authority of Chelan County and the City of Wenatchee.	1555 South Methow, Wenatchee, WA 98801	31,848
Housing Authority of Island County	7 NW 6th Street, Coupeville, WA 98239	47,315
Housing Authority of Jefferson County	5210 Kuhn Street, Port Townsend, WA 98368	37,836
Housing Authority of Snohomish County	12625 4th Avenue West, Suite 200, Everett, WA 98204	19,318
Housing Authority of the City of Bremerton	110 Russell Road, Bremerton, WA 98312	42,833
Housing Authority of the City of Everett	3107 Colby Avenue, Everett, WA 98201	144,018
Housing Authority of the City of Tacoma	902 South L Street, Tacoma, WA 98405	64,909
Housing Authority of the City of Vancouver	2500 Main Street, Suite 200, Vancouver, WA 98660	62,955
Housing Authority of the County of Clallam	2603 South Francis Street, Port Angeles, WA 98362	92,314
Housing Authority of Thurston County	503 West 4th Avenue, Olympia, WA 98501	129,818
King County Housing Authority	600 Andover Park West, Tukwila, WA 98188	129,818
Kitsap County Consolidated Housing Authority	9307 Bayshore Drive, Northwest, Silverdale, WA 98383	50,627
Pierce County Housing Authority	603 South Polk Street, P.O. Box 45410, Tacoma, WA 98445	129,816
Seattle Housing Authority	P.O. Box 19028, 120 6th Avenue North, Seattle, WA 98109	293,447
Appleton Housing Authority	925 West Northland Avenue, Appleton, WI 54914	38,734
Beloit Community Development Authority	220 Portland Avenue, Beloit, WI 53511	64,909
Brown County Housing Authority	100 N Jefferson Street, Green Bay, WI 54301	129,497
City of Kenosha Housing Authority	625 52nd Street, Room 98, Kenosha, WI 53140	66,000
Dunn County Housing Authority	1421 Stout Road, Menomonie, WI 54751	36,658
Housing Authority of Racine County	837 Main Street, Racine, WI 53403	64,886
Oconto County Housing Authority	1201 Main Street, Oconto, WI 54153	54,616
Superior Housing Authority	1219 North Eight Street, Superior, WI 54880	51,121
Benwood–McMechen Housing Authority	2200 Marshall Street, Benwood, WV 26031	36,208
Charleston-Kanawha Housing Authority	P.O. Box 86, Charleston, WV 25321	34,725
Clarksburg-Harrison Regional Housing Authority	433 Baltimore Avenue, Clarksburg, WV 26301	66,699
Greenbrier Housing Authority	Route 2 Box 142, Lewisburg, WV 24901	59,783
Housing Authority of Mingo County	P.O. Box 120, Delbarton, WV 25670	32,138
Parkersburg Housing Authority	1901 Cameron Avenue, Parkersburg, WV 26101	38,538
The Housing Authority of the City of Fairmont	P.O. Box 2738, 103 12th Street, Fairmont, WV 26555	54,629
The Huntington West Virginia Housing Authority	300 West Seventh Avenue, Huntington, WV 25701	36,595

[FR Doc. E9–1260 Filed 1–22–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Renewal of the Trinity River Adaptive Management Working Group

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of renewal.

SUMMARY: The Secretary of the Interior (Secretary), after consultation with the General Services Administration, has renewed the Trinity River Adaptive Management Working Group (Working Group) for 2 years. The Working Group provides recommendations on all aspects of the implementation of the Trinity River Restoration Program and affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River restoration efforts.

FOR FURTHER INFORMATION CONTACT: Randy Brown, Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521, 707–822–7201.

SUPPLEMENTARY INFORMATION: The Working Group conducts its operations in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix). It reports to the Trinity River Management Council (TMC) and functions solely as an advisory body. The TMC reports to the Secretary through the Mid-Pacific Regional Director of the Bureau of Reclamation and the California/Nevada Regional Director (Region 8) for the Fish and Wildlife Service. The Working Group provides recommendations and advice to the TMC on: (1) The effectiveness of management actions in achieving restoration goals and alternative hypotheses (methods and strategies) for study, (2) the priority for restoration projects, (3) funding priorities, and (4) other components of the Trinity River Restoration Program.

Working Group members represent the varied interests associated with the Trinity River Restoration Program. Members are selected from, but not limited to, Trinity County residents, recreational and commercial fishermen, commercial and recreational boaters, power/utility companies, agricultural water users, private and commercial timber producers, ranchers and people with grazing rights/permits, tribes, environmental organizations, and Federal, State, and local agencies with responsibilities in the Trinity River Basin. Members must be senior representatives of their respective constituent groups with knowledge of the Trinity River Restoration Program, including the Adaptive Environmental Assessment and Management Program.

We have filed a copy of the Working Group's charter with the Committee Management Secretariat, General Services Administration; Committee on Environment and Public Works, United States Senate; Committee on Natural Resources, United States House of Representatives; and the Library of Congress.

Certification

I hereby certify that the Trinity River Adaptive Management Working Group is necessary and is in the public interest in connection with the performance of duties imposed on the Department of the Interior by Public Laws 84–386 and 96–335 (Trinity River Stream Rectification Act), 98–541 and 104–143 (Trinity River Basin Fish and Wildlife Management Act of 1984, and 102–575 (The Central Valley Improvement Act). The Working Group will assist the Department of the Interior by providing advice and recommendations on all aspects of implementation of the Trinity River Restoration Program.

Dated: January 12, 2009.

Dirk Kempthorne,

Secretary of the Interior.

[FR Doc. E9–1437 Filed 1–22–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2008–N0347; 30120–1113–0000–F5]

Endangered and Threatened Species; Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: U.S. Fish and Wildlife Service (Service) has taken the following action(s) with regard to incidental take and recovery permits applications received under the authority of section 10 of the Endangered Species Act, as amended.

FOR FURTHER INFORMATION CONTACT: Additional information on the permits may be requested by contacting Mr. Peter Fasbender, at (612) 713–5343, or *peter_fasbender@fws.gov*.

SUPPLEMENTARY INFORMATION: Each permit listed below was issued only after it was determined that it was applied for in good faith; that by granting the permit would not be to the disadvantage of the listed species; and that terms and conditions of the permit were consistent with purposes and policy set forth in the Endangered Species Act of 1973, as amended. (16 U.S.C. 1531 *et seq.*).

Applicant name	Permit No.	Date issued
AQUATIC SYSTEMS, INC	133151	3/21/2008
BERNARDIN—LOCHMUELLER & ASSOCIATES	179711	6/30/2008
BHE ENVIRONMENTAL, INC	809227–19	2/4/2008
BIDART-BOUZAT, MARIA GABRIELA	175859	5/23/2008
BRITZKE, ERIC R	023666–2	4/23/2008
BRZYSKI, JESSICA R	160179–2	5/13/2008
BURKE, THERESA SYDNEY	184740	7/30/2008
CARTER, TIMOTHY C	182059	5/6/2008
CENTER FOR BIODIVERSITY	006012–6	4/22/2008
CHICAGO BOTANIC GARDENS	133291	4/21/2008
CIVIL AND ENVIRONMENTAL CONSULTANTS, INC	118259–1	5/8/2008
CORPS OF ENGINEERS, ST PAUL DISTRICT	003379	4/21/2008
CUTHBERT, FRANCESCA J	125333–2	5/8/2008
DAVEY RESOURCE GROUP	085017	4/30/2008
DETROIT ZOOLOGICAL SOCIETY	144832–1	6/30/2008
DUNLAP, KATHLEEN A	191225	11/28/2008
ECOLOGICAL SPECIALTIES LLC	128263–1	3/24/2008
ENVIRONMENTAL SOLUTIONS AND INNOVATIONS, INC	023664–18	5/23/2008
ENVIROSCIENCE, INC	130900	6/29/2008

Applicant name	Permit No.	Date issued
EWERT, DAVID N	120256	4/19/2008
FOREST PRESERVE DISTRICT OF DUPAGE COUNTY	194651	9/26/2008
HAMM, CHRISTOPHER ALAN	175852	5/8/2008
HARVEY, MICHAEL J	130493	4/21/2008
HOCKING COLLEGE	187501	11/24/2008
HOGGARTH, MICHAEL A	194099	11/25/2008
ILLINOIS NATURAL HISTORY SURVEY	182436	6/30/2008
ILLINOIS STATE MUSEUM	842313–15	6/17/2008
LEWIS ENVIRONMENTAL CONSULTING	181256	4/22/2008
MACALESTER COLLEGE	089872	5/16/2008
MAINSTREAM COMMERCIAL DIVERS, INC	193614	11/28/2008
MCCLANAHAN, ROD DANIEL	174386	5/12/2008
MCCLANE, M. BRENT	164072	4/25/2008
METROPOLITAN PARK DISTRICT OF THE TOLEDO AREA	174388	5/22/2008
MICHIGAN NATURAL FEATURES INVENTORY	174564–1	6/20/2008
MISSOURI DEPARTMENT OF CONSERVATION	120259–1	4/11/2008
NATURAL RESOURCES RESEARCH INSTITUTE	118421–1	1/15/2008
OWENS, NICHOLAS L	182430	7/7/2008
ROBBINS, LYNN W	840524–3	5/12/2008
SANDERS ENVIRONMENTAL INC	179707	7/7/2008
SHAWNEE NATIONAL FOREST	131911–1	5/12/2008
SMITHSONIAN INSTITUTION	125546–2	4/14/2008
ST. LOUIS ZOO	135297	4/25/2008
STANTEC CONSULTING SERVICES	152002–1	5/23/2008
STANTEC CONSULTING SERVICES INC	128304–5	4/21/2008
STANTEC CONSULTING SERVICES, INC	174547	5/12/2008
THE NATURE CONSERVANCY	838715	11/28/2008
THE OHIO DEPARTMENT OF TRANSPORTATION	160235–1	5/27/2008
THIRD ROCK CONSULTANTS, LLC	049738–3	3/19/2008
TIMPONE, JOHN CHARLES	120231	5/5/2008
TOMASI, THOMAS E	195082	11/21/2008
U.S. FISH AND WILDLIFE SERVICE	163772	4/25/2008
U.S. FOREST SERVICE	192348	11/24/2008
UNIVERSITY OF ILLINOIS AT CHICAGO	175862	5/19/2008
USDA FOREST SERVICE	127643	5/16/2008
VANDE KOPPLE, BOB	135267–1	10/14/2008
VOLK FIELD—CRTC—ANG	101150	4/25/2008
WATTERS, GEORGE THOMAS	088720–3	5/29/2008

Authority: The authority for this notice is the Endangered Species Act of 1973, as amended. (16 U.S.C. 1531 *et seq.*)

Dated: December 30, 2008.

Lynn M. Lewis,

Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. E9–1386 Filed 1–22–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–160–1610DP–025B]

Notice of Availability of Draft Carrizo Plain National Monument Resource Management Plan and Draft Environmental Impact Statement, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) and the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701 *et seq.*), the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) for the Carrizo Plain National Monument (CPNM) planning area, managed by the Bakersfield Field Office. This notice announces the opening of the comment period.

DATES: The BLM must receive written comments on the Draft RMP/EIS within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media news releases, and/or mailings.

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

- *E-mail: cacarrizormp@ca.blm.gov.*
- *Fax:* (661) 391–6143.
- *Mail:* CPNM RMP, Bureau of Land Management, 3801 Pegasus Drive, Bakersfield CA 93308.

Copies of the CPNM Draft RMP/Draft EIS are available in the Bakersfield Field Office at the above address; at the BLM California State Office—2800 Cottage Way, Sacramento, CA; and online at *http://www.ca.blm.gov/bakersfield.*

FOR FURTHER INFORMATION CONTACT: CPNM RMP Line (661) 391–6034.

SUPPLEMENTARY INFORMATION: The planning area for the CPNM RMP is in the Bakersfield Field Office's area of management responsibility. The planning area comprises the Carrizo Plain National Monument located in Coast Range of Central California. The BLM administers 200,000 acres of public lands in the planning area. The planning decisions in the RMP will only apply to the BLM-administered public lands and mineral estate within the planning area. The CPNM Draft RMP/EIS was developed through a collaborative planning process and considers four alternatives including a no-action alternative. The primary issues addressed include: recreation, protection of sensitive natural and cultural resources, livestock grazing; guidance for energy and mineral

development, motorized vehicle route designation, and other planning issues raised during the scoping process.

Please note that public comments and information submitted including names, street addresses, and e-mail addresses of respondents will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

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.

Timothy Z. Smith,

Bakersfield Field Manager.

[FR Doc. E9–1217 Filed 1–22–09; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1320–EL, WYW163340]

Notice of Availability of the West Antelope II Coal Lease by Application Final Environmental Impact Statement, Wyoming.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) and the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701 *et seq.*), the Bureau of Land Management (BLM) announces the availability of the West Antelope II Coal Lease by Application (LBA) Final Environmental Impact Statement (FEIS). The tract is being considered for sale as a result of a coal lease application received from the operator of the adjacent Antelope Mine in Campbell and Converse Counties, Wyoming.

DATES: To ensure comments will be considered, the BLM must receive written comments on the West Antelope II Coal LBA FEIS within 30 days following the date the Environmental Protection Agency (EPA) publishes their Notice of Availability in the **Federal Register**.

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

- *E-mail: casper_wymail@blm.gov.*
- *Fax*: 307–261–7587.
- *Mail*: Casper Field Office, Bureau of Land Management, Attn: Sarah Bucklin, 2987 Prospector Drive, Casper, Wyoming 82604.

Copies of the FEIS are available at the following BLM office locations: BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009; and BLM Casper Field Office, 2987 Prospector Lane, Casper, Wyoming 82604. The FEIS is available electronically on the following Web site: *http://www.blm.gov/wy/st/en/info/NEPA/cfodocs/West_Antelope_II.html.*

FOR FURTHER INFORMATION CONTACT: Sarah Bucklin or Mike Karbs at the BLM Casper Field Office address above or telephone 307–361–7600.

SUPPLEMENTARY INFORMATION: The FEIS analyzes and discloses to the public direct, indirect, and cumulative environmental impacts of issuing a Federal coal lease in the Wyoming portion of the Powder River Basin. The BLM is considering a coal lease issuance as a result of an April 6, 2005, application submitted by Antelope Coal Company (Antelope) to lease Federal coal near the Antelope Mine approximately 50 miles north of Douglas, Wyoming.

The applicant proposes to lease the tract as a maintenance tract to extend the life of the existing mining operations at the Antelope Mine under the provisions of the Leasing on Application regulations at 43 CFR subpart 3425. This tract, case number WYW163340, is referred to as the West Antelope II tract.

The following lands in Campbell and Converse Counties, Wyoming, are included in the tract as applied for:

T. 40 N., R. 71 W., 6th PM, Wyoming
- Section 5: Lot 18;
- Section 8: Lots 1 through 3, 6 through 11, 14 through 16;
- Section 9: Lots 2 through 16;
- Section 10: Lots 5, 6, 11 through 14.

T. 41 N., R. 71 W., 6th PM, Wyoming
- Section 9: Lots 9 through 16;
- Section 10: Lots 11 through 15;
- Section 14: Lots 3 and 4;
- Section 15: Lots 1 through 5, 12, 13;
- Section 20: Lots 14 through 16;
- Section 21: Lots 1 through 16;
- Section 22: Lots 2, 7, 8, 14 through 16;
- Section 27: Lots 6 through 11;
- Section 28: Lots 1 through 8;
- Section 29: Lots 1 through 3, 6 through 8.

Containing 4,108.6 acres more or less.

Antelope estimates that approximately 429.7 million tons of Federal coal are included in the tract for which they applied. The Office of Surface Mining Reclamation and Enforcement (OSM), the USDA-Forest Service, the Land Quality and Air Quality Divisions of the Wyoming Department of Environmental Quality (WDEQ), and the Converse County Board of Commissioners are cooperating agencies in the preparation of the FEIS. If the tract is leased as a maintenance tract, the new lease will be incorporated into the existing mining and reclamation plan for the adjacent mine. The Secretary of the Interior (Secretary) must approve the revision to the Mineral Leasing Act (MLA) mining plan before the Federal coal can be mined. If the tract is leased, the OSM is the Federal agency that would be responsible for recommending approval, approval with conditions, or disapproval of the revised MLA mining plan to the Office of the Secretary. The WDEQ has entered into a cooperative agreement with the Secretary to regulate surface coal mining operations on Federal and non-Federal lands within the State of Wyoming.

On October 17, 2006, the BLM published a Notice of Intent (NOI) to prepare an EIS for the West Antelope II coal lease application in the **Federal Register**. A notice announcing the availability of the Draft EIS (DEIS) was published in the **Federal Register** by the EPA on February 8, 2008. A 60-day comment period on the DEIS commenced with publication of the EPA's notice of availability and ended on April 8, 2008. The BLM published a Notice of Availability and Notice of Public Hearing in the **Federal Register** on March 17, 2008. The BLM's **Federal Register** notice announced the date and time of a public hearing, which was held on March 24, 2008, in Douglas, Wyoming. The purpose of the hearing was to solicit comments on the DEIS, fair market value, and the maximum economic recovery of the Federal coal. Four statements were given as testimony at the public hearing; they are summarized in an appendix in the FEIS. During the DEIS comment period, the BLM received 14 comment letters, included in an appendix to the FEIS with BLM's responses to the comments. The FEIS analyzes leasing the West Antelope II coal tract as-applied-for as the Proposed Action. Under the Proposed Action, a competitive sale would be held and a lease issued for Federal coal in the tract as applied for by Antelope. As part of the coal leasing process, the BLM identified an alternative tract configuration to assure the maximum economic recovery of the coal, avoid isolating or bypassing marketable coal, and potentially prompt

competitive interest in the unleased Federal coal for this area. The alternate tract configuration that BLM has identified is described and analyzed as a separate alternative in the FEIS. Under this alternative, a competitive sale would be held and a lease would be issued for Federal coal lands included in a tract modified by the BLM. The FEIS also analyzes the alternative of rejecting the application to lease Federal coal as the No Action Alternative. The Proposed Action and alternatives being considered in the FEIS are in conformance with the Approved Resource Management Plan for Public Lands Administered by the Bureau of Land Management Buffalo Field Office (2001), the Bureau of Land Management Casper Field Office Resource Management Plan (2007), and the USDA-Forest Service Land and Resource Management Plan for the Thunder Basin National Grassland (2002). A Record of Decision (ROD) will be prepared after the close of the 30-day review period for the FEIS. Comments received on the FEIS will be considered during preparation of the ROD.

Four copies of the FEIS will be included on the mailing list for this project. Please make requests for copies in writing, by facsimile, or electronically to the addresses listed at the beginning of this notice. The BLM asks that those submitting comments on the FEIS make them as specific as possible with reference to page numbers and chapters of the document. Comments that contain only opinions or preferences will not receive a formal response; however, they will be considered as part of the BLM decision-making process. Please note that comments and information submitted including names, street addresses, and e-mail addresses of respondents will be available for public review and disclosure at the BLM Casper Field Office during regular business hours (7:45 a.m. through 4:30 p.m.), Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, please 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.

Martin G. Griffith,

Acting State Director.

[FR Doc. E9–1308 Filed 1–22–09; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORV00000–L10200000.DD0000; HAG 9–0053]

Meeting Notice for the John Day/Snake Resource Advisory Council (JDSRAC)

AGENCY: Bureau of Land Management (BLM), Vale District.

ACTION: Meeting notice for the John Day/Snake Resource Advisory Council (JDSRAC).

SUMMARY: At the JDSRAC meeting, we will welcome a new member, agree on its annual plan of work for 2009, elect new officers, and conduct the regular business of keeping member representatives informed about Federal actions. The meeting may include such topics as John Day Resource Management Plan, Wallowa-Whitman Weed Management, Forest and BLM Resource Management Planning, Restoration of the Lower Snake River, Transportation Planning, and other matters as may reasonably come before the council.

DATES: The JDSRAC meeting is scheduled for February 26, 2009. The meeting will take place at the Oxford Suites, 2400 SW Court, Pendleton, Oregon, from 8 a.m. to 4 p.m.

The meeting is open to the public. Public comment is scheduled for 1 p.m. to 1:15 p.m. (Pacific Time) February 26, 2008. For a copy of the information to be distributed to the Council members, please submit a written request to the Vale District Office 10 days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the John Day/Snake Resource Advisory Council may be obtained from Mark Wilkening, Public Affairs Officer, Vale District Office, 100 Oregon Street, Vale, Oregon 97918, (541) 473–6218 or e-mail *mark_wilkening@blm.gov*.

Dated: January 14, 2009.

David R. Henderson,

District Manager.

[FR Doc. E9–1426 Filed 1–22–09; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1420–BJ]

Idaho: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Surveys.

SUMMARY: The Bureau of Land Management (BLM) has officially filed the plats of survey of the lands described below in the BLM Idaho State Office, Boise, Idaho, effective 9:00 a.m., on the dates specified.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709–1657.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Land Management to meet their administrative needs. The lands surveyed are:

The plat constituting the entire survey record of the dependent resurvey of portions of the south boundary and subdivisional lines, and the subdivision of section 35, T. 15 S., R. 35 E., Boise Meridian, Idaho, Group Number 1249, was accepted July 2, 2008.

The plat constituting the entire survey record of the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 17 (the E. and W. center line), T. 9 S., R. 28 E., Boise Meridian, Idaho, Group Number 1253, was accepted July 2, 2008.

The plat representing the dependent resurvey of portions of the north and east boundaries and subdivisional lines, and the subdivision of section 1, in T. 47 N., R. 4 E., Boise Meridian, Idaho, Group Number 1246, was accepted July 16, 2008.

The supplemental plat, of section 17, T. 2 N., R. 43 E., Boise Meridian, Idaho, was prepared to show new lots, was accepted August 12, 2008.

The plat representing the dependent resurvey of portions of the north boundary and subdivisional lines, and the subdivision of section 4, T. 5 S., R. 12 E., Boise Meridian, Idaho, Group Number 1244, was accepted August 28, 2008.

The plat representing the dependent resurvey of portions of the east boundary and subdivisional lines, and the subdivision of section 12 and the metes-and-bounds survey of the line between lots 6 and 7, section 12, T. 6 S., R. 17 E., Boise Meridian, Idaho, Group Number 1259, was accepted August 29, 2008.

The plat constituting the entire survey record of the dependent resurvey of a portion of the subdivision of section 2, T. 6 S., R. 8 E., Boise Meridian, Idaho, Group Number 1262, was accepted September 4, 2008.

The plat representing the dependent resurvey of portions of the Tenth Standard Parallel North (south boundary), subdivisional lines, portions

of the boundaries of Mineral Survey Number 3251, and the subdivision of sections 34 and 35, T. 48 N., R. 5 E., Boise Meridian, Idaho, Group Number 1228, was accepted September 25, 2008.

The plat representing the dependent resurvey of a portion east boundary, a portion of the subdivisional lines, and the 1915–1916 right bank meanders of the Snake River in section 19, and the subdivision of sections 19, 20, and 21, in T. 9 S., R. 17 E., Boise Meridian, Idaho, Group Number 1247, was accepted November 25, 2008.

The supplemental plat, amending certain lots in sections 34 and 35, T. 6 N., R. 11 E., Boise Meridian, Idaho, was prepared to meet certain administrative needs of the Bureau of Land Management, was accepted December 9, 2008.

These surveys were executed at the request of the USDA Forest Service to meet certain administrative and management purposes. The lands surveyed are:

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the extension survey of a portion of the subdivisional lines, in T. 12 N., R.38 E., Boise Meridian, Idaho, Group Number 1234, was accepted July 23, 2008.

The plat representing the dependent resurvey of portions of the First Guide Meridian East (west boundary) and subdivisional lines, Township 13 North, Range 5 East, Boise Meridian, Idaho, Group Number 1255, was accepted July 23, 2008.

The plat constituting the entire survey record of the retracement of a portion of the subdivisional lines, T. 1 S., R. 9 E., Boise Meridian, Idaho, Group Number 1271, was accepted July 30, 2008.

The plat representing the metes and bounds survey in section 5, in T. 50 N., R. 4 E., Boise Meridian, Idaho, Group Number 1248, was accepted October 15, 2008.

These surveys were executed at the request of the Bureau of Indian Affairs to meet certain administrative and management purposes. The lands surveyed are:

The plat representing the dependent resurvey of portions of the south boundary and subdivisional lines, and the subdivision of section 33, T. 35 N., R. 1 E., Boise Meridian, Idaho, Group Number 1233, was accepted August 7, 2008.

The plat representing the dependent resurvey of the west boundary, portions of the New East Boundary of the Fort Hall Indian Reservation (east boundary), First Standard Parallel South (south boundary), north boundary, and subdivisional lines, and the subdivision of sections 1, 3, 4, 6, 7, 8, 11, 13, 16, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, and 33, and the metes-and-bounds surveys of lot 6 in section 1, lots 5 and 6 in section 3, lot 1 in section 11, and lot 1 in section 16, Township 6 South, Range 33 East, Boise Meridian, Idaho. Idaho, Group Number 1231, was accepted September 30, 2008.

The plat representing the dependent resurvey of portions of the subdivisional lines, the 1889 meanders of the right bank of the Middle Fork of the Clearwater River, and subdivision of section 4, and the further subdivision of section 4, the survey of the 2007 partition line in section 4, certain metes-and-bounds surveys and the survey of a portion of the 2007 meanders of the right bank of the Middle Fork of the Clearwater River in section 4, T. 32 N., R. 4 E., Boise Meridian, Idaho, Group Number 1245, was accepted October 31, 2008.

This survey was executed at the request of the Department of the Air Force to meet certain administrative and management purposes. The lands surveyed are:

The plat representing the dependent resurvey of a portion of the north boundary and subdivisional lines, and the subdivision of sections 3, 5, 9 and 10, in T. 4 S., R. 5 E., Boise Meridian, Idaho, Group Number 1242, was accepted September 22, 2008.

Dated: January 15, 2009.

Stanley G. French,

Chief Cadastral Surveyor for Idaho.

[FR Doc. E9–1388 Filed 1–22–09; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNML0310000 L12200000.BY0000]

Notice of Temporary Vehicle Closure and Restrictions for the Robledo Mountains Off-Highway Vehicle Trails During the 2009 Chili Challenge; Dona Ana County, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of temporary vehicle closure and restrictions.

SUMMARY: This Notice informs the public that the Las Cruces Four-Wheel Drive Club is permitted exclusive use of the Robledo Mountains Off-Highway Vehicle Trails for the 2009 Chili Challenge extreme off-road event. The Robledo Mountains Off-Highway Vehicle Trails will be closed to all vehicles not registered with the Las Cruces Four-Wheel Drive Club for the Chili Challenge. This restriction is necessary to ensure public safety and to avoid potential user conflicts during this authorized event. The 2009 Chili Challenge was analyzed in Environmental Assessment and Finding Of No Significant Impact NM–030–2008–095. The Robledo Mountains Off-Highway Vehicle Trails are located within public land under BLM administrative jurisdiction in:

New Mexico Principal Meridian

T. 21 S., R 1 E.,
Secs. 6, 19, 20, 29, 30, and 31
T. 22S, R. 1 W.,
Secs. 1, 2, 23, 24, 25, 26, 35, 36

Maps showing the location of the Robledo Mountains Off-Highway Vehicle Trails are available upon request from the BLM Las Cruces District Office.

Exceptions: The use of motorized vehicles for emergency and law enforcement purposes, or for official duties, or as otherwise authorized by the BLM are exempt from these restrictions.

DATES: This authorization is effective from Friday, February 20 through Sunday, February 22, 2009.

FOR FURTHER INFORMATION CONTACT: John V. Thacker, BLM Outdoor Recreation Planner, 1800 Marquess Street, Las Cruces, New Mexico 88005, 575–525–4306.

SUPPLEMENTARY INFORMATION: The authority for this Notice may be found at 43 CFR 8364.1. Restricting motorized use of these routes would lessen user conflict and provide for a more enjoyable experience during the annual Chili Challenge for those motorized users holding a Special Recreation Permit.

Enforcement actions will be taken as necessary in accordance with 43 CFR 8360.0–7 and 18 U.S.C. 3571. Violations may be punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Jim C. McCormick, Jr.,

Acting, District Manager.

[FR Doc. E9–1417 Filed 1–22–09; 8:45 am]

BILLING CODE 4310–VC–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–667]

In the Matter of Certain Electronic Devices, Including Handheld Wireless Communications Devices; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 19, 2008, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Saxon Innovations, LLC of Tyler, Texas. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, including handheld wireless communications devices that infringe certain claims of U.S. Patent Nos. 5,235,635; 5,530,597; and 5,608,873. The complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Lisa A. Murray, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2734.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2008).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 14, 2009, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain electronic devices, including handheld wireless communications devices that infringe one or more of claims 1, 2, 6, 11–13, and 15 of U.S. Patent No. 5,235,635; claims 1–6 and 8–11 of U.S. Patent No. 5,530,597; and claims 1, 2, 8, 9, 13–15, 20, and 22 of U.S. Patent No. 5,608,873, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Saxon Innovations, LLC, 100 E. Ferguson, Suite 816, First Place, Tyler, TX 75702.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Nokia Corp., Keilalahdentie 4, FIN–00045 Espoo, Finland.

Nokia, Inc., 6000 Connection Drive, Irving, TX 75039.

Research In Motion Ltd., 295 Phillip Street, Waterloo, Ontario N2L 3W8, Canada.

Research In Motion Corp., 122 W. John Carpenter Parkway, Suite 430, Irving, TX 75039.

High Tech Computer Corp., 23 Xinghua Road, Taoyuan, 330, Taiwan.

HTC America, Inc., 13920 SE Eastgate Way, Suite 400, Bellevue, WA 98005.

Palm, Inc., 950 W. Maude Avenue, Sunnyvale, CA 94085.

Panasonic Corporation, 1006 Kadoma, Kadoma City, Osaka 571–8501, Japan.

AVC Networks Company, 1–15 Matsuo-cho, Kadoma City, Osaka 571–8504, Japan.

Panasonic Corporation of North America, One Panasonic Way, Secaucus, NJ 07094.

Panasonic Consumer Electronics, Company One Panasonic Way, Secaucus, NJ 07094.

(c) The Commission investigative attorney, party to this investigation, is Lisa A. Murray, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.
Issued: January 15, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–1309 Filed 1–22–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–602]

In the Matter of: Certain GPS Devices and Products Containing Same; Notice of Commission Final Determination of Violation of Section 337; Termination of Investigation; Issuance of Limited Exclusion Order and Cease and Desist Orders

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of 19 U.S.C. 1337 by SiRF Technology, Inc. of San Jose, California (''SiRF''); Pharos Science & Applications, Inc. of Torrance, California (''Pharos''); MiTAC International Corp. of Taiwan (''MiTAC''); Mio Technology Ltd., USA of Freemont, California (''Mio''); and E-TEN Information Systems Co., Ltd. of Taiwan (''E-TEN'') (collectively, ''Respondents'') in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–1999. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 7, 2007, based on a complaint filed by Global Locate, Inc. of San Jose, California (''Global Locate''). 72 FR 25777 (May 7, 2007). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. **1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain GPS (Global Positioning System) devices and products containing the same by reason of infringement of various claims of United States Patent Nos. 6,417,801 (''the '801 patent''); 6,606,346 (''the '346 patent''); 6,651,000 (''the '000 patent''); 6,704,651 (''the '651 patent''); 6,937,187 (''the '187 patent''); and 7,158,080 (''the '080 patent''). The complaint named SiRF, Pharos, MiTAC, Mio, and E-TEN as respondents. The notice of investigation was subsequently amended to add Broadcom Corporation (''Broadcom'') of Irvine, California as a complainant when Broadcom acquired Global Locate (collectively, ''Complainants'').

On August 8, 2008, the ALJ issued his final ID finding a violation of section 337 in the importation and the sale after importation of certain GPS devices and products containing the same, in connection with the asserted claims of each of the six patents at issue. Respondents and the Commission investigative attorney (IA) each filed petitions for review on August 25, 2008. On September 5, 2008, Complainants and the IA each filed responses to the petitions for review.

On October 9, 2008, the Commission determined to review the ALJ's final ID in part and requested briefing on the issues under review, remedy, the public interest, and bonding. The Commission determined to review: (1) The ID's finding that Global Locate has standing to assert the '346 patent; (2) the ID's finding that SiRF directly infringes claim 1 of the '651 patent through its commercial activities; and (3) the ID's finding that SiRF directly infringes claim 1 of the '000 patent through its commercial activities. On October 27, 2008, the parties filed written submissions on the issues under review, and on November 3, 2008, the parties filed response submissions.

On October 21, 2008, the Commission extended the deadline for receiving written submissions on remedy, the public interest, and bonding until November 13, 2008, in light of the Federal Circuit's recent decision in *Kyocera Wireless Corp.* v. *ITC*, 545 F.3d 1340 (Fed. Cir. 2008). On November 13, 2008, the parties to the investigation along with non-party Garmin International, Inc. each filed written submissions on remedy, the public interest, and bonding. On November 14, 2008, Nokia Corporation and Nokia Inc. (collectively ''Nokia''), also non-parties, filed a motion for leave to file written submissions on remedy, the public interest, and bonding one day late with the submission attached. No party opposed this motion. The Commission has determined to grant Nokia's motion. On November 24, 2008, the parties filed reply submissions on remedy, the public interest, and bonding.

On November 18, 2008, Respondents filed a petition for reconsideration of the Commission's determination not to review the ALJ's finding that claim 1 of the '187 patent and claims 1, 2, and 11 of the '801 patent recite patent-eligible subject matter under 35 U.S.C. 101 in light of the Federal Circuit's *en banc* decision in *In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008). On November 25, 2008, Complainants and the IA each filed responses in opposition to Respondents' petition for reconsideration. Having reviewed the petition for reconsideration and the responses, the Commission has determined to deny the petition for reconsideration.

Having examined the record of this investigation, including the ALJ's final ID, the Commission has determined to modify the following findings in the ID: (i) Global Locate has standing to assert the '346 patent, (ii) SiRF directly infringes the '000 patent through its commercial activities, and (iii) SiRF directly infringes the '651 patent through its commercial activities. These modifications merely clarify the ALJ's findings.

The Commission has determined that the appropriate form of relief is (i) a limited exclusion order prohibiting the unlicensed entry of GPS chips and products incorporating these chips that infringe one or more of claims 4 and 11 of the '346 patent, claims 1, 2, and 22 of the '080 patent, claims 1, 2, and 11 of the '801 patent, claims 1 and 9 of the '187 patent, claims 1 and 2 of the '651 patent, and claims 1, 2, and 5 of the '000 patent and are manufactured abroad by or on behalf of, or imported by or on behalf of, SiRF, E-TEN, Pharos, MiTAC and Mio; and (ii) cease and desist orders against domestic respondents SiRF, Mio, and Pharos.

The Commission further determined that the public interest factors enumerated in section 337(d) and (f)(19 U.S.C. 1337(d), (f)) do not preclude issuance of the limited exclusion order and the cease and desist orders. Finally, the Commission determined the amount of bond to permit temporary importation during the Presidential review period (19 U.S.C.1337(j)) shall be in the amount of one hundred (100) percent of the entered value of the articles that are subject to the order. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

The authority for the Commission's determination is contained in section

337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–50).

By order of the Commission.

Issued: January 15, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–1428 Filed 1–22–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on January 15, 2009, a proposed consent decree (''Consent Decree'') in *United States* v. *CEMEX California Cement, LLC*, Civil Action No. 07–00223–GW, was lodged with the United States District Court for the Central District of California.

The Consent Decree would resolve claims asserted by the United States against CEMEX California Cement, LLC (''CEMEX'') pursuant to Sections 113(b) and 167 of the Clean Air Act (the ''Act''), 42 U.S.C. 7413(b) and 7477, seeking injunctive relief and the assessment of civil penalties for CEMEX's violations of the Prevention of Significant Deterioration (''PSD'') provisions in Part C of Subchapter I of the Act, 42 U.S.C. 7470–7492, and the federal PSD regulations, 40 CFR 52.21.

CEMEX operates a portland cement manufacturing facility in Victorville and Apple Valley, California. The complaint filed by the United States alleges that CEMEX modified Quarry Kiln #2 in 1997 and constructed new Quarry Kiln #3 in 2000 without complying with PSD, including the requirements to first obtain a PSD permit authorizing the modifications and to install and operate the best available technology to control emissions of sulfur dioxide (''SO_2''), nitrogen oxides (''NO_X''), and/or carbon monoxide (''CO'').

The Consent Decree would require CEMEX to comply with emissions limits of 1.95 pounds of NO_X, 0.35 pounds of SO_2, and 2.9 pounds of CO per ton of clinker at Quarry Kiln #2. The Consent Decree would also require CEMEX to comply with a 1.95 pounds of NO_X per ton of clinker emission limit at Quarry Kiln #3, as well as a mass NO_X emission limit for both kilns of 19,314 pounds per day of operation. Finally, the Consent Decree would require CEMEX to pay a $2,000,000 civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *CEMEX California Cement,* LLC, D.J. Ref. No. 90–5–2–1–08691.

The Consent Decree may be examined at the Office of the United States Attorney, Central District of California, 300 North Los Angeles Street, Room 7516, Los Angeles, California 90012, and at U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $10.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–1393 Filed 1–22–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Transition From Prison to Community (TPC)

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: Helping offenders make a successful transition from prison back into the community has been the focus of much interest in recent years. In 2001, the National Institute of Corrections (NIC) launched its Transition From Prison to the Community (TPC) initiative to bring the best of practical thinking and research knowledge to this issue. The goal was to articulate a comprehensive and strategic approach to transition that incorporates the lessons of evidence-based practice, emphasizes the importance of collaboration, and provides a practical tool for use by corrections agencies and their governmental and community partners. The TPC model was developed and NIC is now bringing to conclusion extensive implementation assistance to a first set of eight states. The TPC Reentry Handbook (see ''Background'') provides a thorough record of that initiative and what has been learned so far. Building specifically on NIC's efforts to date, this cooperative agreement award will deliver TPC technical assistance to a new set of approximately six states and the provider, in conjunction with NIC, and will continue to advance the model and develop products that can assist non-participating jurisdictions who have an interest in TPC implementation.

Since a system change initiative of this scale and scope is complex and time consuming it is expected that new states will require TPC assistance for three years. This initial 12-month phase is expected to be followed by 12 month funding from each of the next two fiscal years for a full 36-month project duration. However, year's two and three funding is subject to satisfactory performance by the provider and availability of funds for NIC to make subsequent TPC continuation awards. Therefore, applications will be reviewed specifically for the ''Year One'' proposal and work plan, as well as vision and demonstrated competence to complete necessary subsequent year tasks like document development and electronic dissemination of information to non-participating jurisdictions.

DATES: Applications must be received by 4 p.m. EDT on Monday, March 9, 2009.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, dial 7–3106, extension 0 for pickup.

Faxed applications will not be accepted. Electronic applications can be submitted via *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: To ensure that all potential applicants have access to the same information, all questions concerning the background

and expectations of work to be performed will be addressed only at the WebEx conference and Web page posting as explained in the following paragraph. Other questions concerning this announcement should be directed to Kermit Humphries, Correctional Program Specialist, National Institute of Corrections. He can be reached by calling 202–514–0118, or by e-mail at *khumphries@bop.gov*.

A WebEx conference will be conducted on February 12, 2009 at 2 p.m. EDT, for persons having a serious intent to respond to this solicitation. In this conference, NIC project managers will respond to questions regarding the solicitation and expectation of work to be performed. Please notify Kermit Humphries electronically (*khumphries@bop.gov*) by 12 noon EDT on February 9, 2009, if you wish to participate in the conference. By return e-mail you will be provided with a Web address and access code, and when logging into the session you will also receive a toll free telephone number to call. (WebEx conferences require simultaneous computer and telephone access, and essentially function as a conference call where everyone can view documents and text at the same time.) In addition, NIC project managers will post answers on its Web site to questions received from potential applicants during the WebEx conference, as well as any questions that are e-mailed between the time of the WebEx conference and the application due date.

SUPPLEMENTARY INFORMATION:

Overview: Nearly 700,000 prisoners are released from state or federal prisons each year, at least 95% of all inmates confined today will some day be released. State prisoners are expected to serve on average about 2.5 years. Almost 80% of persons released from prison will have some parole supervision in the community. Many will be re-arrested within a short time after their release and about two-thirds can be expected to return to prison within three years for committing either technical violations of their release or a new crime. At a time when prisons are full and budgets are in crisis, states and communities are looking for more effective and efficient ways to manage the offender population as they transition through the prison system and back into local communities.

Some states have demonstrated encouraging progress in changing their systems to promote offender success following release. Their success is attributed to policy direction from the highest levels of government, collaboration within government and with community based organizations, use of effective assessment tools, and programming that is based on research and ''risk reduction'' evidence based practices. More is being learned each day about how states can more effectively manage the return of offenders to the community through a shared ownership of the problem and solutions involving numerous agencies and organizations. The best answers are found when there is a strategic system change initiative involving true collaboration between corrections, health and human services, employment services, and other agencies of government, community and faith based organizations. This appears to be a highly complex endeavor, but in reality its component parts are commonly known and achievable. The TPC model is designed to assist jurisdictions address necessary elements in a way that responds to their particular needs and interests.

Background: NIC has been funding a Transition from Prison to the Community (TPC) initiative since FY 2000. Recognizing that most persons in custody will be released in a relatively brief time, and most are ''clients'' of both corrections AND other publicly funded agencies/providers, corrections and human service functions are working jointly to better prepare offenders and communities for the inevitable release from confinement. ''Reentry'' and ''transition'' are the two terms commonly used to describe the numerous activities and programs. Successful reentry is paramount to improving the safety of our communities and breaking the cycle of recidivism. Crucial to achieving system changes at both state and community levels is policy directed collaboration between prisons, the paroling authority, the post-release supervision agency and the myriad of other government and community-based organizations providing health, transportation, housing, and employment.

The NIC Web site includes extensive NIC transition information and contains critical background material for potential applicants. Those requiring hard copies of the documents may contact the NIC Information Center at 1–800–877–1461 and request that copies be mailed.

The Web address for TPC material is *http://nicic.gov/TPCModel*. Of greatest importance, at *http://nicic.gov/Library/022669* is a PDF of the TPC Reentry Handbook: Implementing the NIC Transition from Prison to the Community Model. This document not only fully explains the TPC model and process, but it is essential for applicants to understand that this document has been specifically designed to serve as a primary technical assistance tool for assistance to states to be served by this award.

Purpose: Public safety through reduced crimes committed following release from Prison is the primary value that drives this work. This initiative is to establish through system level policies and procedures a model approach for transitioning individuals from prison back into their communities. The model brings together a state's top prison leadership, paroling authority, supervision agency, employment services, public and private human service providers, faith based programs, elected officials and other interested parties for joint development of policies and procedures affecting the custody, release, and supervision of individuals targeted for this transition initiative. NIC has worked extensively in the area of Offender Risk Reduction and those initiatives are clearly related to the TPC Purpose. Applicants should be conversant with the Reducing Offender Risk material located on the NIC Web page at *http://nicic.gov/ReducingOffenderRisk*.

Scope of Work and Specific Requirements: Goals of the TPC include improved public safety by reducing the threat of harm to persons and property by released offenders in communities to which they return, and increased success rates of offenders who transition from prisons into the community by fostering effective treatment programming that reduces offender's risk of violating laws upon release, accountability for both offender and system officials, and community and victim involvement. Appropriate use of dynamic assessment of risk and needs is a critical component of the model, as well as a commitment to ongoing use of evidence-based principles for behavior change.

It is expected that the Transition from Prison to the Community (TPC) award components will include:

In conjunction with NIC, announce the opportunity and select approximately six state jurisdictions that are ready to make effective use of TPC assistance;

Deliver technical assistance to participating jurisdictions on-site, supplemented by use of distance technologies when feasible and/or cost effectiveness;

The application must carefully describe the types and frequency of technical assistance activities proposed;

Enhance the TPC Model: The cooperative agreement provider will offer expertise, facilitation, documentation and staff/consultant support activities to improve and enhance the TPC model and methods for effective implementation;

Evaluation and use of data: This is primarily a technical assistance award, but data collection, use of performance measures, and evaluation must be a key component of the work plan. Time and resources will not allow a full outcome evaluation, but the application must include a detailed research design for gathering performance and intermediate outcome data, conducting process evaluations, making regular reports, and providing technical assistance to the sites so that they develop the capacity to collect and use information over time. A key component will be an evaluation to determine the impact of TPC activities on Prisons/communities in terms of performance measures and intermediate outcomes, and;

Develop products to share learning: Recognizing that NIC can only provide direct assistance to a very small portion of all the states, prisons and communities, the applicant must identify needs and develop outreach tools similar to the TPC Reentry Handbook, on-line training modules, publishable monographs and written or electronic articles.

Depending on proposed work plans, it is likely that at least part of the above items will be products of future awards, funding permitted. However, the application should discuss a general strategy for addressing all components and propose a specific work plan for this initial 12-month award.

No jurisdictions have yet been identified as participants. The applicants' work plan should propose how competitive selections will be solicited, and participant selections will be made in conjunction with NIC. While TPC is generally discussed as a ''state prison to community initiative'', the principles may apply to federal, territorial or Indian nation systems as well. Such systems may be considered for participation.

Significant TPC challenges and issues for this initiative include the following items: Assessment tools; Evidence based practices; Individualized case management planning; Prison based programs and strategies; Community based programs and strategies; Coordination and cooperation between prisons and public/private human services agencies/groups; TPC challenges from the state corrections Director/commissioner perspective, the prison administrator perspective, and from perspectives of other governmental human services agencies; from not for profit, NGO's and other community agency perspectives; Local/state implications for TPC, including the TPC role and involvement of local criminal justice decision makers and TPC opportunities and consequences related to local probation violation practices; Distances between the prisons and communities where offenders will be released; and ''Hard and soft'' information system processes and needs. Additional prison/community transition issues may be identified by the applicant.

The applicant must prioritize and address at minimum five challenges/issues from the above paragraph. Explain the criteria used for prioritizing your challenges/issues. Also, the applicant must explain why each challenge/issue described is important, propose strategies for successfully addressing each challenge/issues and propose how the impact of each challenge/issue could be measured.

Specific Requirements:

Document Preparation—For all awards in which a document will be a deliverable, the awardee must follow the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the ''General Guidelines for Cooperative Agreements'' which will be included in the award package.

Distance Technology—NIC is committed to supplementing on-site technical assistance by using distance technology when it can be used effectively and efficiently for meetings, training or technical assistance. It is expected that shortly after award, the recipient will be/become proficient in the use of NIC's application sharing and conferencing service (WebEx) that may be used for such things as presentations, demonstrations, training, and support services to TPC participant sites. Examples where it might be used effectively by TPC include project team meetings when staff are not co-located, preparation for or follow-up to in-person site visits, or providing PowerPoint training on an aspect of TPC to multiple project sites with similar needs. Through an existing contract, NIC will make Web-Ex resources and support available at no cost to the TPC provider. Applicants must discuss how they propose to use distance meeting and training strategies within the scope of the RFP. General information about the platform used by NIC (WebEx) can be found by going to *http://webex.com/* . Applicants may also review the NIC site at *https://nic.webex.com/mw0305l/mywebex/default.do?siteurl=nic*.

Application Requirements: Applications should be concisely written, typed double-spaced and reference the project by the ''NIC Application Number'' 09K112, and Title: ''Transition From Prison to Community (TPC).'' The package must include: A cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (*e.g.*, July 1 through June 30); a budget narrative explaining projected costs; and a program narrative in response to the statement of work. The program narrative must be fewer than 15 pages in length, but there is no limit placed on the length of proposed staff résumés, or listings of organizational experience. The following forms must also be included: OMB Standard Form 424, Application for Federal Assistance; OMB Standard Form 424A, Budget information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (these forms are available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *http://www.nicic.gov/Downloads/PDF/certif-frm.pdf*.)

Applications may be submitted in hard copy, or electronically via *http://www.grants.gov*. If submitted in hard copy, there needs to be an original and six copies of the full proposal (program and budget narratives, application forms and assurances). The original should have the applicant's signature in blue ink. All potential applicants are reminded that the only opportunity to receive clarifying information about this solicitation is described earlier under the heading **FOR FURTHER INFORMATION CONTACT**.

Authority: Public Law 93–415.

Funds Available: NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. The final budget and award amount will be negotiated between NIC and the successful applicant. Applications will be accepted for the 12-month award for amounts up to $400,000 (direct and indirect costs). Funds may only be used for the activities that are linked to the desired outcome of the project. No funds are transferred to state or local governments. Supplemental awards for up to two additional years (a TPC project duration not to exceed three fiscal years) are possible based upon satisfactory performance of the awardee

and upon the availability of funding in future years.

This project will be a collaborative venture with the NIC Transition/Offender Workforce Development Division.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual or team with expertise in the described areas.

Review Considerations: Applications received under this announcement will be subjected to a 3 to 5 person NIC Peer Review Process.

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–800–333–0505 (if you are a sole proprietor, you would dial 1–866–705–5711 and select option 1).

Registration in the CCR can be done online at the CCR Web site: *http://www.ccr.gov*. A CCR Handbook and worksheet can also be reviewed at the Web site.

Number of Awards: One.

NIC Application Number: 09K112. This number should appear as a reference line in the cover letter, in box 4a of Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number 16.603 (Technical Assistance/Clearinghouse).

Executive Order 12372: This program is subject to the provisions of Executive Order 12372. E.O. 12372 allows states the option of setting up a system for reviewing applications from within their states for assistance under certain Federal programs. Applicants (other than Federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which can be found at *http://www.whitehouse.gov/omb/grants/spoc.html*.

Morris Thigpen,

Director, National Institute of Corrections.

[FR Doc. E9–1283 Filed 1–22–09; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Extension of the Approval of Information Collection Requirements

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its proposal to extend OMB approval of the information collection: Application for a Farm Labor Contractor or Farm Labor Contractor Employee Certificate of Registration, Form WH–530. A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before March 24, 2009.

ADDRESSES: Mr. Steven D. Lawrence, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0292, fax (202) 693–1451, e-mail *Lawrence.Steven@dol.gov*. Please use only one method of transmission for comments (mail, fax, or e-mail).

SUPPLEMENTARY INFORMATION:

I. Background: The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) provides that no person shall engage in any farm labor contracting activity for any money or valuable consideration paid or promised to be paid, unless such person has a certificate of registration from the Secretary of Labor specifying which farm labor contracting activities such person is authorized to perform. *See* 29 U.S.C. 1802(7), 1811(a); 29 CFR 500.1(c), –.20(i), –.40. The named MSPA contracting activities include recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker and, with respect to migrant agricultural workers, providing housing. 29 U.S.C. 1802(6); 29 CFR 500.20(j). The MSPA also provides that a Farm Labor Contractor (FLC) shall not hire, employ, or use any individual to perform farm labor contracting activities unless such individual has a certificate of registration as a FLC or a certificate of registration as a Farm Labor Contractor Employee of the FLC that authorizes the activity for which such individual is hired, employed or used. 29 U.S.C. 1811(b); 29 CFR 500.1(c). Form WH–530 provides the means for an applicant to meet the statutory MSPA requirement to file a written application with the Secretary containing specified information regarding prospective farm labor contracting activities. Applicants use the WH–530 to obtain authorization to engage in the named MSPA farm labor contracting activities or to obtain authorization to be hired, employed, or used by a currently registered FLC to perform these activities. Applicants complete the form when seeking an initial, renewal, or amended certificate and submit it to either the Wage and Hour Division of the DOL or a State Employment Service Office. *See* 29 CFR 500.44, –.47. The DOL proposes to make several revisions to Form WH–530.This information collection is currently approved for use through August 31, 2009.

II. Review Focus: The DOL is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions: The DOL seeks the approval for the extension of this currently approved information collection.

Type of Review: Extension.

AGENCY: Employment Standards Administration.

Title: Application for a Farm Labor Contractor or Farm Labor Contractor Employee Certificate of Registration, Form WH–530.

OMB Number: 1215–0037.

Agency Number: WH–530.

Affected Public: Business or other for-profit; Farms.

Total Respondents/Responses: 10,611.
Frequency: Biennially, On Occasion.
Estimated Total Burden Hours: 5,306.
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $4,536.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 15, 2009.

Hazel Bell,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E9–1391 Filed 1–22–09; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0046]

Calaveras Power Partners L.P., Matrix Service Inc., T. E. Ibberson Company, TIC—The Industrial Company, and Zachry Construction Corporation; Notice of Application for a Permanent Variance and Interim Order, Grant of an Interim Order, and Request for Comments

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of an application for a permanent variance and interim order; grant of an interim order; and request for comments.

SUMMARY: Calaveras Power Partners L.P., Matrix Service Inc., T. E. Ibberson Company, TIC—The Industrial Company, and Zachry Construction Corporation (''the applicants'') applied for a permanent variance from the provisions of the OSHA standards that regulate boatswain's chairs and hoist towers, specifically paragraph (o)(3) of 29 CFR 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552. In addition, the applicants requested an interim order based on the alternative conditions specified by the variance application. These alternative conditions consist of the same conditions specified in recent variances granted by OSHA from these hoist-tower and boatswain's-chair provisions, as well as several additional conditions that would provide employees with protection from shearing, fall, and struck-by hazards. Therefore, OSHA is granting the applicants' request for an interim order.

DATES: Comments and requests for a hearing must be submitted (postmarked, sent, or received) by February 23, 2009. The interim order specified by this notice becomes effective on January 23, 2009.

ADDRESSES: *Electronic.* Comments and requests for a hearing may be submitted electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile. OSHA allows facsimile transmission of comments that are 10 pages or fewer in length (including attachments), as well as hearing requests. Send these comments and requests to the OSHA Docket Office at (202) 693–1648; hard copies of these comments are not required. Instead of transmitting facsimile copies of attachments that supplement their comments (*e.g.*, studies and journal articles), commenters may submit these attachments, in triplicate hard copy, to the OSHA Docket Office, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. These attachments must clearly identify the sender's name, date, subject, and docket number (*i.e.*, OSHA–2007–0046) so that the Agency can attach them to the appropriate comments.

Regular mail, express delivery, hand (courier) delivery, and messenger service. Submit three copies of comments and any additional material (*e.g.*, studies and journal articles), as well as hearing requests, to the OSHA Docket Office, Docket No. OSHA–2007–0046, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone: (202) 693–2350. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office and Department of Labor are 8:15 a.m. to 4:45 p.m., e.t.

Instructions. All submissions must include the Agency name and the OSHA docket number (*i.e.*, OSHA Docket No. OSHA–2007–0046). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials may be available online at *http://www.regulations.gov*. Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket. To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or to the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.*, copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries. For general information and press inquiries about this notice contact Jennifer Ashley, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone: (202) 693–1999.

Technical information. For technical information about this notice, contact MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, Room N–3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2110; fax: (202) 693–1644.

Copies of this **Federal Register** *notice.* Electronic copies of this notice are available at *http://www.regulations.gov*. Electronic copies of this notice, as well as news releases and other relevant information, are available on OSHA's Web page at *http://www.osha.gov*.

Additional information about this variance application also is available from the OSHA Region VI Office at: U.S. Department of Labor, OSHA, 525 Griffin St., Room 602, Dallas, TX 75202; telephone: (972) 850–4145; fax: (972) 850–4149.

I. Notice of Application

Calaveras Power Partners L.P., Matrix Service Inc., T. E. Ibberson Company, TIC—The Industrial Company, and Zachry Construction Corporation (hereafter, ''the applicants'') submitted applications for a permanent variance under Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and 29 CFR 1905.11 (''Variances and other relief under section 6(d)'') (see Exs. OSHA–2007–0046–0002 through

–0006).[1] The applicants seek a permanent variance from 29 CFR 1926.452(o)(3), which provides the tackle requirements for boatswain's chairs. The applicants also request a variance from paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552 that regulate hoist towers. These latter paragraphs specify the following requirements:

- (c)(1)—Construction requirements for hoist towers outside a structure;
- (c)(2)—Construction requirements for hoist towers inside a structure;
- (c)(3)—Anchoring a hoist tower to a structure;
- (c)(4)—Hoistway doors or gates;
- (c)(8)—Electrically interlocking entrance doors or gates that prevent hoist movement when the doors or gates are open;
- (c)(13)—Emergency stop switch located in the car;
- (c)(14)(i)—Using a minimum of two wire ropes for drum hoisting; and
- (c)(16)—Material and component requirements for construction of personnel hoists.

The applicants contend that the permanent variance would provide their employees with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions. The places of employment affected by this variance application are the present and future projects where the applicants construct chimneys, all of which are located in the State of Texas.

The applicants certify that they provided employee representatives of current employees who would be affected by the permanent variance with a copy of their variance requests. The applicants also certify that they notified their employees of the variance requests by posting a summary of the application and specifying where the employees can examine a copy of the application at a prominent location or locations where they normally post notices to their employees (or, instead of a summary, posting the application itself); and by other appropriate means. In addition, the applicants have informed employees and their representatives of their right to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on this variance application.

[1] The principle addresses for the applicants are as follows: Calaveras Power Partners L.P., 527 Logwood, San Antonio, TX 78221; Matrix Service Inc., 3810 Bakerview Spur, Bellingham, WA 98226; T. E. Ibberson Company, 828 Fifth Street South, Hopkins, MN 55343–7750; TIC—The Industrial Company, 22001 North Park Drive, Suite 700, Kingwood, TX 77339; and Zachry Construction Corporation, 527 Logwood, San Antonio, TX 78221.

II. Supplementary Information

A. Overview

The applicants construct, remodel, repair, maintain, inspect, and demolish tall chimneys made of reinforced concrete, brick, and steel. This work requires the applicants to transport employees and construction material to and from elevated work platforms and scaffolds located, respectively, inside and outside tapered chimneys. While tapering contributes to the stability of a chimney, it requires frequent relocation of, and adjustments to, the work platforms and scaffolds so that they will fit the decreasing circumference of the chimney as construction progresses upwards.

To transport employees to various heights inside and outside a chimney, the applicants propose to use a hoist system that would lift and lower personnel-transport devices (*i.e.*, personnel cages, personnel platforms, or boatswain's chairs). The applicants also would attach material-transport devices such as hoppers, concrete buckets, or other containers to the hoist system to raise or lower construction material or equipment inside or outside a chimney. The applicants would use personnel cages, personnel platforms, or boatswain's chairs solely to transport employees with the tools and materials necessary to do their work, and not to transport only materials or tools in the absence of employees.

B. Previous Variances From 29 CFR 1926.452(o)(3) and 1926.552(c)

Since 1973, a number of chimney-construction companies demonstrated to OSHA that several of the hoist-tower requirements of 29 CFR 1926.552(c) present chimney-access problems that pose a serious danger to their employees. These companies received permanent variances from these personnel-hoist and boatswain's-chair requirements, and they used essentially the same alternate apparatus and procedures that the applicants are now proposing to use in this variance application. The Agency published the permanent variances for these companies at 38 FR 8545 (April 3, 1973), 44 FR 51352 (August 31, 1979), 50 FR 20145 (May 14, 1985), 50 FR 40627 (October 4, 1985), 52 FR 22552 (June 12, 1987), 68 FR 52961 (September 8, 2003), 70 FR 72659 (December 6, 2005), and 71 FR 10557 (March 1, 2006).[2]

In 1980, the Agency evaluated the alternative conditions specified in the permanent variances that it had granted to chimney-construction companies as of that date. In doing so, OSHA observed hoisting operations conducted by these companies at various construction sites. These evaluations found that, while the alternative conditions generally were safe, compliance with the conditions among the companies was uneven (*see* Exs. OSHA–2007–0046–0007 and –0008). Additionally, the National Chimney Construction Safety and Health Advisory Committee, an industry-affiliated organization, conducted evaluations of the hoist systems that provided useful information regarding the safety and efficacy of the alternative conditions (*see* Ex. OSHA–2007–0046–0009).

The permanent variance granted by OSHA to American Boiler and Chimney Co. and Oak Park Chimney Corp. (see 68 FR 52961, September 8, 2003) updated the permanent variances granted by the Agency in the 1970s and 1980s by clarifying the alternative conditions and citing the most recent consensus standards and other references. On the basis of this experience and knowledge, the Agency finds that the applicants' request for a permanent variance is consistent with the permanent variances that OSHA granted previously to other employers in the chimney-construction industry. Therefore, the Agency believes that the conditions specified in this variance application will provide the applicants' employees with at least the same level of safety they would receive from 29 CFR 1926.452(o)(3) and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552.

C. Requested Variance From 29 CFR 1926.452(o)(3)

The applicants state that it is necessary, on occasion, to use a boatswain's chair to transport employees to and from a bracket scaffold on the outside of an existing tapered chimney during flue installation or repair work, or to and from an elevated scaffold located inside a chimney that has a tapering diameter. Paragraph (o)(3) of 29 CFR 1926.452, which regulates the tackle used to rig a boatswain's chair, states that this tackle must ''consist of correct size ball bearings or bushed blocks containing safety hooks and properly 'eye-spliced'

[2] Zurn Industries, Inc. received two permanent variances from OSHA. The first variance, granted on May 14, 1985 (50 FR 20145), addressed the boatswain's-chair provision (then in paragraph (l)(5) of § 1926.451), as well as the hoist-tower requirements of paragraphs (c)(1), (c)(2), (c)(3), and (c)(14)(i) of § 1926.552. The second variance, granted on June 12, 1987 (52 FR 22552), included these same paragraphs, as well as paragraphs (c)(4), (c)(8), (c)(13), and (c)(16) of § 1926.552.

minimum five-eighth (5/8) inch (1.6 cm) diameter first-grade manila rope [or equivalent rope].''

The primary purpose of this paragraph is to allow an employee to safely control the ascent, descent, and stopping locations of the boatswain's chair. However, the applicants note that the required tackle is difficult or impossible to operate on some chimneys that are over 200 feet tall because of space limitations. Therefore, as an alternative to complying with the tackle requirements specified by 29 CFR 1926.452(o)(3), the applicants propose to use the hoisting system described in Section II.E (''Proposed Alternative to 29 CFR 1926.452(o)(3) and 29 CFR 1926.552(c)'') of this notice, both inside and outside a chimney, to raise or lower employees in a personnel cage to work locations. The applicants would use a personnel cage for this purpose to the extent that adequate space is available; they would use a personnel platform whenever a personnel cage is infeasible because of limited space. However, when limited space also makes a personnel platform infeasible, the applicants then would use a boatswain's chair to lift employees to work locations. The applicants would limit use of the boatswain's chair to elevations above the highest work location that the personnel cage and personnel platform can reach; under these conditions, the applicants would attach the boatswain's chair directly to the hoisting cable only when the structural arrangement precludes the safe use of the block and tackle required by 29 CFR 1926.452(o)(3).

D. Requested Variance From 29 CFR 1926.552(c)

Paragraph (c) of 29 CFR 1926.552 specifies the requirements for enclosed hoisting systems used to transport personnel from one elevation to another. This paragraph ensures that employers transport employees safely to and from elevated work platforms by mechanical means during the construction, alteration, repair, maintenance, or demolition of structures such as chimneys. However, this standard does not provide specific safety requirements for hoisting personnel to and from elevated work platforms and scaffolds in tapered chimneys; the tapered design requires frequent relocation of, and adjustment to, the work platforms and scaffolds. The space in a tapered chimney is not large enough or configured so that it can accommodate an enclosed hoist tower. Moreover, using an enclosed hoist tower for outside operations exposes employees to additional fall hazards because extra bridging and bracing must be installed to support a walkway between the hoist tower and the tapered chimney.

Paragraph (c)(1) of 29 CFR 1926.552 requires employers to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the chimney; these enclosures must extend the full height of the hoist tower. The applicants assert that it is impractical and hazardous to locate a hoist tower outside tapered chimneys because it becomes increasingly difficult, as a chimney rises, to erect, guy, and brace a hoist tower; under these conditions, access from the hoist tower to the chimney or to the movable scaffolds used in constructing the chimney exposes employees to a serious fall hazard. Additionally, the applicants note that the requirement to extend the enclosures 10 feet above the outside scaffolds often exposes the employees involved in building these extensions to dangerous wind conditions.

Paragraph (c)(2) of 29 CFR 1926.552 requires that employers enclose all four sides of a hoist tower even when the tower is located inside a chimney; the enclosure must extend the full height of the tower. The applicants contend that it is hazardous for employees to erect and brace a hoist tower inside a chimney, especially tapered chimneys, because these structures have limited space and cannot accommodate hoist towers; space limitations result from chimney design (*e.g.*, tapering), as well as reinforced steel projecting into the chimney from formwork that is near the work location.

As an alternative to complying with the hoist-tower requirements of 29 CFR 1926.552(c)(1) and (c)(2), the applicants propose to use the hoist system described below in Section II.E (''Proposed Alternative to 29 CFR 1926.452(o)(3) and 29 CFR 1926.552(c)'') of this notice to transport employees to and from work locations inside and outside chimneys. Use of the proposed hoist system would eliminate the need for the applicants to comply with other provisions of 29 CFR 1926.552(c) that specify requirements for hoist towers. Therefore, the applicants also are requesting a permanent variance from the following related provisions:

- (c)(3)—Anchoring the hoist tower to a structure;
- (c)(4)—Hoistway doors or gates;
- (c)(8)—Electrically interlocking entrance doors or gates that prevent hoist movement when the doors or gates are open;
- (c)(13)—Emergency stop switch located in the car;
- (c)(14)(i)—Using a minimum of two wire ropes for drum-type hoisting; and
- (c)(16)—Material and component requirements for construction of personnel hoists.

The applicants assert that the proposed hoisting system would protect its employees at least as effectively as the hoist-tower requirements of 29 CFR 1926.552(c).

E. Proposed Alternative to 29 CFR 1926.452(o)(3) and 29 CFR 1926.552(c)

To power the hoist system, the applicants would use a hoist engine, located and controlled outside the chimney. The system also would consist of a wire rope that: Spools off the hoist drum into the interior of the chimney; passes to a footblock that redirects the rope from the horizontal to the vertical planes; goes from the footblock through the overhead sheaves above the elevated platform; and finally drops to the bottom landing of the chimney where it connects to a personnel- or material-transport device. The cathead, which is a superstructure at the top of the hoist system, supports the overhead sheaves. The overhead sheaves (and the vertical span of the hoist system) move upward with the hoist system as chimney construction progresses. Two guide cables, suspended from the cathead, eliminate swaying and rotation of the load. If the hoist rope breaks, safety clamps activate and grip the guide cables to prevent the load from falling. The applicants would use a headache ball, located on the hoist rope directly above the load, to counterbalance the rope's weight between the cathead sheaves and the footblock.

The applicants would implement additional conditions to improve employee safety, including:

(1) Attaching the wire rope to the personnel cage using a keyed-screwpin shackle or positive-locking link;

(2) Adding limit switches to the hoist system to prevent overtravel by the personnel- or material-transport devices;

(3) Providing the safety factors and other precautions required for personnel hoists specified by the pertinent provisions of 29 CFR 1926.552(c), including canopies and shields to protect employees located in a personnel cage from material that may fall during hoisting and other overhead activities;

(4) Providing falling-object protection for scaffold platforms as specified by 29 CFR 1926.451(h)(1);

(5) Conducting tests and inspections of the hoist system as required by 29 CFR 1926.20(b)(2) and 1926.552(c)(15);

(6) Establishing an accident-prevention program that conforms to 29 CFR 1926.20(b)(3);

(7) Equipping employees who use a personnel cage, personnel platform, or boatswain's chair with, and ensuring that they use, personal fall-arrest systems meeting the requirements of 29 CFR 1926.502(d);

(8) Ensuring that employees using a personnel cage secure their personal fall-arrest system to an attachment point located inside the cage, and that employees using personnel platforms or boatswain's chairs secure their personal fall-arrest systems to a vertical lifeline;

(9) When using vertical lifelines, securing the lifelines to the top of the chimney and weighting the lifelines properly or suitably affixing the lifelines to the bottom of the chimney, and ensuring that employees remain attached to their lifeline during the entire period of vertical transit;

(10) Providing instruction to each employee who uses a personnel platform or boatswain's chair regarding the shearing hazards posed by the hoist system (*e.g.*, work platforms, scaffolds), and the need to keep their limbs or other body parts clear of these hazards during hoisting operations;

(11) Providing the instruction on shearing hazards before an employee uses one of these personnel-transport devices at the worksite; and periodically, and as necessary, thereafter, including whenever the employee demonstrates a lack of knowledge about the hazard and how to avoid it, a modification occurs to an existing shearing hazard, or a new shearing hazard develops at the worksite;

(12) Attaching a readily visible warning to each personnel platform and boatswain's chair notifying employees in a language they understand of potential shearing hazards during hoisting operations. For warnings located on personnel platforms, using the following (or equivalent) wording: ''Warning—To avoid serious injury, keep your hands, arms, feet, legs, and other parts of your body inside this platform while it is in motion.'' For boatswain's chairs, the warning would use the following (or equivalent) wording: ''Warning—To avoid serious injury, do not extend your hands, arms, feet, legs, or other parts of your body from the side or to the front of this chair while it is in motion; and

(13) Establishing a clearly designated safety zone around the hoist system's bottom landing and prohibiting any employee from entering the safety zone except to access a personnel cage, personnel platform, boatswain's chair, or material-transport device, and then only when the personnel- and material-transport device is at the bottom landing and not in operation.

OSHA revised the requirements for using personal fall-protection systems specified in previous variances addressing these hoist systems (see Conditions 7 and 8, above). This revision adds a requirement that the applicants provide employees using personnel cages with personal fall-protection systems, and ensure that the employees use these systems, in accordance with 29 CFR 1926.502(d). OSHA believes this revision will protect employees from falling out of a cage in the event the door of the cage opens inadvertently during lifting operations.

The last four of these conditions (Conditions 10–13) also are new, having never been part of previous variance applications covering these hoist systems. OSHA believes that these additional conditions are necessary to protect employees from shearing, fall, and struck-by hazards associated with using hoist systems in chimney construction. Accordingly, conditions 10–12 address shearing hazards that employees may encounter while a personnel platform or boatswain's chair is transporting them to or from an elevated jobsite. During transport, the personnel-transport device will pass near structures, including work platforms and scaffolds, that could crush or inflict other serious injury on a hand, arm, foot, leg, or other body part that extends beyond the confines of the device. To prevent these injuries, OSHA believes that employees who use these devices must be able to recognize shearing hazards at the worksite, and how to avoid them. Additionally, attaching a readily visible warning of the hazards to personnel platforms and boatswain's chairs would supplement and reinforce the hazard training by reminding employees of the hazard and how to avoid it.

The last condition (Condition 13) requires the applicants to establish a safety zone around the bottom landing where employees access personnel- and material-transport devices. The applicants must ensure that employees enter the safety zone only to access a transport device that is in the area circumscribed by the safety zone, and only when the hoist system is not in operation. This condition will prevent a transport device that is descending from an elevated jobsite from striking an employee who is in or near the bottom-landing area and is not aware of the descending device. During descent, it also is difficult for employees in or on these devices to detect an employee beneath them. Therefore, it is necessary for the applicants to establish a safety zone and ensure that employees only enter the safety zone when a transport device is at the bottom landing and not in operation (*i.e.*, the drive components of the hoist system are disengaged and the braking mechanism is properly applied).

This variance application also specifies a condition that requires the applicants to notify (1) the nearest OSHA Area Office at least 15 days before commencing chimney-construction operations covered by the variance, and (2) OSHA national headquarters as soon as an applicant knows that it will cease doing business or transfers the activities covered by the variance to another company. These administrative requirements will enable OSHA to more easily enforce, and determine the status of, the variance than is presently the case. Currently, OSHA has little or no information about chimney-construction activities conducted under a variance, making it difficult for it to assess compliance with the conditions specified under the variance. Additionally, OSHA finds that construction companies cease operations or transfer chimney-construction assets to successor companies without informing OSHA that the variance is no longer needed or requesting that the Agency reassign the variance to the successor company. OSHA believes that these notification requirements would improve administrative oversight of the variance program, thereby enhancing employee safety and reducing its administrative burden.

III. Grant of Interim Order

In addition to requesting a permanent variance, the applicants also requested an interim order that would remain in effect until the Agency makes a decision on their application for a permanent variance. During this period, the applicants must comply fully with the conditions of the interim order as an alternative to complying with the tackle requirements provided for boatswain's chairs by 29 CFR 1926.452(o)(3) and the requirements for hoist towers specified by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552.

Based on its previous experience with permanent variances from these provisions granted to other companies, OSHA believes that an interim order is justified in this case. As noted above in Section II.B (''Previous Variances from 29 CFR 1926.452(o)(3) and 1926.552(c)''), the Agency has granted a number of permanent variances from

these provisions since 1973. Over this period, the affected companies have effectively used the alternative conditions specified in the variances. The conditions of the interim order requested by the applicants substantially duplicate the conditions approved recently in the permanent variance granted to American Boiler and Chimney Co. and Oak Park Chimney Corp. (see 68 FR 52961), while adding conditions that would provide employees with protection from shearing, fall, and struck-by hazards. In granting a permanent variance to American Boiler and Chimney Co. and Oak Park Chimney Corp., the Agency stated, ''[W]hen the employers comply with the conditions of the following order, their employees will be exposed to working conditions that are at least as safe and healthful as they would be if the employers complied with paragraph (o)(3) of 29 CFR 1926.452, and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552.'' (See 68 FR 52967.)

Based on its determination that the alternative conditions proposed by American Boiler and Chimney Co. and Oak Park Chimney Corp will protect employees at least as effectively as the requirements of paragraph (o)(3) of 29 CFR 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552, as well as the additional conditions specified in this variance application that will protect employees from shearing, fall, and struck-by hazards, OSHA has decided to grant an interim order to the applicants pursuant to the provisions of 29 CFR 1905.11(c). Accordingly, in lieu of complying with paragraph (o)(3) of 29 CFR 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552, the applicants will: (1) Provide notice of this grant of an interim order to the employees affected by the conditions of the interim order using the same means it used to inform these employees of their applications for a permanent variance; and (2) comply with the conditions listed below in section IV (''Specific Conditions of the Interim Order and the Application for a Permanent Variance'') of this application for the period between the date of this **Federal Register** notice and the date the Agency publishes its final decision on the application in the **Federal Register**; the interim order will remain in effect during this period unless OSHA modifies or revokes it in accordance with the requirements of 29 CFR 1905.13.

IV. Specific Conditions of the Interim Order and the Application for a Permanent Variance

The following conditions apply to the interim order being granted by OSHA to Calaveras Power Partners L.P., Matrix Service Inc., T. E. Ibberson Company, TIC—The Industrial Company, and Zachry Construction Corporation as part of their applications for a permanent variance described in this **Federal Register** notice. In addition, these conditions specify the alternatives to the requirements of paragraph (o)(3) of 29 CFR 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552 that the applicants are proposing in their application for a permanent variance. These conditions include: [3]

1. Scope

(a) The interim order/permanent variance applies/would apply only to tapered chimneys when the applicants use a hoist system during inside or outside chimney construction to raise or lower their employees between the bottom landing of a chimney and an elevated work location on the inside or outside surface of the chimney.

(b) When using a hoist system as specified in this permanent variance, the applicants must/would:

(i) Use the personnel cages, personnel platforms, or boatswain's chairs raised and lowered by the hoist system solely to transport employees with the tools and materials necessary to do their work; and

(ii) Attach a hopper or concrete bucket to the hoist system to raise and lower all other materials and tools inside or outside a chimney.

(c) Except for the requirements specified by 29 CFR 1926.452(o)(3) and 1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16), the applicants must/would comply fully with all other applicable provisions of 29 CFR parts 1910 and 1926.

(d) The interim order/permanent variance does not apply/would not apply in any State or territory having an occupational safety and health program approved by the Federal Occupational Safety and Health Administration under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667).[4]

2. Replacing a Personnel Cage With a Personnel Platform or a Boatswain's Chair

(a) *Personnel platform*. When the applicants demonstrate that available space makes a personnel cage for transporting employees infeasible, they may replace the personnel cage with a personnel platform when they limit use of the personnel platform to elevations above the last work location that the personnel cage can reach.

(b) *Boatswain's chair*. The applicants must/would:

(i) Before using a boatswain's chair, demonstrate that available space makes it infeasible to use a personnel platform for transporting employees;

(ii) Limit use of a boatswain's chair to elevations above the last work location that the personnel platform can reach; and

(iii) Use a boatswain's chair in accordance with block-and-tackle requirements specified by 29 CFR 1926.452(o)(3), unless they can demonstrate that the structural arrangement of the chimney precludes such use.

3. Qualified Competent Person

(a) The applicants must/would:

(i) Provide a qualified competent person, as specified in paragraphs (f) and (m) of 29 CFR 1926.32, who is responsible for ensuring that the design, maintenance, and inspection of the hoist system comply with the conditions specified herein and with the appropriate requirements of 29 CFR part 1926 (''Safety and Health Regulations for Construction''); and

(ii) Ensure that the qualified competent person is present at ground level to assist in an emergency whenever the hoist system is raising or lowering employees.

(b) The applicants must/would use a qualified competent person to design and maintain the cathead described under Condition 8 (''Cathead and Sheave'') below.

4. Hoist Machine

(a) *Type of hoist*. The applicants must/would designate the hoist machine as a portable personnel hoist.

(b) *Raising or lowering a transport*. The applicants must/would ensure that:

(i) The hoist machine includes a base-mounted drum hoist designed to control line speed; and

[3] In these conditions, the verb ''must'' applies to the interim order, while the verb ''would'' pertains to the application for a permanent variance.

[4] These States and territories are referred to as ''State-plan States and Territories.'' The 22 State-plan States and territories having authority over both public- and private-sector employers and employees are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. Three State-plan States (*i.e.*, Connecticut, New Jersey, and New York) and one territory (*i.e.*, Virgin Islands) do not have authority over private-sector employees (*i.e.*, they limit their occupational safety and health authority to public-sector employees only).

(ii) Whenever they raise or lower a personnel or material hoist (*e.g.*, a personnel cage, personnel platform, boatswain's chair, hopper, concrete bucket) using the hoist system:

(A) The drive components are engaged continuously when an empty or occupied transport is being lowered (*i.e.*, no ''freewheeling'');

(B) The drive system is interconnected, on a continuous basis, through a torque converter, mechanical coupling, or an equivalent coupling (*e.g.*, electronic controller, fluid clutches, hydraulic drives);

(C) The braking mechanism is applied automatically when the transmission is in the neutral position and a forward-reverse coupling or shifting transmission is being used; and

(D) No belts are used between the power source and the winding drum.

(c) *Power source*. The applicants must/would power the hoist machine by an air, electric, hydraulic, or internal-combustion drive mechanism.

(d) *Constant-pressure control switch*. The applicants must/would:

(i) Equip the hoist machine with a hand-or foot-operated constant-pressure control switch (*i.e.*, a ''deadman control switch'') that stops the hoist immediately upon release; and

(ii) Protect the control switch to prevent it from activating if the hoist machine is struck by a falling or moving object.

(e) *Line-speed indicator*. The applicants must/would:

(i) Equip the hoist machine with an operating line-speed indicator maintained in proper working order; and

(ii) Ensure that the line-speed indicator is in clear view of the hoist operator during hoisting operations.

(f) *Braking systems*. The applicants must/would equip the hoist machine with two (2) independent braking systems (*i.e.*, one automatic and one manual) located on the winding side of the clutch or couplings, with each braking system being capable of stopping and holding 150 percent of the maximum rated load.

(g) *Slack-rope switch*. The applicants must/would equip the hoist machine with a slack-rope switch to prevent rotation of the winding drum under slack-rope conditions.

(h) *Frame*. The applicants must/would ensure that the frame of the hoist machine is a self-supporting, rigid, welded-steel structure, and that holding brackets for anchor lines and legs for anchor bolts are integral components of the frame.

(i) *Stability*. The applicants must/would secure hoist machines in position to prevent movement, shifting, or dislodgement.

(j) *Location*. The applicants must/would:

(i) Locate the hoist machine far enough from the footblock to obtain the correct fleet angle for proper spooling of the cable on the drum; and

(ii) Ensure that the fleet angle remains between one-half degree (½°) and one and one-half degrees (1½°) for smooth drums, and between one-half degree (½°) and two degrees (2°) for grooved drums, with the lead sheave centered on the drum.[5]

(k) *Drum and flange diameter*. The applicants must/would:

(i) Provide a winding drum for the hoist that is at least 30 times the diameter of the rope used for hoisting; and

(ii) Ensure that the winding drum has a flange diameter that is at least one and one-half (1½) times the winding-drum diameter.

(l) *Spooling of the rope*. The applicants must/would never spool the rope closer than two (2) inches (5.1 cm) from the outer edge of the winding-drum flange.

(m) *Electrical system*. The applicants must/would ensure that all electrical equipment is weatherproof.

(n) *Limit switches*. The applicants must/would equip the hoist system with limit switches and related equipment that automatically prevent overtravel of a personnel cage, personnel platform, boatswain's chair, or material-transport device at the top of the supporting structure and at the bottom of the hoistway or lowest landing level.

5. Methods of Operation

(a) *Employee qualifications and training*. The applicants must/would:

(i) Ensure that only trained and experienced employees, who are knowledgeable of hoist-system operations, control the hoist machine; and

(ii) Provide instruction, periodically and as necessary, on how to operate the hoist system to each employee who uses a personnel cage, personnel platform, or boatswain's chair for transportation.

(b) *Speed limitations*. The applicants must/would not operate the hoist at a speed in excess of:

(i) Two hundred fifty (250) feet (76.9 m) per minute when a personnel cage is being used to transport employees;

(ii) One hundred (100) feet (30.5 m) per minute when a personnel platform or boatswain's chair is being used to transport employees; or

(iii) A line speed that is consistent with the design limitations of the system when only material is being hoisted (*i.e.*, using a dedicated material-transport device such as a hopper or concrete bucket).

(c) *Communication*. The applicants must/would:

(i) Use an electronic voice-communication system to maintain communication between the hoist operator and the employees located in or on a moving personnel cage, personnel platform, or boatswain's chair;

(ii) Stop hoisting if, for any reason, the communication system fails to operate effectively; and

(iii) Resume hoisting only when the worksite superintendent determines that it is safe to do so.

6. Hoist Rope

(a) *Grade*. The applicants must/would use a wire rope for the hoist system (*i.e.*, ''hoist rope'') that consists of extra-improved plow steel, an equivalent grade of non-rotating rope, or a regular lay rope with a suitable swivel mechanism.

(b) *Safety factor*. The applicants must/would maintain a safety factor of at least eight (8) times the safe workload throughout the entire length of hoist rope.

(c) *Size*. The applicants must/would use a hoist rope that is at least one-half (½) inch (1.3 cm) in diameter.

(d) *Inspection, removal, and replacement*. The applicants must/would:

(i) Thoroughly inspect the hoist rope before the start of each job and on completing a new setup;

(ii) Maintain the proper diameter-to-diameter ratios between the hoist rope and the footblock and the sheave by inspecting the wire rope regularly (see Conditions 7(c) and 8(d), below); and

(iii) Remove and replace the wire rope with new wire rope when any condition specified by 29 CFR 1926.552(a)(3) occurs.

(e) *Attachments*. The applicants must/would attach the rope to a personnel cage, personnel platform, or boatswain's chair with a keyed-screwpin shackle or positive-locking link.

(f) *Wire-rope fastenings*. When the applicants use clip fastenings (*e.g.*, U-bolt wire-rope clips) with wire ropes, they must/would:

(i) Use Table H–20 of 29 CFR 1926.251 to determine the number and spacing of clips;

[5] This provision adopts the definition of, and specifications for, fleet angle from *Cranes and Derricks*, H. I. Shapiro, *et al.* (eds.); New York: McGraw-Hill; 3rd ed., 1999, page 592. Accordingly, the fleet angle is ''[t]he angle the rope leading onto a [winding] drum makes with the line perpendicular to the drum rotating axis when the lead rope is making a wrap against the flange.''

(ii) Use at least three (3) drop-forged clips at each fastening;

(iii) Install the clips with the ''U'' of the clips on the dead end of the rope; and

(iv) Space the clips so that the distance between them is six (6) times the diameter of the rope.

7. Footblock

(a) *Type of block*. The applicants must/would use a footblock:

(i) Consisting of construction-type blocks of solid single-piece bail with a safety factor that is at least four (4) times the safe workload, or an equivalent block with roller bearings;

(ii) Designed for the applied loading, size, and type of wire rope used for hoisting;

(iii) Designed with a guard that contains the wire rope within the sheave groove;

(iv) Bolted rigidly to the base; and

(v) Designed and installed so that it turns the moving wire rope to and from the horizontal or vertical direction as required by the direction of rope travel.

(b) *Directional change*. The applicants must/would ensure that the angle of change in the hoist rope from the horizontal to the vertical direction at the footblock is approximately 90°.

(c) *Diameter*. The applicants must/would ensure that the line diameter of the footblock is at least 24 times the diameter of the hoist rope.

8. Cathead and Sheave

(a) *Support*. The applicants must/would use a cathead (*i.e.*, ''overhead support'') that consists of a wide-flange beam, or two (2) steel-channel sections securely bolted back-to-back to prevent spreading.

(b) *Installation*. The applicants must/would ensure that:

(i) All sheaves revolve on shafts that rotate on bearings; and

(ii) The bearings are mounted securely to maintain the proper bearing position at all times.

(c) *Rope guides*. The applicants must/would provide each sheave with appropriate rope guides to prevent the hoist rope from leaving the sheave grooves when the rope vibrates or swings abnormally.

(d) *Diameter*. The applicants must/would use a sheave with a diameter that is at least 24 times the diameter of the hoist rope.

9. Guide Ropes

(a) *Number and construction*. The applicants must/would affix two (2) guide ropes by swivels to the cathead. The applicants must/would ensure that the guide ropes:

(i) Consist of steel safety cables not less than one-half (½) inch (1.3 cm) in diameter; and

(ii) Be free of damage or defect at all times.

(b) *Guide rope fastening and alignment tension*. The applicants must/would fasten one end of each guide rope securely to the overhead support, with appropriate tension applied at the foundation.

(c) *Height*. The applicants must/would rig the guide ropes along the entire height of the hoist-machine structure.

10. Personnel Cage

(a) *Construction*. The applicants must/would ensure that the personnel cage is of steel-frame construction and capable of supporting a load that is four (4) times its maximum rated load capacity. The applicants also must/would ensure that the personnel cage has:

(i) A top and sides that are permanently enclosed (except for the entrance and exit);

(ii) A floor securely fastened in place;

(iii) Walls that consist of 14-gauge, one-half (½) inch (1.3 cm) expanded metal mesh, or an equivalent material;

(iv) Walls that cover the full height of the personnel cage between the floor and the overhead covering;

(v) A sloped roof constructed of one-eighth (⅛) inch (0.3 cm) aluminum, or an equivalent material;

(vi) Safe handholds (*e.g.*, rope grips–but *not* rails or hard protrusions)[6] that accommodate each occupant; and

(v) Attachment points to which employees must/would secure their personal fall protection systems.

(b) *Overhead weight*. The applicants must/would ensure that the personnel cage has an overhead weight (e.g., a headache ball of appropriate weight) to compensate for the weight of the hoist rope between the cathead and footblock. In addition, the applicants must/would:

(i) Ensure that the overhead weight is capable of preventing line run; and

(ii) Use a means to restrain the movement of the overhead weight so that the weight does not interfere with safe personnel hoisting.

(c) *Gate*. The applicants must/would ensure that the personnel cage has a gate that:

(i) Guards the full height of the entrance opening; and

(ii) Has a functioning mechanical lock that prevents accidental opening.

(d) *Operating procedures*. The applicants must/would post the procedures for operating the personnel cage conspicuously at the hoist operator's station.

(e) *Capacity*. The applicants must/would:

(i) Hoist no more than four (4) occupants in the cage at any one time; and

(ii) Ensure that the rated load capacity of the cage is at least 250 pounds (113.4 kg) for each occupant so hoisted.

(f) *Employee notification*. The applicants must/would post a sign in each personnel cage notifying employees of the following conditions:

(i) The standard rated load, as determined by the initial static drop test specified by Condition 10(g) (''Static drop tests''), below; and

(ii) The reduced rated load for the specific job.

(g) *Static drop tests*. The applicants must/would:

(i) Conduct static drop tests of each personnel cage that comply with the definition of ''static drop test'' specified by section 3 (''Definitions'') and the static drop-test procedures provided in Section 13 (''Inspections and Tests'') of American National Standards Institute (ANSI) standard A10.22–1990 (R1998) (''American National Standard for Rope-Guided and Non-Guided Worker's Hoists—Safety Requirements'');

(ii) Perform the initial static drop test at 125 percent of the maximum rated load of the personnel cage, and subsequent drop tests at no less than 100 percent of its maximum rated load; and

(iii) Use a personnel cage for raising or lowering employees only when no damage occurred to the components of the cage as a result of the static drop tests.

11. Safety Clamps

(a) *Fit to the guide ropes*. The applicants must/would:

(i) Fit appropriately designed and constructed safety clamps to the guide ropes; and

(ii) Ensure that the safety clamps do not damage the guide ropes when in use.

(b) *Attach to the personnel cage*. The applicants must/would attach safety clamps to each personnel cage for gripping the guide ropes.

(c) *Operation*. The applicants must/would ensure that the safety clamps attached to the personnel cage:

(i) Operate on the ''broken rope principle'' defined in section 3 (''Definitions'') of ANSI standard A10.22–1990 (R1998);

(ii) Be capable of stopping and holding a personnel cage that is carrying 100 percent of its maximum rated load

[6] To reduce impact hazards should employees lose their balance because of cage movement.

and traveling at its maximum allowable speed if the hoist rope breaks at the footblock; and

(iii) Use a pre-determined and pre-set clamping force (*i.e.*, the ''spring compression force'') for each hoist system.

(d) *Maintenance*. The applicants must/would keep the safety-clamp assemblies clean and functional at all times.

12. Overhead Protection

(a) The applicants must/would install a canopy or shield over the top of the personnel cage that is made of steel plate at least three-sixteenth (3/16) of an inch (4.763 mm) thick, or material of equivalent strength and impact resistance, to protect employees (*i.e.*, both inside and outside the chimney) from material and debris that may fall from above.

(b) The applicants must/would ensure that the canopy or shield slopes to the outside of the personnel cage.

13. Emergency-Escape Device

(a) *Location*. For employees using a personnel cage, the applicants must/would provide an emergency-escape device in at least one of the following locations:

(i) In the personnel cage, provided that the device is long enough to reach the bottom landing from the highest possible escape point; or

(ii) At the bottom landing, provided that a means is available in the personnel cage for the occupants to raise the device to the highest possible escape point.

(b) *Operating instructions*. The applicants must/would ensure that written instructions for operating the emergency-escape device are attached to the device.

(c) *Training*. The applicants must/would instruct each employee who uses a personnel cage for transportation on how to operate the emergency-escape device:

(i) Before the employee uses a personnel cage for transportation; and

(ii) Periodically, and as necessary, thereafter.

14. Personnel Platforms

When the applicants elect to replace the personnel cage with a personnel platform in accordance with Condition 2(a), above, they must/would:

(a) Ensure that an enclosure surrounds the platform, and that this enclosure is at least 42 inches (106.7 cm) above the floor of the platform;

(b) Provide overhead protection when an overhead hazard is, or could be, present; and

(c) Comply with the applicable scaffolding strength requirements specified by 29 CFR 1926.451(a)(1).

15. Protecting Employees from Fall and Shearing Hazards

(a) *Fall hazards*. The applicants must/would:

(i) Before employees use personnel cages, personnel platforms, or boatswain's chairs, equip the employees with, and ensure that they use, personal fall-arrest systems that meet the requirements of 29 CFR 1926.502(d);

(ii) Ensure that employees using personnel cages secure their fall-arrest systems to attachment points located inside the cage;

(iii) Ensure that employees using personnel platforms and boatswain's chairs secure their personal fall-arrest systems to a vertical lifeline; and

(iv) When using vertical lifelines:

(A) Secure the lifelines to the top of the chimney;

(B) Weight the lifelines properly or suitably affix the lifelines to the bottom of the chimney; and

(C) Ensure that employees remain attached to their lifeline during the entire period of vertical transit.

(b) *Shearing hazards*. The applicants must/would:

(i) Provide employees who use personnel platforms or boatswain's chairs with instruction on the shearing hazards posed by the hoist system (*e.g.*, work platforms, scaffolds), and the need to keep their limbs or other body parts clear of these hazards during hoisting operations;

(ii) Provide the instruction on shearing hazards:

(A) Before an employee uses a personnel cage, personnel platform, or boatswain's chair at the worksite; and

(B) Periodically, and as necessary, thereafter, including whenever an employee demonstrates a lack of knowledge about the hazard and how to avoid it, a modification occurs to an existing shearing hazard, or a new shearing hazard develops at the worksite; and

(iii) Attach a readily visible warning to each personnel platform and boatswain's chair notifying employees in a language they understand of potential shearing hazards they may encounter during hoisting operations, and that uses the following (or equivalent) wording:

(A) For personnel platforms: ''Warning—To avoid serious injury, keep your hands, arms, feet, legs, and other parts of your body inside this platform while it is in motion''; and

(B) For boatswain's chairs: ''Warning—To avoid serious injury, do not extend your hands, arms, feet, legs, or other parts your body from the side or to the front of this chair while it is in motion.''

16. Safety Zone

The applicants must/would:

(a) Establish a clearly designated safety zone around the bottom landing of the hoist system; and

(b) Prohibit any employee from entering the safety zone except to access a personnel-or material-transport device, and then only when the device is at the bottom landing and not in operation (*i.e.*, when the drive components of the hoist machine are disengaged and the braking mechanism is properly applied).

17. Inspections, Tests, and Accident Prevention

(a) The applicants must/would:

(i) Conduct inspections of the hoist system as required by 29 CFR 1926.20(b)(2);

(ii) Ensure that a competent person conducts daily visual inspections of the hoist system; and

(iii) Inspect and test the hoist system as specified by 29 CFR 1926.552(c)(15).

(b) The applicants must/would comply with the accident-prevention requirements of 29 CFR 1926.20(b)(3).

18. Welding

(a) The applicants must/would ensure that only qualified welders weld components of the hoisting system.

(b) The applicants must/would ensure that the qualified welders:

(i) Are familiar with the weld grades, types, and materials specified in the design of the system; and

(ii) Perform the welding tasks in accordance with 29 CFR part 1926, subpart J (''Welding and Cutting'').

19. OSHA Notification

(a) At least 15 calendar days prior to commencing any chimney-construction operation using the conditions specified herein, the applicants must/would notify the OSHA Area Office nearest to the worksite of the operation, including the location of the operation and the date the operation will commence.

(b) Each applicant must/would inform OSHA national headquarters as soon as it has knowledge that it will:

(i) Cease to do business; or

(ii) Transfer the activities covered by this permanent variance to a successor company.

V. Authority and Signature

Thomas M. Stohler, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of

Labor, 200 Constitution Ave., NW., Washington, DC directed the preparation of this notice. This notice is issued under the authority specified by Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 5–2007 (72 FR 31160), and 29 CFR part 1905.

Signed at Washington, DC, on January 15, 2009.

Thomas M. Stohler,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–1291 Filed 1–22–09; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0048]

NSF International; Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Occupational Safety and Health Administration's final decision expanding the recognition of NSF International (NSF) as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

DATES: The expansion of recognition becomes effective on January 23, 2009.

FOR FURTHER INFORMATION CONTACT: MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3655, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of NSF International (NSF), as a Nationally Recognized Testing Laboratory (NRTL). NSF's expansion covers the use of additional test standards. OSHA's current scope of recognition for NSF may be found in the following informational Web page: *http://www.osha.gov/dts/otpca/nrtl/nsf.html.*

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products approved by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. We maintain an informational Web page for each NRTL that details its scope of recognition. These pages can be accessed from our Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

In an earlier action involving NSF, OSHA issued a **Federal Register** notice to grant NSF's previous application, which was for an expansion of recognition (71 FR 70431, December 4, 2006).

NSF submitted another application, dated October 23, 2007 (see Exhibit 18–1, as cited in the preliminary notice), to expand its recognition to include one additional test standard. The NRTL Program staff determined that the standard was an ''appropriate test standard'' within the meaning of 29 CFR 1910.7(c). In connection with this request, OSHA did not perform an on-site review of NSF's NRTL testing facilities. However, NRTL Program assessment staff reviewed information pertinent to the request and recommended that NSF's recognition be expanded to include the additional test standard listed below (*see* Exhibit 18–2, as cited in the preliminary notice). Therefore, OSHA is approving this one test standard for the expansion.

Based on this review, OSHA published a preliminary notice announcing the expansion application in the **Federal Register** on August 29, 2008 (73 FR 51008). Comments were requested by September 15, 2008, but no comments were received in response to this notice. OSHA is now proceeding with this final notice to grant NSF's expansion application.

You may obtain or review copies of all public documents pertaining to the NSF application by accessing *http://www.regulations.gov*, which is the Federal eRulemaking Portal, or by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2006–0048 contains all materials in the record concerning NSF's recognition.

The current address of the NSF facility (site) already recognized by OSHA is: NSF International, 789 Dixboro Road, Ann Arbor, MI 48105.

Final Decision and Order

NRTL Program staff has examined the application, the assessor's recommendation, and other pertinent information. Based on this examination and the assessor's recommendation, OSHA finds that NSF meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of NSF, subject to this limitation and these conditions.

Limitation

OSHA limits the expansion of NSF's recognition to testing and certification of products for demonstration of conformance to the following test standard, OSHA determined is an appropriate test standard within the meaning of 29 CFR 1910.7(c): UL 1285 Pipe and Couplings, Polyvinyl Chloride (PVC), for Underground Fire Service.

The designation and title of this test standard was current at the time of the preparation of the preliminary notice.

OSHA's recognition of NSF, or any NRTL, for a particular test standard is limited to equipment or materials (i.e., products) for which OSHA standards require third-party testing and certification before use in the workplace. Consequently, if a test standard also covers any product(s) for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include that product(s).

The test standard listed above may be approved as an American National Standard by the American National Standards Institute (ANSI). However, for convenience, we use the designation of the standards-developing organization for the standard, as opposed to the ANSI designation. You may contact ANSI to find out whether a test standard is currently ANSI approved.

Conditions

NSF also must abide by the following conditions of the recognition, in

addition to those conditions already required by 29 CFR 1910.7:

1. NSF must allow OSHA access to its facilities and records to ascertain continuing compliance with the terms of its recognition and to perform investigations, as OSHA deems necessary;

2. If NSF has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the test standard-developing organization of this concern and provide that organization with appropriate relevant information on which its concern is based;

3. NSF must not engage in, or permit others to engage in, any misrepresentation of the scope or conditions of its recognition. As part of this condition, NSF agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition applies, and also clearly indicating that its recognition is limited to certain products;

4. NSF must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details of these changes;

5. NSF will meet all the terms of its recognition and will comply with all OSHA policies pertaining to this recognition; and

6. NSF will continue to meet the requirements for recognition in all areas where it has been recognized.

Authority and Signature

Thomas M. Stohler, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Sections 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 657), Secretary of Labor's Order 5–2007 (72 FR 31160), and 29 CFR 1911.

Signed at Washington, DC, on January 15, 2009.

Thomas M. Stohler

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–1290 Filed 1–22–09; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE (09–009)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L.104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Dr. Walter Kit, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Walter Kit, NASA Clearance Officer, NASA Headquarters, 300 E Street SW., JE0000, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The subject information collection involves the collection of data to support the operation of the Lewis' Educational and Research Collaborative Internship Program (LERCIP). The purpose of this undergraduate and graduate scholarship program is to develop the future STEM (Science, Technology, Engineering and Mathematics) workforce in the United States. LERCIP is a NASA Center unique program that provides paid 10-week internships to graduating high school students through PhD candidates.

II. Method of Collection

Respondents will complete an online application form hosted on an LERCIP Web site. Applicants will be asked to establish a unique login and password on their initial visit to the Web site. The applicants may use the login and password to return to the Web site and complete their application in multiple sessions, if needed. All applicant data will be collected online using database technologies.

III. Data

Title: LERCIP Student Application.
OMB Number: 2700–XXXX.
Type of Review: New Collection.
Affected Public: Individuals or households.
Estimated Number of Respondents: 300.
Estimated Number of Responses per Respondent: 1.
Estimated Time Per Response: 0.067 hour.
Estimated Total Annual Burden Hours: 20 hours.
Estimated Annual Cost for Respondents: $0.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Dr. Walter Kit,

NASA Clearance Officer.

[FR Doc. E9–1503 Filed 1–22–09; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 09–008]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the inventions described and claimed in U.S. Patent Application Serial No. 11/543,284 ''Fiber Optic Liquid Mass Flow Sensor and Method'' to Triad Technologies, Inc., having its

principal place of business in Lafayette, LA. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013.

FOR FURTHER INFORMATION CONTACT: Sammy A. Nabors, Technology Transfer Program Office/ED03, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Dated: January 15, 2009.

Richard W. Sherman,

Acting Deputy General Counsel.

[FR Doc. E9–1328 Filed 1–22–09; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09–007)]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Wednesday, February 18, 2009, 1 p.m. to 3 p.m. Eastern Standard Time.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Washington, DC 20546, Room 9H40.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Dakon, Aerospace Safety Advisory Panel Executive Director, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–0732.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will hold its first Quarterly Meeting for 2009. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include Human Capital Update, Technical Excellence Overview, Human Rating Requirements Development, Constellation Program Implementation of NASA Human Rating Requirements, Office of the Chief Engineer Briefing on Human Rating, and Exploration Systems Mission Directorate Overview. The meeting will be open to the public up to the seating capacity of the room. Seating will be on a first-come basis. Please contact Ms. Susan Burch on (202) 358–0550 at least 48 hours in advance to reserve a seat. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Attendees will be required to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. All attendees will need to provide the following information to receive an access badge: Full name; gender; date/place of birth; citizenship; employer/affiliation information (name of institution, address, county, phone), and title/position. Foreign Nationals will need to provide the following additional information: Visa/green card information (number, type, expiration date). To expedite admittance, attendees can provide their identifying information in advance by contacting Ms. Susan Burch via e-mail at *susan.burch@nasa.gov* or by telephone at (202) 358–0550. Persons with disabilities who require assistance should indicate this.

Photographs will only be permitted during the first 10 minutes of the meeting. During the first 30 minutes of the meeting, members of the public may make a 5-minute verbal presentation to the Panel on the subject of safety in NASA. To do so, please contact Ms. Susan Burch on (202) 358–0550 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E9–1337 Filed 1–22–09; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0004]

Notice; Applications and Amendments to Facility Operating Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information or Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information or Safeguards Information

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) staff is publishing this notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing sensitive unclassified non-safeguards information (SUNSI) or safeguards information (SGI).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve

no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Documents may be examined, and/or copied for a fee, at the NRC(s Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, or at *http://www.nrc.gov/reading-rm/doc-collections/cfr/part002/part002–0309.html*. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek

a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer(tm) to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer(tm) is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC electronic filing Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday. The electronic filing Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MSHD.Resource@nrc.gov.*

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) FIRst class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/ehd_proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr.resource@nrc.gov.*

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: November 20, 2008.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment revises Technical Specification (TS) 5.6.5, ''Core Operating Limits Report (COLR),'' to add a reference to an analytical method that will be used to determine core operating limits. The new reference, NEDC–33383P, ''GEXL97 Correlation Applicable to ATRIUM–10 Fuel,'' will allow the licensee to use a Global Nuclear Fuel method to determine fuel assembly critical power of AREVA ATRIUM–10 fuel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Core operating limits are established each operating cycle in accordance with TS 3.2, ''Power Distribution'' and TS 5.6.5, ''Core Operating Limits Report (COLR).'' These core operating limits ensure that the fuel design limits are not exceeded during any conditions of normal operation or in the event of any Anticipated Operational Occurrence (AOO). The methods used to determine the operating limits are those previously found acceptable by the NRC and listed in TS section 5.6.5.b.

A change to TS 5.6.5.b is requested to include an additional reference to the list of analytical methods. RBS [River Bend Station] currently operates with a full core of AREVA ATRIUM–10 fuel but is scheduled to load GE14 fuel during the next refueling outage.

RBS plans to use the analysis methods of the new fuel vendor, GNF [Global Nuclear Fuel], for the analysis of the mixed core. The GEXL97 correlation accurately models predicted core behavior and appropriately determines the overall critical power uncertainty of this method. In addition, the GEXL97 application range covers the range of expected operation of the ATRIUM–10 fuel during normal steady state and transient conditions in the RBS reload cores.

The requested TS changes concern the use of analytical methods and do not involve any plant modifications or operational changes that could affect any postulated accident precursors or accident mitigation systems and do not introduce any new accident initiation mechanisms. The proposed changes have no effect on the type or amount of radiation released and [have] no effect on predicted offsite doses in the event of an accident. Thus, the proposed change does not affect the probability of an accident previously evaluated nor does it increase the radiological consequences of any accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed TS changes will not change the design function, reliability, performance, or operation of any plant systems, components, or structures. It does not create the possibility of a new failure mechanism, malfunction, or accident initiators not considered in the design and licensing bases. Plant operation will continue to be within the core operating limits that are established using NRC approved methods that are applicable to the RBS design and the RBS fuel.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change adds GEXL97 to the list of analytical methods in TS 5.6.5.b that can be used to determine core operating limits. Use of the GEXL97 correlation analytical method provides an equivalent level of protection as that currently provided. The change does not alter any method of analysis as described in the NRC approved versions of GESTAR–II [NEDE–24011–P-A, ''General Electric Standard Application for Reactor Fuel (GESTAR–II)'']. The proposed change does not modify the safety limits or setpoints at which protective actions are initiated, and do not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Terence A. Burke, Associate General Counsel—Nuclear Entergy Services, Inc., 1340 Echelon Parkway, Jackson, Mississippi 39213.

NRC Branch Chief: Michael T. Markley.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: December 16, 2008.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). This amendment request would revise the Technical Specifications (TSs) Section 2.1.2, Safety Limit Minimum Critical Power Ratio (SLMCPR) for two-loop and single-loop operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes to Technical Specification do not involve a significant increase in the probability of an accident previously evaluated.

The proposed Safety Limit MCPR (SLMCPR), and its use to determine the Operating Cycle 18 thermal limits, have been derived using NRC approved methods specified in the Reference section of the Technical Specification Bases Section for 2.0 SAFETY LIMITS. These methods do not change the method of operating the plant and have no effect on the probability of an accident initiating event or transient.

The basis of the SLMCPR is to ensure no mechanistic fuel damage is calculated to occur if the limit is not violated. The new SLMCPR preserves the margin to transition boiling, and the probability of fuel damage is not increased.

Therefore, the proposed changes to Technical Specifications do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes to Technical Specifications do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes result only from revised methods of analysis for the Cycle 18 core reload. These methods have been reviewed and approved by the NRC, do not involve any new or unapproved method for operating the facility, and do not involve any facility modifications. No new initiating events or transients result from these changes.

Therefore, the proposed changes to technical specifications do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes to Technical Specifications do not involve a significant reduction in a margin of safety.

The margin of safety as defined in the TS bases will remain the same. The new SLMCPR was derived using NRC approved methods which are in accordance with the current fuel design and licensing criteria. The SLMCPR remains high enough to ensure that greater than 99.9% of all fuel rods in the core will avoid transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity.

Therefore, the proposed changes to technical specifications do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. William C. Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 400 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Mark G. Kowal.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: July 25, 2008.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendments would revise Technical Specification 3.3.1.1, ''Reactor Protection System (RPS) Instrumentation,'' Surveillance Requirement (SR) 3.3.1.1.8 and TS 3.3.1.3, ''Oscillation Power Range Monitor (OPRM) Instrumentation,'' SR 3.3.1.3.2 to increase the frequency interval between local power range monitor calibrations from 1000 effective full power hours (EFPH) to 2000 EFPH for the LaSalle County Station, Units 1 and 2 (LSCS).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change is a result of increasing the surveillance interval of the LPRM [Local Power Range Monitor] calibration frequency from 1000 EFPH to 2000 EFPH. Increasing the frequency interval between required LRPM calibrations is acceptable due to improvements in the fuel analytical bases and therefore, the revised surveillance interval continues to ensure that the LPRM detector signal is adequately calibrated. Extending the LPRM calibration surveillance interval will increase the LPRM signal uncertainty value used in the LSCS SLMCPR [Safety Limit Minimum Critical Power Ratio] analysis, however, this increase in the LRPM signal uncertainty value is acceptable since the increase is bounded by the values used by the AREVA analysis.

This change will not alter the operation of process variables, structures, systems, or components as described in the LSCS Updated Final Safety Analysis Report (UFSAR). The proposed change does not alter the initiation conditions or operational parameters for the system and there is no new equipment introduced by the extension of the LPRM calibration frequency interval. The performance of the Average Power Range Monitor (APRM), Rod Block Monitor (RBM) and Oscillation Power Range Monitor (OPRM) systems are not significantly affected by the proposed surveillance interval increase. The proposed LPRM calibration interval extension will have no significant effect on the Reactor Protection System (RPS) instrumentation accuracy during power maneuvers or transients and will, therefore, not significantly affect the performance of the RPS. As such, the probability of occurrences for a previously evaluated accident is not increased.

The radiological consequences of an accident can be affected by the thermal limits existing at the time of the postulated accident, however, increasing the surveillance interval frequency will not increase the calculated thermal limits since all uncertainties associated with the increased interval are currently implemented and are currently used to calculate the existing Safety Limits. Plant specific evaluation of LPRM sensitivity to exposure has determined that the extended calibration frequency increases the LPRM signal uncertainty value used in the LSCS SLMCPR analysis, however, the increase is bounded by the values currently used in the safety analysis. Therefore, the thermal limit calculation is not significantly affected by LPRM calibration frequency, and thus the radiological consequences of any accident previously evaluated are not increased.

Based on the above information, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The performance of the APRM, RBM, and OPRM systems are not significantly affected by the proposed LPRM surveillance interval increase. The proposed change does not affect the control parameters governing unit operation or the response of plant equipment to transient conditions. For the proposed LPRM extended calibration interval frequency all uncertainties remain less than the uncertainties assumed in the existing thermal limit calculations. The proposed change does not change or introduce any new equipment, modes of system operation or failure mechanisms.

Based on the above information, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change has no impact on equipment design or fundamental operation, and there are no changes being made to safety limits or safety system allowable values that would adversely affect plant safety as a result of the proposed LPRM surveillance interval increase. The performance of the APRM, RBM, and OPRM systems are not significantly affected by the proposed change. The margin of safety can be affected by the thermal limits existing at the time of the postulated accident; however, uncertainties associated with LPRM chamber exposure have no significant effect on the calculated thermal limits. Plant specific evaluation of LPRM sensitivity to exposure has determined that the extended calibration frequency increases the LPRM signal uncertainty value used in the LSCS SLMCPR analysis, however, the increase is bounded by the values currently used in the safety analysis. The thermal limit calculation is not significantly affected since the LPRM sensitivity with exposure is well defined. LPRM accuracy remains within the total nodal power uncertainty assumed in the thermal analysis basis, therefore maintaining thermal limits and the safety margin. The proposed change does not affect safety analysis assumptions or initial conditions and the margin of safety in the original safety analysis are therefore maintained.

Based on this information, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Russell Gibbs.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: October 13, 2008.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would revise the licensing basis by approving adoption of the Alternative Source Term (AST), in accordance with 10 CFR 50.67, for use in calculating the loss-of-coolant accident (LOCA) dose consequences. The proposed amendment would revise the Technical Specifications (TSs) to (1) change the TS definition for DOSE EQUIVALENT I–131 to adopt Federal Guidance Report (FGR) 11 dose conversion factors, (2) require operability of the Standby Liquid Control (SLC) system in Mode 3, to reflect its credit in the LOCA analysis, (3) establish a Main Steam (MS) Pathway leakage limit that effectively increases the previous MS isolation valve leakage limit, and (4) change TS Section 5.5.12 to reflect a requested permanent exemption from the requirements of 10 CFR Part 50, Appendix J, Option B, Paragraph III.A, to allow exclusion of MS Pathway leakage from the overall integrated leakage rate measured during the performance of a Type A test, and from the requirements of Appendix J, Option B, Paragraph III.B, to allow exclusion of the MS Pathway leakage from the combined leakage rate of the penetrations and valves subject to Type B and C tests.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

For the postulated design basis accident (DBA) LOCA, the AST is an input to the calculations that evaluate the radiological consequences of a LOCA. The AST and the requested Appendix J exemption do not affect the design of the plant or the manner in which the plant is normally operated. Adoption of the AST and the requested Appendix J exemption do not affect the initiators of a DBA. Neither the AST nor the requested Appendix J exemption [sic] affect the response to the DBA LOCA, or the pathway of the radiation released from the nuclear fuel. Rather, the AST better represents the physical characteristics of the radiation release.

Because the initiators of a DBA are not affected by adoption of the AST for LOCA dose assessment, the probability of an accident are not increased by the proposed amendment or requested Appendix J exemption.

The AST is an input to calculations used to evaluate the radiological consequences of

the LOCA. Use of the AST does not affect the plant response to the accident, or the pathways to the environment for the radiation and activity released from the fuel. The LOCA radiological analyses have been performed using the AST. Adoption of the AST methodology revises the acceptance criteria for the accident to the limits specified in 10 CFR 50.67. The results of those analyses demonstrate that the dose consequences are within the acceptance criteria presented in 10 CFR 50.67 and in NRC RG [Regulatory Guide] 1.183.

Implementation of the AST for the LOCA involves the use of the SLC System to control the pH of the suppression pool during mitigation of a LOCA. As a result the proposed amendment revises the CNS [Cooper Nuclear Station] TS for the SLC System. These changes do not require any physical modification of the plant, nor result in any change in normal plant operation. This additional use of the SLC system does not compromise or adversely affect the function of the SLC system as a means of shutting down the reactor in addition to the control rods.

Therefore, it is concluded that adoption of AST and granting of the Appendix J exemption do not involve a significant increase in the consequences of an accident previously evaluated. Based on the above discussion, it is concluded that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Implementation of the LOCA AST and the requested Appendix J exemption do not involve a physical alteration of the plant or a change in how the plant is normally operated. No new or different types of equipment will be installed and there are no physical modifications to existing equipment associated with the proposed changes. The proposed changes, effectively increasing the allowable MSIV leakage, establishing a leakage limit for the MS Pathway, and crediting the SLC system for LOCA mitigation do not create initiators or precursors of a new or different kind of accident. New equipment or personnel failure modes that might initiate a new type of accident are not created as a result of the proposed amendment.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment involves the implementation of a new licensing basis for the design basis LOCA. Approval of this change from the original source term to an AST, derived in accordance with the guidance of RG 1.183, results in revised acceptance criteria for the LOCA analysis. For the LOCA, RG 1.183 sets the Exclusion Area Boundary (EAB), Low Population Zone (LPZ), and Control Room limit consistent with 10 CFR 50.67. The AST LOCA radiological analysis has been performed using conservative methodologies, as specified in RG 1.183. Safety margins have been evaluated and confirmed to have not been reduced. Analytical conservatism has been utilized to ensure that the analysis adequately bounds the limiting postulated event. The dose consequences of the DBA LOCA remain within the acceptance criteria presented in 10 CFR 50.67 and RG 1.183.

The proposed changes continue to ensure that the doses at the EAB and LPZ boundary, as well as the Control Room, are within the corresponding regulatory limits.

Since the proposed amendment continues to ensure the doses at the EAB, LPZ and Control Room are within corresponding regulatory limits, the proposed license amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Branch Chief: Michael T. Markley.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: November 5, 2008.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The licensee proposed to increase the current maximum power level authorized by section 2.C(1) of the renewed facility operating license from 1,775 megawatts thermal (Mwt) to 2,004 Mwt, an approximately 13 percent increase from the current licensed thermal power. The current maximum power level of 1,775 Mwt was approved in 1998, an increase of 6.3 percent from the original licensed thermal power of 1670 Mwt. Thus, when approved, the licensee's proposed amendment would take the maximum power level to about 20 percent above the original license thermal power. The licensee's application addresses in details each of the following major technical areas: extended power uprate, containment analysis methods change, credit for containment overpressure for low head emergency core cooling system (ECCS) pumps, and reactor internal pressure differentials (RIPDs) for the steam dryer.

Basis for proposed no significant hazards consideration determination: As required by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (NSHC). The licensee's NSHC analysis, addressing each technical area listed above, is reproduced below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Extended Power Uprate

Response: No.

The probability (frequency of occurrence) of [d]esign [b]asis [a]ccidents occurring is not affected by the increased power level, because Monticello Nuclear Generating Plant (MNGP) continues to comply with the regulatory and design basis criteria established for plant equipment. A probabilistic risk assessment demonstrates that the calculated core damage frequencies do not significantly change due to [e]xtended [p]ower [u]prate (EPU). Scram setpoints (equipment settings that initiate automatic plant shutdowns) are established such that there is no significant increase in scram frequency due to EPU. No new challenges to safety-related equipment result from EPU.

The changes in consequences of postulated accidents, which would occur from 102 percent of the EPU rated thermal power (RTP) compared to those previously evaluated, are acceptable. The results of EPU accident evaluations do not exceed the NRC[-]approved acceptance limits. The spectrum of postulated accidents and transients has been investigated, and are shown to meet the plant's currently licensed regulatory criteria. In the area of fuel and core design, for example, the Safety Limit Minimum Critical Power Ratio (SLMCPR) and other applicable Specified Acceptable Fuel Design Limits (SAFDL) are still met. Continued compliance with the SLMCPR and other SAFDLs will be confirmed on a cycle[-]specific basis consistent with the criteria accepted by the NRC.

Challenges to the [r]eactor [c]oolant [p]ressure [b]oundary were evaluated at EPU conditions (pressure, temperature, flow, and radiation) and were found to meet their acceptance criteria for allowable stresses and overpressure margin.

Challenges to the containment have been evaluated, and the containment and its associated cooling systems continue to meet the current licensing basis. The increase in the calculated post[-] LOCA suppression pool temperature above the currently assumed peak temperature was evaluated and determined to be acceptable. Radiological release events (accidents) have been evaluated, and have been shown to meet the guidelines of 10 CFR 50.67.

Containment Analysis Methods Change

Response: No.

The use of passive heat sinks, variable RHR [residual heat removal] heat exchanger capability K-value, and mechanistic heat and

mass transfer from the suppression pool surface to the wetwell airspace after 30 seconds for the long[-]term design[-]basis[-]accident loss[-]of[-]coolant accident (DBA–LOCA) containment analysis are not relevant to accident initiation, but rather, pertain to the method used to accurately evaluate postulated accidents. The use of these elements does not, in any way, alter existing fission product boundaries, and provides a conservative prediction of the containment response to DBA–LOCAs. Therefore, the containment analysis method change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Credit for Containment Overpressure for Low Head Emergency Core Cooling System (ECCS) Pumps

Response: No.

These changes update parameters used in the MNGP safety analyses and expand the range and scope of the analyses. This will result in a more realistic analysis of available containment overpressure under design[-]basis accident conditions. The updated analyses affect only the evaluation of previously reviewed accidents. No plant structure, system, or component (SSC) is physically affected by the updated and expanded analyses. No method of operation of any plant SSC is affected. Therefore, there is no significant increase in the probability or consequence of a previously evaluated accident.

Reactor Internal Pressure Differentials (RIPDs) for the Steam Dryer

Response: No.

The revised steam dryer RIPDs are used in evaluating loads in reactor vessel internals for various conditions (*i.e.*, during normal, upset and faulted conditions). The values more accurately represent the actual plant configuration. No plant structure, system, or component (SSC) is physically affected by the updated and expanded analyses. No method of operation of any plant SSC is affected. Therefore, there is no significant increase in the probability or consequence of a previously evaluated accident.

The analyses supporting the above evaluations were performed at the EPU power level of 2,004 Mwt.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Extended Power Uprate

Response: No.

Equipment that could be affected by EPU has been evaluated. No new operating mode, safety-related equipment lineup, accident scenario, or equipment failure mode was identified. The full spectrum of accident considerations has been evaluated and no new or different kind of accident has been identified. EPU uses developed technology and applies it within capabilities of existing or modified plant safety[-]related equipment in accordance with the regulatory criteria (including NRC[-]approved codes, standards and methods). No new accidents or event precursors have been identified.

The MNGP TS require revision to implement EPU. The revisions have been assessed and it was determined that the proposed change will not introduce a different accident than that previously evaluated. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Containment Analysis Methods Change

Response: No.

The use of passive heat sinks, variable RHR heat exchanger capability K-value, and mechanistic heat and transfer from the suppression pool surface to the wetwell airspace after 30 seconds for the long[-]term DBA–LOCA containment analysis are not relevant to accident initiation, but pertain to the method used to evaluate currently postulated accidents. The use of these analytical tools does not involve any physical changes to plant structures or systems, and does not create a new initiating event for the spectrum of events currently postulated. Further, they do not result in the need to postulate any new accident scenarios. Therefore, the containment analysis method change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Credit for Containment Overpressure for Low Head ECCS Pumps

Response: No.

The proposed change involves the updating and expansion in scope of the existing design bases analysis with respect to the available containment overpressure to cover additional events. No new failure mode or mechanisms have been created for any plant SSC important to safety nor has any new limiting single failure been identified as a result of the proposed analytical changes. Therefore, the change to containment overpressure credited for low pressure ECCS pumps does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Reactor Internal Pressure Differentials for the Steam Dryer

Response: No.

The revised steam dryer RIPDs are used in evaluating loads in reactor vessel internals for various conditions (i.e., during normal, upset and faulted conditions). The steam dryer RIPDs are not relevant to accident initiation, but only pertain to the method used to evaluate reactor vessel internals loads. The revised steam dryer RIPD values more accurately represent the actual plant configuration. Therefore, the change to steam dryer RIPDs does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The analyses supporting the above evaluations were performed at the EPU power level of 2,004 Mwt.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Extended Power Uprate

Response: No.

The EPU affects only design and operational margins. Challenges to the fuel, reactor coolant pressure boundary, and containment were evaluated for EPU conditions. Fuel integrity is maintained by meeting existing design and regulatory limits. The calculated loads on affected structures, systems and components, including the reactor coolant pressure boundary, will remain within their design allowables for design[-]basis event categories. No NRC acceptance criterion is exceeded. Because the MNGP configuration and responses to transients and postulated accidents do not result in exceeding the presently approved NRC acceptance limits, the proposed changes do not involve a significant reduction in a margin of safety.

Containment Analysis Methods Change

Response: No.

The use of passive heat sinks, variable RHR heat exchanger capability K-value, and mechanistic heat and mass transfer from the suppression pool surface to the wetwell airspace after 30 seconds for the long[-]term DBA–LOCA containment analysis are realistic phenomena and provide a conservative prediction of the plant response to DBA–LOCAs. The increase in pressure and temperature are relatively small and are within design limits. Therefore, the containment analysis methods change does not involve a significant reduction in the margin of safety.

Increase in Credit for Containment Overpressure for Low Head ECCS Pumps

Response: No.

The proposed changes revise containment response analytical methods and scope for containment pressure to assist in ECCS pump net positive suction head (NPSH). The changes are still based on conservative but more realistic analysis of available containment overpressure determined using analysis methods that minimize containment pressure and maximize suppression pool temperature. These changes do not constitute a significant reduction in the margin of safety.

Reactor Internal Pressure Differentials for the Steam Dryer

Response: No.

The revised steam dryer RIPDs are used in evaluating loads in reactor vessel internals for various conditions (i.e., during normal, upset and faulted conditions). The revised steam dryer RIPD values more accurately represent the actual plant configuration. The changes are still conservative but more accurately represent the MNGP configuration. These changes do not constitute a significant reduction in the margin of safety.

The analyses supporting the above evaluations were performed at the EPU power level of 2,004 Mwt.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: Lois M. James.

PPL Susquehanna, LLC, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: October 30, 2008.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). This amendment request would revise PPL Susquehanna, LLC, Unit 2 (PPL) Technical Specifications (TSs) Section 2.1.1.2, Minimum Critical Power Ratio Safety Limits (MCPRSLs) for two-loop and single-loop operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the two-loop and single-loop MCPRSLs do not directly or indirectly affect any plant system, equipment, component, or change the processes used to operate the plant. Further, the proposed MCPRSLs were generated using NRC approved methodology and meet the applicable acceptance criteria. Thus, this proposed amendment does not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

Prior to the startup of U2C15, licensing analyses are performed (using NRC approved methodology referenced in TS Section 5.6.5.b) to determine changes in the CPR as a result of anticipated operational occurrences. These results are added to the MCPRSL values to generate the MCPROLs in the COLR [Core Operating Limits Report]. These limits could be different from those specified for the previous Unit 2 COLR. The COLR operating limits thus assure that the MCPRSL will not be exceeded during normal operation or AOOs [anticipated operational occurrences]. Postulated accidents are also analyzed prior to the startup and the results shown to be within the NRC approved criteria.

Therefore, this proposed amendment does not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The changes to the two-loop and single-loop MCPRSLs do not directly or indirectly affect any plant system, equipment, or component and therefore does not affect the failure modes of any of these items. Thus, the proposed change does not create the possibility of a previously unevaluated operator error or a new single failure.

Therefore, this proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Since the proposed changes do not alter any plant system, equipment, component, or processes used to operate the plant, the proposed change will not jeopardize or degrade the function or operation of any plant system or component governed by TS. The proposed two-loop and single-loop MCPRSLs do not involve a significant reduction in the margin of safety as currently defined in the Bases of the applicable TS sections, because the proposed MCPRSLs preserve the required margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Branch Chief: Mark G. Kowal.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI) for Contention Preparation

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

PPL Susquehanna, LLC, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

1. This order contains instructions regarding how potential parties to the proceedings listed above may request access to documents containing sensitive unclassified information (SUNSI and SGI).

2. Within ten (10) days after publication of this notice of opportunity for hearing, any potential party as defined in 10 CFR 2.4 who believes access to SUNSI or SGI is necessary for a response to the notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR 2.309. Requests submitted later than ten (10) days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

3. The requester shall submit a letter requesting permission to access SUNSI and/or SGI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852. The e-mail address for the Office of the Secretary and the Office of the

General Counsel are *hearing.docket@nrc.gov* and *ogcmailcenter.resource@nrc.gov*, respectively.[1] The request must include the following information:

a. A description of the licensing action with a citation to this **Federal Register** notice of opportunity for hearing;

b. The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in (a);

c. If the request is for SUNSI, the identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;

d. If the request is for SGI, the identity of the individual requesting access to SGI and the identity of any expert, consultant or assistant who will aid the requester in evaluating the SGI, and information that shows:

(i) Why the information is indispensable to meaningful participation in this licensing proceeding; and

(ii) The technical competence (demonstrable knowledge, skill, experience, training or education) of the requester to understand and use (or evaluate) the requested information to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant or assistant who demonstrates technical competence as well as trustworthiness and reliability, and who agrees to sign a non-disclosure affidavit and be bound by the terms of a protective order; and

e. If the request is for SGI, Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' Form FD–258 (fingerprint card), and a credit check release form completed by the individual who seeks access to SGI and each individual who will aid the requester in evaluating the SGI. For security reasons, Form SF–85 can only be submitted electronically, through a restricted-access database. To obtain online access to the form, the requester should contact the NRC's Office of Administration at 301–492–3524.[2] The other completed forms must be signed in original ink, accompanied by a check or money order payable in the amount of $191.00 to the U.S. Nuclear Regulatory Commission for each individual, and mailed to the: Office of Administration, Security Processing Unit, Mail Stop TWB–05–B32M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0012.

These forms will be used to initiate the background check, which includes fingerprinting as part of a criminal history records check. Note: copies of these forms do *not* need to be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as described above.

4. To avoid delays in processing requests for access to SGI, all forms should be reviewed for completeness and accuracy (including legibility) before submitting them to the NRC. Incomplete packages will be returned to the sender and will not be processed.

5. Based on an evaluation of the information submitted under items 2 and 3.a through 3.d, above, the NRC staff will determine within ten days of receipt of the written access request whether (1) there is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding, and (2) there is a legitimate need for access to SUNSI or need to know the SGI requested. For SGI, the need to know determination is made based on whether the information requested is necessary (*i.e.,* indispensable) for the proposed recipient to proffer and litigate a specific contention in this NRC proceeding[3] and whether the proposed recipient has the technical competence (demonstrable knowledge, skill, training, education, or experience) to evaluate and use the specific SGI requested in this proceeding.

6. If standing and need to know SGI are shown, the NRC staff will further determine based upon completion of the background check whether the proposed recipient is trustworthy and reliable. The NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection systems are sufficient to protect SGI from inadvertent release or disclosure. Recipients may opt to view SGI at the NRC's facility rather than establish their own SGI protection program to meet SGI protection requirements.

7. A request for access to SUNSI or SGI will be granted if:

a. The request has demonstrated that there is a reasonable basis to believe that a potential party is likely to establish standing to intervene or to otherwise participate as a party in this proceeding;

b. The proposed recipient of the information has demonstrated a need for SUNSI or a need to know for SGI, and that the proposed recipient of SGI is trustworthy and reliable;

c. The proposed recipient of the information has executed a Non-Disclosure Agreement or Affidavit and agrees to be bound by the terms of a Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI and/or SGI; and

d. The presiding officer has issued a protective order concerning the information or documents requested.[4] Any protective order issued shall provide that the petitioner must file SUNSI or SGI contentions 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

8. If the request for access to SUNSI or SGI is granted, the terms and conditions for access to sensitive unclassified information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,[5] and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-disclosure affidavit, the relevant parties

[1] See footnote 6. While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] The requester will be asked to provide his or her full name, Social Security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requester usually should be able to obtain access to the online form within one business day.

[3] Broad SGI requests under these procedures are thus highly unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requester's need to know than ordinarily would be applied in connection with an already-admitted contention.

[4] If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

[5] Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (*e.g.,* as with proprietary information).

to the proceeding or the petitioner(s) should notify the presiding officer within ten (10) days, describing the obstacles to the agreement.

9. If the request for access to SUNSI is denied by the NRC staff or a request for access to SGI is denied by NRC staff either after a determination on standing and need to know or, later, after a determination on trustworthiness and reliability, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within ten (10) days of receipt of that determination with (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer. In the same manner, an SGI requester may challenge an adverse determination on trustworthiness and reliability by filing a challenge within fifteen (15) days of receipt of that determination.

In the same manner, a party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within ten (10) days of the notification by the NRC staff of its grant of such a request.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[6]

10. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI and/or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

Dated at Rockville, Maryland, this 13th day of January 2009.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION (SUNSI) AND SAFEGUARDS INFORMATION (SGI) IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice/other notice of proposed action and opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to SUNSI and/or SGI with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	NRC staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," "need to know," or likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.

[6] As of October 15, 2007, the NRC's final "E-Filing Rule" became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139; Aug. 28, 2007). Requesters should note that the filing requirements of that rule apply to appeals of NRS staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI requests submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION (SUNSI) AND SAFEGUARDS INFORMATION (SGI) IN THIS PROCEEDING—Continued

Day	Event/activity
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
B	Decision on contention admission.

[FR Doc. E9–1152 Filed 1–22–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–037; NRC–2008–0556]

Union Electric Company d/b/a Ameren UE Callaway Plant Unit 2 Combined License Application; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

Union Electric Company d/b/a Ameren UE (AmerenUE) has submitted an application for a combined license (COL) to build and operate Unit 2 at its Callaway Plant site, located on approximately 2,800 acres 10 miles southeast of the city of Fulton in Callaway County, Missouri, and 80 miles west of the St. Louis metropolitan area. AmerenUE submitted the application for the COL to the U.S. Nuclear Regulatory Commission (NRC) by letter dated July 24, 2008, pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 52. A notice of receipt and availability of the application, including the environmental report (ER), was published in the **Federal Register** on October 9, 2008 (73 FR 59677). A notice of acceptance for docketing of the application for the COL was published in the **Federal Register** on December 18, 2008 (73 FR 77078). A notice of hearing and opportunity to petition for leave to intervene in the proceeding of the application will be published in a future **Federal Register**. The purpose of this notice is to inform the public that the NRC staff will be preparing an environmental impact statement (EIS) as part of the review of the application for the COL, and to provide the public with an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29. The U.S. Army Corps of Engineers (Corp), Kansas City District, has requested to participate in the preparation of the EIS as a cooperating agency; the NRC has accepted their request. The agencies will cooperate according to the process set forth in the MOU signed by the NRC and the Corps, and was published in the **Federal Register** on September 25, 2008 (73 FR 55546).

In addition, as outlined in 36 CFR 800.8(c), ''Coordination with the National Environmental Policy Act,'' the NRC staff plans to coordinate compliance with Section 106 of the National Historic Preservation Act (NHPA) with steps taken to meet the requirements of the National Environmental Policy Act of 1969, as amended (NEPA). Pursuant to 36 CFR 800.8(c), the NRC staff intends to use the process and documentation for the preparation of the EIS on the proposed action to comply with Section 106 of the NHPA in lieu of the procedures set forth in 36 CFR 800.3 through 800.6.

In accordance with 10 CFR 51.45 and 51.50, AmerenUE submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR Parts 51 and 52 and is available for public inspection at the NRC Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 or from the Publicly Available Records (PAR) component of NRC's Agency-wide Documents Access and Management System (ADAMS). ADAMS is accessible at *http://www.nrc.gov/reading-rm/adams.html,* which provides access through the NRC's Electronic Reading Room (ERR) link. The accession number in ADAMS for the environmental report included in the application is ML082520869. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR Reference staff at 1–800–397–4209/301–415–4737 or by e-mail to *pdr@nrc.gov.* The application may also be viewed on the Internet at *http://www.nrc.gov/reactors/new-reactors/col/callaway.html.* In addition, the Callaway County Public Library, 710 Court Street, Fulton, MO 65251; and Ellis Library in University of Missouri, 106–B Ellis Library, Columbia, MO 65201–5149 have agreed to make the ER available for public inspection. The following key reference documents related to the application and the NRC staff's review processes are available through the NRC's Web site at *http://www.nrc.gov:*

a. 10 CFR Part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;

b. 10 CFR Part 52, Licenses, Certifications, and Approvals for Nuclear Power Plants;

c. 10 CFR Part 100, Reactor Site Criteria;

d. NUREG–1555, Standard Review Plans for Environmental Reviews for Nuclear Power Plants;

e. NUREG/BR–0298, Brochure on Nuclear Power Plant Licensing Process;

f. Regulatory Guide 4.2, Preparation of Environmental Reports for Nuclear Power Stations;

g. Regulatory Guide 4.7, General Site Suitability Criteria for Nuclear Power Stations;

h. Fact Sheet on Nuclear Power Plant Licensing Process;

i. Regulatory 1.206, Combined License Applications for Nuclear Power Plants; and

j. Nuclear Regulatory Commission Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions.

The regulations, NUREG-series documents, regulatory guides, and the fact sheet can be found under Document Collections in the ERR on the NRC Web page. The environmental justice policy Statement can be found in the **Federal Register**, 69 FR 52040 August 24, 2004.

This notice advises the public that the NRC intends to gather the information necessary to prepare an EIS in support of the review of the application for COL at the Callaway Plant Unit 2 site. Possible alternatives to the proposed action (issuance of the COL for the Callaway Plant Unit 2 site) include no action, reasonable alternative energy sources, and alternate sites. As set forth

in 10 CFR 51.20(b)(2), issuance of a COL under 10 CFR Part 52 is an action that requires an EIS. This notice is being published in accordance with NEPA and the NRC's regulations found in 10 CFR Part 51.

The NRC will first conduct a scoping process for the EIS and immediately thereafter will prepare a draft EIS for public comment. Participation in this scoping process by members of the public, local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the draft EIS will be used to accomplish the following:

a. Define the proposed action that is to be the subject of the EIS;

b. Determine the scope of the EIS and identify the significant issues to be analyzed in-depth;

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant;

d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to but are not part of the scope of the EIS being considered;

e. Identify other environmental review and consultation requirements related to the proposed action;

f. Identify parties consulting with the NRC under the NHPA, as set forth in 36 CFR 800.8(c)(1)(i);

g. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decisionmaking schedule;

h. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the EIS to the NRC and any cooperating agencies; and

i. Describe how the EIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, AmerenUE;

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or that is authorized to develop and enforce relevant environmental standards;

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards,

d. Any affected Indian tribe;

e. Any person who requests or has requested an opportunity to participate in the scoping process; and

f. Any person who intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC will hold two identical public scoping meetings for the EIS regarding the AmerenUE COL application. The scoping meetings will be held at the Champ Auditorium in Westminster College, 501 Westminster Ave., Fulton, MO 65251, on Wednesday, February 18, 2009. The first meeting will convene at 1 p.m. and will continue until approximately 4 p.m. The second meeting will convene at 6 p.m. and will continue until approximately 9 p.m. The meetings will be transcribed and will include the following: (1) An overview by the NRC staff of the NEPA environmental review process (the proposed scope of the EIS) and the proposed review schedule; (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the EIS. Additionally, the NRC staff will host informal discussions for one hour prior to the start of each public meeting. No formal comments on the proposed scope of the EIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meeting or in writing, as discussed below.

Persons may register to attend or present oral comments at the meeting on the scope of the NEPA review by contacting Mr. Bruce Olson or Mr. John Fringer at 1–800–368–5642, extension 3731 or 6208, respectively, or by e-mail to the NRC at *Callaway.COLEIS@nrc.gov* no later than February 11, 2009. Members of the public may also register to speak at the meeting prior to the start of the session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the EIS. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Bruce Olson's attention no later than February 4, 2009, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the scope of the Callaway Plant Unit 2 COL environmental review to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, Mailstop TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. To be considered in the scoping process, written comments must be postmarked or delivered by March 24, 2009. Electronic comments may be sent by e-mail to the NRC at *Callaway.COLEIS@nrc.gov.* Electronic submissions must be sent no later than the comment period end date of March 24, 2009, to be considered in the scoping process. Comments will be made available electronically and will be accessible through the NRC's Electronic Reading Room link *http://www.nrc.gov/reading-rm/adams.html.*

Participation in the scoping process for the EIS does not entitle participants to become parties to the proceeding to which the EIS relates. A Notice of a hearing and opportunity to request leave to intervene in the proceeding on the application for COL will be published in a future **Federal Register** notice.

At the conclusion of the scoping process, the NRC staff will prepare a concise summary of the determination and conclusions reached on the scope of the environmental review reached including the significant issues identified, and will send this summary to each participant in the scoping process for whom the staff has an address. The staff will then prepare and issue for comment the draft EIS, which will be the subject of a separate **Federal Register** notice and a separate public meeting. Copies of the draft EIS will be available for public inspection at the PDR through the above-mentioned address and one copy per request will be provided free of charge. After receipt and consideration of comments on the draft EIS, the NRC will prepare a final EIS, which will also be available to the public.

Information about the proposed action, the EIS, and the scoping process may be obtained from Mr. Bruce Olson at U.S. Nuclear Regulatory Commission, Mail Stop T–6–D38M, Washington, DC 20555–0001, or by phone at 301–415–3731, or by e-mail at *bruce.olson@nrc.gov* and from Mr. John Fringer at 301–415–6208 or by e-mail at *john.fringer@nrc.gov.*

Dated at Rockville, Maryland, this 14th day of January 2009.

For the Nuclear Regulatory Commission.

Scott Flanders,

Director, Division of Site and Environmental Reviews, Office of New Reactors.

[FR Doc. E9–1383 Filed 1–22–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on February 4, 2009, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 4, 2009—1:30 p.m. until 5 p.m.

The Subcommittee will discuss the Beaver Valley Power Station (BVPS) license renewal application and the associated Safety Evaluation Report (SER) with Open Items prepared by the staff. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, BVPS, First Energy Nuclear Operating Company, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Christopher Brown (telephone 301–415–7111) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (73 FR 58268–58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 6:45 a.m. and 3:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: January 12, 2009.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.

[FR Doc. E9–1375 Filed 1–22–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on February 4, 2009, Room T2–B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b (c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, February 4, 2009, 12 noon—1 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Officer, Mr. Sam Duraiswamy (Telephone: 301–415–7364) between 7:30 a.m. and 4 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008, (73 FR 58268–58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Officer between 7:30 a.m. and 4 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: January 14, 2009.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.

[FR Doc. E9–1368 Filed 1–22–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on February 4, 2009, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 4, 2009—8:30 a.m. until 12 noon.

The Subcommittee will discuss the National Institute of Standards and Technology (NIST) license renewal application and the associated Safety Evaluation Report (SER) with Open Items prepared by the staff. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, NIST, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Peter Wen (telephone 301–415–2832) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (73 FR 58268–58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 6:45 a.m. and 3:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: January 12, 2009.

Cayetano Santos,

Chief, Reactor Branch A, Advisory Committee on Reactor Safeguards.

[FR Doc. E9–1369 Filed 1–22–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Week of January 26, 2009.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

ADDITIONAL ITEMS TO BE CONSIDERED:

Week of January 26, 2009

Tuesday, January 27, 2009

1:25 p.m.

Affirmation Session (Public Meeting) (Tentative).

a. Shieldalloy Metallurgical Corporation (License Amendment Request for Decommissioning of the Newfield, New Jersey Facility) (Tentative).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301–492–2279, TDD: 301–415–2100, or by e-mail at *rohn.brown@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *darlene.wright@nrc.gov.*

Dated: January 16, 2009.

Rochelle C. Bavol,

Office of the Secretary.

[FR Doc. E9–1554 Filed 1–21–09; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0013]

Safety Culture Policy Statement Development: Public Meeting and Request for Public Comments

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of Public Meeting and request for comments.

SUMMARY: The NRC is developing an update to its policy statement on safety culture to include the unique aspects of security and to ensure that the policy applies to all licensees and certificate holders. The NRC is conducting a public meeting to solicit public input on topics relating to the development of the policy statement. In addition to announcing the public meeting, the NRC is using this notice to request comments on the topics discussed in this notice. These topics can be found in section D (Topics for Discussion) of the **SUPPLEMENTARY INFORMATION**.

DATES:

Public Meeting Dates: The NRC will take public comments at the public meeting on January 28, 2009.

Comment Dates: Comments are requested by February 11, 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. The NRC will also take public comments on the questions raised in this notice at a public meeting on January 28, 2009. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information, including the topics and associated questions to which NRC is requesting input.

ADDRESSES: The public meeting will be held on January 28, 2009, in the auditorium of the NRC Headquarters building at 11545 Rockville Pike, Rockville, MD 20852, which is across the street from the White Flint Metro stop. The most convenient transportation to the meeting venue is via Metro since there is extremely limited on-street parking. Please take Metro to the White Flint Metro stop on the Red Line. Please allow time to register with building security and to check with the entry guard station for signs for the Safety Culture Policy Statement Public Meeting room as you enter the building. Users unable to travel to the NRC Headquarters may participate by Webinar or teleconference. Please see the meeting notice, which is posted on the NRC public meeting schedule Web site: *http://www.nrc.gov/public-involve/public-meetings/index.cfm?fuseaction=Search.Detail&MC=20080837&NS=0&CFID=264654&CFTOKEN=94010205*, for instructions on how to register for the workshop.

After the conduct of the public meeting, members of the public are invited and encouraged to submit comments by February 11, 2009, by mail to June Cai, Concerns Resolution Branch, Office of Enforcement, Mail Stop O–4 A15A, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by e-mail to *june.cai@nrc.gov.*

To ensure efficient consideration of your comments, please identify the related topic and specific question numbers with your comments when applicable. When commenting, please exercise caution with regard to site-specific security-related information. Comments will be made available to the public in their entirety. Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission.

You can access publicly available documents related to this notice 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 North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, (301) 415–4737 or by e-mail to *pdr.resource@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: June Cai, (301) 415–5192, *june.cai@nrc.gov* or Pete Hernandez, (301) 415–8319, *pete.hernandez@nrc.gov* of the Office of

Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Public meeting attendees are requested to register with one of the meeting contacts by January 26, 2009. Please let the meeting contacts know if special services, such as for the hearing impaired, are necessary.

SUPPLEMENTARY INFORMATION:

A. Purpose of the Public Meeting: The purpose of this meeting is to solicit the views of interested stakeholders on topics related to safety culture that were provided in the Commission's Staff Requirements Memoranda (SRM)–COMGBJ–08–0001 (ML080560476), ''A Commission Policy Statement on Safety Culture,'' dated February 25, 2008, which are presented in Section D, below. The NRC will consider the input received during the meeting in the development of the draft policy statement(s) addressing safety culture and security culture.

B. Public Meeting Agenda: A meeting notice and detailed agenda are available on the NRC public meeting schedule Web site: *http://www.nrc.gov/public-involve/public-meetings/index.cfm?fuseaction=Search.Detail&MC=20080837&NS=0&CFID=264654&CFTOKEN=94010205*. The meeting notice has information on how to participate via Webinar or teleconference. Concurrent with the meeting, there will be an open house poster session held in the Auditorium atrium throughout the day to provide additional opportunities for attendees to provide input. The information presented at the open house will also be made available at the Web site listed above, to allow those unable to attend the meeting or attending through the Webinar or teleconference to view the information and have an opportunity to provide their input on the topics addressed at the open house.

C. *Background:* The NRC recognizes the importance of licensees to establish and maintain a strong safety culture—a work environment where management and employees are dedicated to putting safety first. The Commission previously addressed this topic on January 24, 1989 (54 FR 3424) in ''Policy Statement on the Conduct of Nuclear Power Plant Operations'' (*http://www.nrc.gov/about-nrc/regulatory/enforcement/54fr3424.pdf*)—the Commission's policy statement on safety culture—where it described expectations for such a safety culture and how it supports the agency's mission to protect public health and safety. Although the policy statement was issued to make clear the Commission's expectation of utility management and licensed operators with respect to the conduct of nuclear power plant operations, the Commission intended for the policy statement to help foster the development and maintenance of a safety culture at every facility licensed by the NRC. In the Policy Statement, safety culture is described as ''the necessary full attention to safety matters,'' and the ''personal dedication and accountability of all individuals engaged in any activity which has a bearing on the safety of nuclear power plants. A strong safety culture is one that has a strong safety-first focus.''

The Commission has referenced the International Nuclear Safety Advisory Group's (INSAG) definition of safety culture as follows: ''Safety Culture is that assembly of characteristics and attitudes in organizations and individuals which establishes that, as an overriding priority, nuclear safety issues receive the attention warranted by their significance.''

On May 14, 1996, the Commission published its policy, ''Freedom of Employees in the Nuclear Industry to Raise Safety Concerns without Fear of Retaliation'' (61 FR 24336) (*http://www.nrc.gov/about-nrc/regulatory/allegations/scwe-frn-5–14–96.pdf*), which expressed the Commission's expectation that licensees and other employers subject to NRC authority will establish and maintain a safety conscious environment in which employees feel free to raise safety concerns, both to their management and to the NRC, without fear of retaliation. A safety conscious work environment is one facet of a strong safety culture. On August 25, 2005, the NRC issued Regulatory Issue Summary 2005–018 (ML052220239), ''Guidance for Establishing and Maintaining a Safety Conscious Work Environment,'' to provide guidance on maintaining a safety conscious work environment.

In SRM–COMGBJ–08–0001 (ML080560476), ''A Commission Policy Statement on Safety Culture,'' dated February 25, 2008, the Commission directed staff to ''expand the Commission's policy of safety culture to address the unique aspects of security and to ensure the resulting policy is applicable to all licensees and certificate holders,'' and to conduct a ''broad review of issues related to safety culture as part of the effort for developing the oversight process and for revising or developing additional Commission Policy Statement(s).''

The Commission directed the staff to complete its evaluation, provide a recommendation to the Commission on how best to update the Commission policy, and provide draft policy statement(s) on safety culture to the Commission for its consideration. In its review, the staff should, at a minimum, evaluate the following key areas:

(1) Whether safety culture as applied to reactors needs to be strengthened.

(2) How to increase attention to safety culture in the materials area.

(3) How stakeholder involvement can most effectively be used to address safety culture for all NRC and Agreement State licensees and certificate holders, including any unique aspects of security. The staff should, as part of its public stakeholder outreach, reach out to all types of licensees and certificate holders, including power reactors (including new reactors), research and test reactors, fuel facilities, spent fuel shipping and storage cask vendors, and the materials community, including industrial, academic, and medical users. The assessment should also involve outreach activities to Members of Congress, the Agreement States, and other stakeholders.

(4) Whether publishing NRC's expectations for safety culture and for security culture is best accomplished in one safety/security culture statement or in two separate statements, one each for safety and security, while still considering the safety and security interfaces.

A Safety Culture Policy Statement Task Group and Steering Committee have been established to address this direction. The Task Group has been conducting review and analysis of various information and data sources in order to inform and provide the basis for the draft policy statement(s) and recommendations development. Examples of these sources are information from existing agency activities in the safety culture and security culture area and information and insights from relevant industry activities, international activities and organizations, and the organizational research literature.

The Task Group has also been conducting outreach activities with stakeholders to raise awareness of safety culture and to provide information about this activity. The Task Group is holding the public meeting on January 28, 2009, to provide opportunity for stakeholders to offer input on the draft policy statement(s) development and on key topics related to the Commission direction.

D. Topics for Discussion

The NRC is seeking input on key topics related to the direction from the Commission on the Safety Culture

Policy Statement development. Specifically, the NRC is seeking input on the following topics:

1. Should NRC combine its expectations in the policy statement for safety culture and security culture or should NRC keep its expectations separate?
2. How should NRC increase attention by NRC, licensees, and certificate holders to safety culture in the materials area?
3. Does safety culture as applied to reactors need to be strengthened?

Obtaining public input on these topics will be the focus of the January 28, 2009, public meeting. The NRC has developed a series of questions relating to each of these topics to foster discussion and to solicit specific information relating to the Commission direction. Some of the questions use terminology such as ''your organization,'' but input from individual stakeholders who may not be part of a specific organization in the topic area are requested as well.

The following format is used in the presentation of the topics below. Each topic is assigned a number and a short title, and a list of questions for consideration then follows. Each question, or set of questions, is also assigned a number. When providing written comments, please list the relevant topic and question numbers when appropriate.

Topic 1: Should NRC combine its expectations in the policy statement for safety culture and security culture or should NRC keep its expectations separate?

Q1.1. Within organizations, one can think about safety and security in different ways. For example, safety may take precedence over security, security may take precedence over safety, or both may be treated equally. Different types of licensees, certificate holders and organizations have a variety of experiences and perspectives. How does your organization view the relationship or hierarchy between safety and security functions and decision making?

Q1.2. While efforts to maintain safety and security have the same common goal of protecting public health and safety, there can be distinct differences in the approach used to achieve that goal and that may have competing outcomes. One example is how information is shared to mitigate risks, where increased sharing of information may contribute to maintaining safety, but presents increased security risks. What are other examples where efforts to maintain safety and security require different approaches or result in competing outcomes that need to be addressed to achieve the desired outcome or goal?

Q1.3. When resolving differences or conflicts while seeking to maintain safety and security—such as when managing risk, sharing information, planning work, correcting problems, etc.—and where changes or actions that are taken to address either a safety issue or a security issue could have an adverse effect on the other (i.e., security or safety, respectively); what challenges does your organization face?

Q1.4. What challenges or complexities arise when licensees and certificate holders work with contractors and vendors where the organizations either take different approaches to resolving conflicting outcomes when they seek to maintain safety and security or the organizations may balance the conflicting outcomes of efforts to maintain safety and security differently?

Q1.5. What practices have been used to effectively address the conflicts to achieve the desired outcomes or goals?

Q1.6. Given that there are several ways to think about safety culture and security culture within organizations, the NRC wishes to express a policy in a way that best furthers its goals of protecting the public and environment and ensuring the secure use and management of radioactive materials.

If the above issues are viewed in terms of safety culture and security culture implementation, what benefits or challenges would licensees, certificate holders, Agreement States, or others foresee with a single policy statement? Two separate policy statements?

Q1.7. How can the NRC best express a policy that gives appropriate weight to safety culture and security culture across the range of licensees and certificate holders?

Q1.8. Given the diversity among the licensees and certificate holders regulated by the NRC and the Agreement States, how should the policy statement address any differences in emphasis on safety and security at the different types of licensees and certificate holders?

Topic 2: How should NRC increase attention by licensees and certificate holders to safety culture in the materials area?

Q2.1. What is the NRC doing that is working well to help materials licensees and certificate holders to maintain their safety culture and security culture?

Q2.2. What might the NRC do differently, or that it is not currently doing, to increase NRC, licensee, or certificate holder attention to safety culture at materials licensees and certificate holders?

Q2.3. How could the NRC better interact with materials licensees and certificate holders to help them to pay greater attention to maintaining their safety culture and/or security culture?

Q2.4. If the NRC expresses a policy for materials licensees and certificate holders to maintain safety culture and security culture, or made its references to safety culture and security culture more explicit in its interactions with these licensees and certificate holders, how would their performance change?

Q2.5. What should the NRC consider when developing policy statement(s) on safety culture and security culture?

Q2.5.1. What is the current level of understanding of materials licensees and certificate holders of the NRC's expectations that they maintain a safety culture that is cognizant of issues relating to security? How does this level of understanding change with the type of licensee or certificate holder?

Q2.5.2. How should the NRC consider the different activities (e.g., risk, type of material, quantities of materials, how the material is used, location, etc.) conducted at materials licensees and certificate holders when evaluating whether, or how, to express its policy?

Q2.5.3. How should NRC consider differences in the materials licensees and certificate holders (e.g., size of workforce, relationship to activities not regulated by the NRC, etc.) when evaluating whether, or how, to express its policy? What differences should the NRC consider?

Q2.5.4. What are the unique aspects of security at materials licensees and certificate holders that the NRC should consider when expressing its policy?

Q2.5.5. What topics should be addressed in the policy statement(s) that would be of value to materials licensees and certificate holders?

Q2.5.6. How could the policy statement(s) effectively address issues that involve both safety and security (at the safety/security interface) at materials licensees and certificate holders?

Q2.5.7. How can the NRC best express a policy that gives appropriate weight to safety culture and security culture across the range of licensees and certificate holders?

Q2.5.8. Given the diversity among the licensees and certificate holders regulated by the NRC and the Agreement States, how should the policy statement address any differences in emphasis on safety and security at the different types of licensees and certificate holders?

Q2.6. How should the NRC work with the Agreement States to encourage

increased attention being focused on safety culture, including the unique aspects of security, at Agreement State licensees?

Q2.6.1. What is the level of understanding at Agreement State licensees regarding the value in maintaining safety culture and security culture?

Q2.6.2. What is the level of understanding of safety culture and security culture within the Agreement States?

Q2.6.3. How do the Agreement States view the NRC's goal of increasing the attention paid to safety culture and security culture at materials licensees and certificate holders?

Q2.6.4 What topics do the Agreement States believe should be addressed in the policy statement(s)?

Q2.6.5. How could the NRC help the Agreement States to increase attention to safety culture and security culture at their licensees?

Q2.6.6. How should the NRC address safety culture and security culture at Agreement State licensees that engage in activities within NRC jurisdiction under reciprocity?

Q2.6.7. How might NRC use stakeholder involvement to increase the attention that materials licensees and certificate holders give to maintaining a safety culture, including the unique aspects of security?

Topic 3: Does safety culture as applied to reactors needs to be strengthened?

A number of enhancements were made to the ROP in 2006 to address safety culture (for example: Safety culture cross-cutting aspect assignment to findings; identifying substantive cross-cutting issues; performing an independent NRC safety culture assessment for licensees in Column 4 of the ROP Action Matrix).

Q3.1. What are the strengths and weaknesses of the current approach for evaluating licensee safety culture in the ROP?

Q3.2. How has the use of safety culture cross-cutting aspects that are assigned to inspection findings helped to identify potential safety culture issues? Suggest any alternative approaches that licensees could use to identify potential safety culture issues.

Q3.3. What may be better or more effective methods or tools that the NRC could use to help identify precursors to future plant performance deficiencies?

Q.3.4. In the following situations the NRC may/or will request a licensee to perform a safety culture assessment (licensee self-assessment, independent assessment, or a third-party assessment): (a) The same substantive cross-cutting issue had been identified in three consecutive assessment letters (generated from assessments conducted at 6 month intervals); (b) a 95002 inspection (Inspection for One Degraded Cornerstone or Any Three White Inputs in a Strategic Performance Area) that confirmed the licensee had not identified a safety culture component that either caused or significantly contributed to the risk-significant performance issue that resulted in the supplemental inspection; and (c) a plant enters Column 4 of the Action Matrix.

Under what other situations should the NRC consider requesting that a licensee perform a safety culture assessment?

Another ROP enhancement was for the NRC to perform an independent safety culture assessment for plants that enter the multiple repetitive/degraded cornerstone column (column 4).

Q3.5. In what other circumstances might the NRC consider performing an independent safety culture assessment?

Q3.6. What other entity, other than the NRC, could perform an independent safety culture assessment or simply verify the results of the licensee's assessments and corrective actions?

Q3.7. What additional safety culture related ROP changes could help the NRC to improve the focus of NRC and licensee attention on site safety culture issues?

The NRC has held public meetings where draft changes to several ROP guidance documents resulting from a lessons learned evaluation of the initial implementation period of the ROP safety culture enhancements have been made available for public comment.

Q3.8 What areas beyond the draft changes (for example, a provision in Inspection Procedure 95003 for the NRC to be able to conduct a graded safety culture assessment) presented by the NRC have the potential to further enhance how the ROP addresses safety culture?

Q3.8.1. How would these potential changes enhance or improve how the NRC addresses safety culture through the ROP?

Q3.9. In what ways does the current process lead to consistency/predictability of implementation by the NRC? Provide examples to support your view.

Q3.9.1 In what ways does it lead to inconsistency or unpredictability?

Q3.10. How effective is the ROP in addressing security culture issues?

Q3.10.1. What ROP changes could help the NRC to improve the focus of NRC and licensee attention on site security culture issues?

In previous public meetings, the NRC has discussed using the ROP safety culture components and modified aspects as a tool to understand the challenges to safety culture during new reactor construction.

Q3.11. How can challenges to safety culture in new reactor construction be identified and addressed in regulatory oversight?

Dated at Rockville, Maryland, this 14th day of January, 2009.

For the Nuclear Regulatory Commission.

Stewart L. Magruder,

Deputy Director, Office of Enforcement.

[FR Doc. E9–1376 Filed 1–22–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

2009 Special 301 Review: Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: Section 182 of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2242) requires the United States Trade Representative (USTR) to identify countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. (The provisions of section 182 are commonly referred to as the ''Special 301'' provisions of the Trade Act.) In addition, the USTR is required to determine which of these countries should be identified as Priority Foreign Countries.

USTR requests written submissions from the public concerning foreign countries' acts, policies, and practices that are relevant to the decision of whether particular trading partners should be identified under section 182 of the Trade Act.

DATES: Submissions from the general public must be received on or before *10 a.m. on Tuesday, February 17, 2009. Foreign governments who chose to make written submissions may do so on or before 10 a.m. on Monday, March 2, 2009.*

ADDRESSES: All comments should be sent electronically to *http://www.regulations.gov,* docket number USTR–2009–0001.

FOR FURTHER INFORMATION CONTACT: *Jennifer Choe Groves,* Senior Director

for Intellectual Property and Innovation and Chair of the Special 301 Committee, Office of the United States Trade Representative, at (202) 395–4510.

SUPPLEMENTARY INFORMATION: Pursuant to section 182 of the Trade Act, USTR must identify those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as Priority Foreign Countries. Acts, policies, or practices that are the basis of a country's designation as a Priority Foreign Country are normally the subject of an investigation under the section 301 provisions of the Trade Act.

USTR may not identify a country as a Priority Foreign Country if that country is entering into good faith negotiations, or making significant progress in bilateral or multilateral negotiations, to provide adequate and effective protection of intellectual property rights.

USTR requests that, where relevant, submissions mention particular regions, provinces, states, or other subdivisions of a country in which an act, policy, or practice deserve special attention in this year's report. Such mention may be positive or negative. For example, submissions may address China's protection and enforcement of intellectual property rights at the provincial level, including, where relevant, areas that were the focus of USTR's review of provincial and local issues in China conducted in 2008 (2008 Special 301 Report, pp. 25–33, available at *http://www.ustr.gov*).

Section 182 contains a special rule regarding actions of Canada affecting United States cultural industries. The USTR must identify any act, policy, or practice of Canada that affects cultural industries, which is adopted or expanded after December 17, 1992, and is actionable under Article 2106 of the North American Free Trade Agreement (NAFTA). Any act, policy, or practice so identified shall be treated the same as an act, policy, or practice which was the basis for a country's identification as a Priority Foreign Country under section 182(a)(2) of the Trade Act, unless the United States has already taken action pursuant to Article 2106 of the NAFTA.

USTR must make the above-referenced identifications within 30 days after publication of the National Trade Estimate (NTE) report, *i.e.*, approximately April 30, 2009.

Requirements for Comments: Comments should include a description of the problems experienced and the effect of the acts, policies, and practices on U.S. industry. Comments should be as detailed as possible and should provide all necessary information for assessing the effect of the acts, policies, and practices. Any comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses. Comments must be in English. All comments should be sent electronically to *http://www.regulations.gov,* docket number USTR–2009–0001.

To submit comments to *http://www.regulations.gov,* enter docket number USTR–2009–0001 on the home page and click ''go.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Send a Comment or Submission.'' (For further information on using the *http://www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *http://www.regulations.gov* site provides the option of providing comments by filling in a ''General Comments'' field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''General Comments'' field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such, the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page, and should indicate using brackets the specific information which is confidential. Any comment containing business confidential information must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on the 2009 Special 301 Review, accessible to the public. The public file will include non-confidential comments received by USTR from the public, including foreign governments, with respect to the 2009 Special 301 Review.

Public Inspection of Submissions: Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Comments may be viewed on the *http://www.regulations.gov* Web site by entering docket number USTR–2009–0001 in the search field on the home page.

Stanford K. McCoy,

Assistant USTR for Intellectual Property and Innovation.

[FR Doc. E9–1392 Filed 1–22–09; 8:45 am]

BILLING CODE 3190–W9–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding Waiver of Discriminatory Purchasing Requirements With Respect to Goods and Services Covered by Chapter Nine of the United States-Peru Trade Promotion Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Determination under Trade Agreements Act of 1979.

DATES: *Effective Date:* February 1, 2009.

FOR FURTHER INFORMATION CONTACT: Jean Heilman Grier, Senior Procurement Negotiator, Office of the United States Trade Representative, (202) 395–9476, or Katherine Tai, Associate General Counsel, Office of the United States Trade Representative, (202) 395–9589.

On April 12, 2006, the United States and Peru entered into the United States-Peru Trade Promotion Agreement (''Peru TPA''). Chapter Nine of the Peru TPA sets forth certain obligations with respect to government procurement of goods and services, as specified in Annex 9.1 of the Peru TPA. On December 14, 2007, the President signed into law the United States-Peru Trade Promotion Agreement Implementation Act (''the Peru TPA Act'') (Pub. L. No. 110–138, 121 Stat. 1455) (19 U.S.C. 3805 note). In section 101(a) of the Peru TPA Act, the Congress approved the Peru TPA. The Peru FTA will enter into force on February 1, 2009.

Section 1–201 of Executive Order 12260 of December 31, 1980 (46 FR 1653) delegates the functions of the

President under Sections 301 and 302 of the Trade Agreements Act of 1979 (''the Trade Agreements Act'') (19 U.S.C. 2511, 2512) to the United States Trade Representative.

Now, therefore, I, Susan C. Schwab, United States Trade Representative, in conformity with the provisions of sections 301 and 302 of the Trade Agreements Act, and Executive Order 12260, and in order to carry out U.S. obligations under Chapter Nine of the Peru TPA, do hereby determine that:

1. Peru is a country, other than a major industrialized country, which, pursuant to the Peru TPA, will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products. In accordance with section 301(b)(3) of the Trade Agreements Act, Peru is so designated for purposes of section 301(a) of the Trade Agreements Act.

2. With respect to eligible products of Peru (*i.e.*, goods and services covered by the Schedules of the United States in Annex 9.1 of the Peru TPA) and suppliers of such products, the application of any law, regulation, procedure, or practice regarding government procurement that would, if applied to such products and suppliers, result in treatment less favorable than accorded—

(A) To United States products and suppliers of such products; or

(B) To eligible products of another foreign country or instrumentality which is a party to the Agreement on Government Procurement referred to in section 101(d)(17) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(17)) and suppliers of such products, shall be waived.

With respect to Peru, this waiver shall be applied by all entities listed in the Schedules of the United States in Section A and in List A of Section C of Annex 9.1 of the Peru TPA.

3. The designation in paragraph 1 and the waiver in paragraph 2 are subject to modification or withdrawal by the United States Trade Representative.

Susan C. Schwab,

United States Trade Representative.

[FR Doc. E9–1451 Filed 1–22–09; 8:45 am]

BILLING CODE 3190–W9–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2008–0036]

Modification of Action Taken in Connection With WTO Dispute Settlement Proceedings on the European Communities' Ban on Imports of U.S. Beef and Beef Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and modification of action.

SUMMARY: The United States Trade Representative (''Trade Representative'') has decided to modify the action taken in July 1999 in connection with the World Trade Organization (''WTO'') authorization to the United States in the *EC-Beef Hormones* dispute to suspend concessions and related obligations with respect to the European Communities (''EC''). In particular, as described in this notice and its annex, the Trade Representative has decided: (1) To remove some products from the list of products currently subject to 100 percent *ad valorem* duties; (2) to impose 100 percent *ad valorem* duties on some new products from certain EC member States; (3) to modify the coverage with respect to particular EC member States; and (4) to raise the level of duties on one of the products that is being maintained on the product list. The trade value of the products subject to the modified action continues not to exceed the $116.8 million per year level authorized by the WTO in July 1999.

DATES: *Effective Date:* The modifications described in the Annex to this notice shall be effective with respect to products that are entered, or withdrawn from warehouse, for consumption on or after March 23, 2009. Any merchandise subject to increased duties under this determination that is admitted to U.S. foreign-trade zones on or after March 23, 2009 must be admitted as ''privileged foreign status'' as defined in 19 CFR 146.41.

FOR FURTHER INFORMATION CONTACT: Roger Wentzel, Director, Agricultural Affairs, (202) 395–6127 or David Weiner, Director for the European Union, (202) 395–4620 for questions concerning the *EC-Beef Hormones* dispute; or William Busis, Associate General Counsel and Chair of the Section 301 Committee, (202) 395–3150, for questions concerning procedures under Section 301.

SUPPLEMENTARY INFORMATION:

A. The EC-Beef Hormones Case

The EC bans the import of beef and beef products produced from animals to which any of six hormones [1] have been administered for growth promotion purposes. The effect of the EC ban is to prohibit the import of substantially all U.S.-produced beef and beef products. In February 1998, the WTO Dispute Settlement Body (''DSB'') found that the EC ban was inconsistent with EC obligations under the WTO Agreement. In July 1999, a WTO arbitrator determined that the EC import ban on U.S. beef and beef products has nullified or impaired U.S. benefits under the WTO Agreement in the amount of $116.8 million each year. On July 26, 1999, the DSB authorized the United States to suspend the application to the EC, and member States thereof, of WTO tariff concessions and related obligations covering trade in an amount of $116.8 million per year. Pursuant to that authorization, the Office of the United States Trade Representative (''USTR'') announced a list of EC products that would be subject to a 100 percent rate of duty effective with respect to products entered, or withdrawn from warehouse, for consumption on or after July 29, 1999. See 64 FR 40638.

Since that time, the United States and the EC have continued to consult in an effort to resolve this dispute. Those discussions include the possibility of an interim agreement that would provide meaningful market access for U.S. beef products produced without growth-promoting hormones, in return for a suspension of the increased duties on EC products.

The EC argues that EC legislation of 2003 amending the import ban on beef and beef products produced from animals treated with certain hormones brought the EC into compliance with its WTO obligations. In January 2005, the EC requested the establishment of a WTO dispute settlement panel to consider the EC claim that the United States was no longer authorized to suspend concessions as a result of the EC's adoption of the new legislation amending the import ban. (See 70 FR 8655 for a description of this dispute brought by the EC.)

On October 16, 2008, the WTO Appellate Body issued a report rejecting the EC claim and confirming that the July 1999 DSB authorization to suspend concessions remains in effect unless and until the DSB rules that the EC has brought its measures into compliance

[1] The six hormones at issue are estradiol 17–β, testosterone, progesterone, zeranol, trenbolone acetate (''TBA'') and melengestrol acetate (''MGA'').

with its WTO obligations. The DSB adopted its recommendations and rulings on November 14, 2008. On December 22, 2008, the EC took steps towards initiating another WTO proceeding by requesting consultations with the United States regarding the EC view that it has brought its measures into compliance with the 1998 WTO recommendations and rulings.

The decision by the Trade Representative to modify the July 1999 action should not be construed as a determination with respect to whether or not the EC legislation of 2003 amending the import ban on beef and beef products is consistent with WTO rules. Rather, the purpose of modifying the action is to increase its effectiveness in terms of promoting a resolution of this dispute, including through the possible conclusion of an interim agreement that would provide meaningful market access for U.S. beef producers, taking into account the economic impact of the action on the United States.

B. Section 307 of the Trade Act of 1974, as Amended

Section 307 of the Trade Act of 1974, as amended, provides for a review of actions taken under Section 301, including actions taken in connection with a WTO dispute settlement proceeding. In particular, Section 307 provides for the Trade Representative to conduct a review of—

(A) the effectiveness in achieving the objectives of section 301 of—

(i) such action, and

(ii) other actions that could be taken (including actions against other products or services), and

(B) the effects of such actions on the U.S. economy, including consumers.

C. Section 306 of the Trade Act of 1974, as Amended

Section 306(b)(2)(B) of the Trade Act provides for the periodic review and revision of Section 301 actions taken in the course of a WTO dispute settlement proceeding. Section 306(b)(2)(B)(ii) provides exceptions in the event that (1) the USTR and the Section 301 petitioner (or, if USTR self-initiated the Section 301 investigation, the affected U.S. industry) agree that changing the action under Section 301 is unnecessary, or (2) resolution of the case is imminent. Section 306 provides that the standard for revising actions is to select changes that are most likely to result in implementation of the DSB recommendations, or in achieving some other satisfactory resolution of the dispute. The provision also requires that lists of products subject to increased duties—both initially and after each of the periodic changes—include reciprocal goods of the U.S. industries affected by the measure at issue in the WTO dispute.

The USTR and the affected U.S. industry had agreed that changes in the action taken under Section 301 in connection with the *EC-Beef Hormones* dispute have been unnecessary; accordingly, the exception under Section 306(b)(2)(B) has been in effect.

In response to the November 6, 2008 request for public comments (see below), the affected industry expressed the view that a different approach may be needed in order to obtain a resolution of this dispute.

D. Prior Notice and Comment

In order to assist in a possible modification to the action in accordance with Section 306 of the Trade Act, and to provide information in connection with a review under Section 307 of the Trade Act, USTR published a notice on behalf of the Section 301 Committee seeking public comments regarding a possible modification to the July 1999 action. See 73 FR 66,066 (November 6, 2008). The notice requested that comments be submitted by December 8, 2008.

The Section 301 Committee sought comments with respect to: (i) Whether maintaining or imposing increased duties on particular products would be practicable or effective in terms of encouraging a favorable resolution of the dispute, and (ii) whether maintaining or imposing increased duties on particular products would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers. In addition, the Section 301 Committee requested comments on whether actions with respect to particular products should be taken with respect to products of all member States of the European Communities, or whether action should be taken with respect to products of one or more particular member States of the European Communities.

Approximately 600 public comments were received in response to the November 6, 2008 notice. Taking account of the public comments, the Section 301 Committee—considering the effects on the U.S. economy, including consumers—prepared a recommendation for a modified action that would be more effective in terms of achieving the objectives of Section 301.

E. Determination and Action

The Trade Representative, taking account of the effects of such action on the U.S. economy, including consumers, has accepted the recommendation of the Section 301 Committee to modify the July 1999 action so as to increase its effectiveness. The modified action further implements the authorization granted by the DSB to the United States under Article 22 of the DSU, and is taken pursuant to the authority granted to the Trade Representative under sections 306 and 307 of the Trade Act. The trade value of the products subject to the modified action remains at or below the $116.8 million per year level authorized by the WTO in July 1999.

The Trade Representative has decided: (1) To remove some products from the list of products currently subject to 100 percent *ad valorem* duties (specifically, the articles provided for in HTS subheadings 9903.02.31, 9903.02.33, 9903.02.35, 9903.02.37, 9903.02.38, 9903.02.39, 9903.02.40, 9903.02.41, 9903.02.42 and 9903.02.47); (2) to impose 100 percent *ad valorem* duties on some new products from certain EC member States; (3) to modify the coverage with respect to particular EC member States; and (4) to raise the level of duties on one of the products that is being maintained on the product list. The modified action pursuant to the Trade Representative's determination is set out in Annex A to this notice. Annex B to this notice deletes the chapter 99 subheadings established in July 1999 for the purpose of implementing the prior action.

The Trade Representative's determination shall be effective with respect to articles that are entered, or withdrawn from warehouse, for consumption on or after March 23, 2009. Any merchandise that is subject to increased duties under part A of the Annex that is admitted to a U.S. foreign trade zone (U.S. FTZ) on or after March 23, 2009 must be admitted with ''privileged foreign status,'' as defined in 19 CFR 146.41. In addition, any merchandise that is no longer subject to increased duties as a result of the Trade Representative's determination to modify the July 1999 action is no longer subject to the requirement that it must be admitted to a U.S. FTZ with ''privileged foreign status.''

William L. Busis,

Chair, Section 301 Committee.

Annex

A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after March 23, 2009, the Harmonized Tariff Schedule of the United States (HTS) is modified by adding in numerical sequence the following superior text and subheadings to subchapter III of chapter 99 to the HTS. The superior text and

subheadings are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated ''Heading/Subheading,'' ''Article Description,'' and ''Rates of Duty 1—General,'' respectively:

''ARTICLES THE PRODUCT OF AUSTRIA, BELGIUM, BULGARIA, CYPRUS, CZECH REPUBLIC, DENMARK, ESTONIA, FINLAND, FRANCE, GERMANY, GREECE, HUNGARY, IRELAND, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, MALTA, THE NETHERLANDS, POLAND, PORTUGAL, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN OR SWEDEN:

	Meat of bovine animals, fresh or chilled (provided for in heading 0201):	
9903.02.48	Articles of subheading 0201.10.05, 0201.10.10, 0201.20.02, 0201.20.04, 0201.20.06, 0201.20.10, 0201.20.30, 0201.20.50, 0201.30.02, 0201.30.04, 0201.30.06, 0201.30.10, 0201.30.30 or 0201.30.50.	100%
9903.02.49	Articles of subheading 0201.10.50, 0201.20.80 or 0201.30.80	100%
	Meat of bovine animals, frozen (provided for in heading 0202):	
9903.02.50	Articles of subheading 0202.10.05, 0202.10.10, 0202.20.02, 0202.20.04, 0202.20.06, 0202.20.10, 0202.20.30, 0202.20.50, 0202.30.02, 0202.30.04, 0202.30.06, 0202.30.10, 0202.30.30 or 0202.30.50.	100%
9903.02.51	Articles of subheading 0202.10.50, 0202.20.80 or 0202.30.80	100%
9903.02.52	Meat of swine, fresh or chilled (provided for in subheading 0203.11, 0203.12 or 0203.19)	100%
9903.02.53	Carcasses and half-carcasses of swine, frozen (provided for in subheading 0203.21)	100%
9903.02.54	Hams, shoulders, and cuts thereof, with bone in, of swine, frozen (provided for in subheading 0203.22)	100%
9903.02.55	Processed meat of swine, frozen, other than carcasses and half-carcasses of swine and other than hams, shoulders, and cuts thereof, with bone in (provided for in subheading 0203.29.20).	100%
9903.02.56	Edible offal of bovine animals, fresh or chilled (provided for in subheading 0206.10)	100%
9903.02.57	Edible offal of bovine animals, frozen (provided for in subheading 0206.21, 0206.22 or 0206.29)	100%
9903.02.58	Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen (provided for in heading 0207).	100%
9903.02.59	Hams, shoulders, and cuts thereof, with bone in, of swine, salted, in brine, dried or smoked (provided for in subheading 0210.11).	100%
9903.02.60	Meat of bovine animals, salted, in brine, dried or smoked (provided for in subheading 0210.20)	100%
9903.02.61	Meat of poultry of heading 0105, salted, in brine, dried or smoked (provided for in subheading 0210.99.20).	100%
9903.02.62	Roquefort cheese (provided for in subheading 0406.40.20 and 0406.40.40)	300%
9903.02.63	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried or bleached (provided for in subheading 0604.91 or 0604.99.30).	100%
9903.02.64	Truffles, fresh or chilled (provided for in subheading 0709.59.10)	100%
9903.02.65	Rolled or flaked grains of oats (provided for in subheading 1104.12)	100%
9903.02.66	Grains of oats, hulled, pearled, sliced, kibbled or otherwise worked, not elsewhere specified or included (provided for in subheading 1104.22).	100%
9903.02.67	Sausages and similar products of beef, and food preparations based on these products, in airtight containers (provided for in subheading 1601.00.40).	100%
9903.02.68	Other prepared or preserved meat, meat offal or blood, of liver of any animal (provided for in subheading 1602.20).	100%
9903.02.69	Other prepared or preserved meat, meat offal or blood, of poultry of heading 0105 (provided for in subheading 1602.31, 1602.32, 1602.39).	100%
9903.02.70	Other prepared or preserved meat, meat offal or blood, of bovine animals (provided for in subheading 1602.50).	100%
9903.02.71	Chewing gum, whether or not sugar-coated, not containing cocoa (provided for in subheading 1704.10)	100%
9903.02.72	Chocolate and other food preparations containing cocoa, in blocks, slabs or bars, filled, weighing 2 kg or less each (provided for in subheading 1806.31).	100%
9903.02.73	Lingonberry and raspberry jams (provided for in subheading 2007.99.05)	100%
9903.02.74	Pears, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included (provided for in subheading 2008.40).	100%
9903.02.75	Peaches, excluding nectarines, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included (provided for in subheading 2008.70.20).	100%
	Articles the product of Finland, France, Ireland, the Netherlands or Sweden:	
9903.02.76	Meat of swine, frozen, not processed, other than carcasses and half-carcasses of swine and other than hams, shoulders, and cuts thereof, with bone in (provided for in subheading 0203.29.40).	100%
	Articles the product of France:	
9903.02.77	Chestnuts (*Castanea* spp.), fresh or dried, whether or not shelled or peeled (provided for in subheading 0802.40).	100%
9903.02.78	Wool grease (other than crude wool grease) and fatty substances derived from wool grease (including lanolin) (provided for in subheading 1505.00.90).	100%
	Articles the product of Austria, Cyprus, France or Poland:	
9903.02.79	Grape juice (including grape must), not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.61 or 2009.69).	100%
9903.02.80	Juice of any other single fruit, not elsewhere specified or included, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.80.60).	100%
9903.02.81	Mixtures of juices, other than mixtures of vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.90.40).	100%

"ARTICLES THE PRODUCT OF AUSTRIA, BELGIUM, BULGARIA, CYPRUS, CZECH REPUBLIC, DENMARK, ESTONIA, FINLAND, FRANCE, GERMANY, GREECE, HUNGARY, IRELAND, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, MALTA, THE NETHERLANDS, POLAND, PORTUGAL, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN OR SWEDEN:—Continued

Articles the product of Italy:

9903.02.82	Mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavored (provided for in subheading 2201.10).	100%

B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after March 23, 2009, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) is modified by deleting the following HTS subheadings: 9903.02.21, 9903.02.22, 9903.02.23, 9903.02.24, 9903.02.25, 9903.02.26, 9903.02.27, 9903.02.28, 9903.02.29, 9903.02.30, 9903.02.31, 9903.02.32, 9903.02.33, 9903.02.34, 9903.02.35, 9903.02.36, 9903.02.37, 9903.02.38, 9903.02.39, 9903.02.40, 9903.02.41, 9903.02.42, 9903.02.43, 9903.02.44, 9903.02.45, 9903.02.46 and 9903.02.47.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28603; 812–13552]

Calamos Convertible Opportunities and Income Fund, et al.; Notice of Application

January 14, 2009.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 18(a)(1)(A) and (B) of the Act.

APPLICANTS: Calamos Convertible Opportunities and Income Fund ("CHI"), Calamos Convertible and High Income Fund ("CHY"), Calamos Strategic Total Return Fund ("CSQ"), and Calamos Global Dynamic Income Fund ("CHW") (each, a "Fund" and collectively, "Funds").

SUMMARY OF APPLICATION: Applicants request an order ("Order") granting an exemption from sections 18(a)(1)(A) and (B) of the Act for a period from the date of the Order until October 31, 2010. The Order would permit each Fund to issue or incur debt subject to asset coverage of 200% that would be used to refinance all of the Fund's auction rate preferred shares ("ARPS") issued prior to February 1, 2008 that are outstanding at the time of the Order. The Order also would permit each Fund to declare dividends or any other distributions on, or purchase, capital stock during the term of the Order, provided that any such debt has asset coverage of at least 200% after deducting the amount of such transaction.

FILING DATES: The application was filed on July 24, 2008, and amended on October 14, 2008, December 18, 2008, January 12, and January 14, 2009.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 9, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants: c/o James J. Boyne, Calamos Advisors LLC, 2020 Calamos Court, Naperville, IL 60563.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or Janet M. Grossnickle, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Room, 100 F Street, NE., Washington, DC 20549–1520 (tel. 202–551–5850).

Applicants' Representations

1. Each of the Funds is organized as a Delaware statutory trust and is registered under the Act as a diversified, closed-end management investment company. Each Fund is advised by Calamos Advisors LLC ("Calamos") and has issued and outstanding a class of common shares and several series of ARPS.

2. Applicants state that the Funds issued their outstanding ARPS for purposes of investment leverage to augment the amount of investment capital available for use in the pursuit of their investment objectives. Applicants state that, through the use of leverage, the Funds seek to enhance the investment return available to the holders of their common shares by earning a rate of portfolio return (which includes the return related to investments made with proceeds from leverage) that exceeds the leverage costs, which have been the amount of dividends that the Funds paid to holders of the ARPS. Applicants represent that ARPS shareholders are entitled to receive a stated liquidation preference amount of $25,000 per share (plus any accumulated but unpaid dividends) in any liquidation, dissolution, or winding up of the relevant Fund before any distribution or payment to holders of the Fund's common shares. They state that dividends declared and payable on ARPS have a similar priority over dividends declared and payable on the Fund's common shares. In addition, applicants state that ARPS are "perpetual" securities and are not subject to mandatory redemption by a Fund so long as certain asset coverage tests are met. Further, applicants state that ARPS are redeemable at each Fund's option.

3. Applicants state that prior to February 2008, dividend rates on the ARPS for each dividend period were set at the market clearing rate determined through an auction process that brought together bidders, who sought to buy ARPS, and holders of ARPS, who sought to sell their ARPS. Applicants explain that if an auction failed to clear (because of an imbalance of sell orders over bids), the dividend payment rate over the next dividend period was set at a specified maximum applicable rate (the "Maximum Rate") determined by reference to a short-term market interest rate (either the LIBOR or "AA" commercial paper rate for an equivalent period). Applicants state that an unsuccessful auction is not a default; the relevant Fund continues to pay dividends to all holders of ARPS, but at the specified Maximum Rate rather than a market clearing rate. Prior to February 2008, the Maximum Rate had never

been triggered due to failed auctions for any of the Funds.

4. Applicants state that if investors did not purchase all of the ARPS tendered for sale at an auction prior to the failure of the auction market, dealers historically would enter into the auction and purchase any excess shares to prevent the auction from failing. Applicants represent that this auction mechanism had generally provided readily available liquidity to holders of ARPS for more than twenty years. Applicants believe that many investors invested short-term cash balances in ARPS believing they were safe short-term investments and, in many cases, the equivalent of cash.

5. Applicants state that in February 2008, the financial institutions that historically provided ''back stop'' liquidity to ARPS auctions stopped participating in them and the auctions began to fail. Applicants state that, beginning in February 2008, the Funds experienced auction failures due to an imbalance between buy and sell orders. Applicants believe that there is no established secondary market that would provide holders of ARPS with the liquidation preference of $25,000 per share. Applicants state that each of the Funds to date has secured debt financing enabling it to refinance (and accordingly redeem) a significant portion of its outstanding ARPS.[1] Applicants state that CSQ, CHI and CHY's financing arrangements provide a commitment level that, if completely drawn upon, would allow them to retire all (or almost all) of their ARPS. However, Applicants represent that these Funds have been prohibited from utilizing these facilities in their entirety to redeem their remaining ARPS because they would not have the 300% asset coverage required by section 18(a)(1)(A) of the Act after a full redemption of the ARPS. Similarly, Applicants state that CHW has obtained the authorization of its board of trustees (''Board'') to issue a further $50 million in extendible notes and believes there is a market for them, but is unable to issue additional notes in order to redeem its remaining outstanding ARPS because it would not have 300% asset coverage immediately following the issuance of those notes. As a result, applicants state that there is currently no reliable mechanism for holders of their ARPS to obtain liquidity, and believe that, industry-wide, the current lack of liquidity is causing distress for a substantial number of ARPS shareholders and creating severe hardship for many investors.

6. Applicants seek relief for a period from the date of any Order until October 31, 2010 (''Exemption Period'') to facilitate temporary borrowings by the Funds that would enhance their ability to provide a liquidity solution to the holders of their ARPS in the near term[2] while they either pay down or seek a more permanent form of replacement leverage, such as a new type of preferred stock that provides liquidity at liquidation value.[3] Applicants submit that the gradual reduction of leverage through the use of proceeds of any common share issuances or the development of an alternative form of preferred stock might take several months, if at all, after the Order has been issued. Applicants state that it is uncertain when, or if, the securities and capital markets will return to conditions that would enable the Funds to achieve compliance with the asset coverage requirements that would apply in the absence of the Order. Given the uncertainty and the current and continuing unsettled state of the securities and capital markets, applicants believe that the Exemption Period is reasonable and appropriate. Each Fund's refinancing of its ARPS would be subject to the approval of the refinancing arrangements by the Fund's Board.

Applicants' Legal Analysis

1. Section 18(a)(1)(A) of the Act provides that it is unlawful for any registered closed-end investment company to issue any class of senior security representing indebtedness, or to sell such security of which it is the issuer, unless the class of senior security will have an asset coverage of at least 300% immediately after issuance or sale. Section 18(a)(2)(A) of the Act provides that it is unlawful for any registered closed-end investment company to issue any class of senior security that is a stock, or to sell any such security of which it is the issuer, unless the class of senior security will have an asset coverage of at least 200% immediately after such issuance or sale.[4]

2. Section 18(a)(1)(B) prohibits a closed-end fund from declaring a dividend or other distribution on, or purchasing, its own capital stock unless its outstanding indebtedness will have an asset coverage of at least 300% immediately after deducting the amount of such dividend, distribution or purchase price.[5] Section 18(a)(2)(B) prohibits a closed-end fund from declaring a dividend or other distribution on, or purchasing, its own common stock unless its outstanding preferred stock will have an asset coverage of at least 200% immediately after deducting the amount of such dividend, distribution or purchase price.

3. Section 6(c) of the Act provides, in relevant part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction from any provision of the Act if and to the extent necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants request that the Commission issue an Order under section 6(c) of the Act to exempt each Fund from the 300% asset coverage requirements set forth in sections 18(a)(1)(A) and (B) of the Act. Specifically, the Funds seek relief from the section 18 asset coverage requirements for senior securities representing indebtedness for the Exemption Period to permit the Funds to refinance any ARPS issued prior to

[1] CSQ obtained a 180 day rolling margin loan that enabled it to redeem 81.5% of its ARPS. CHI and CHY redeemed 72.9% and 81.4% of their ARPS, respectively, with the proceeds of a renewable commercial paper conduit facility with a maturity of 364 days. CHW issued extendible notes in a Rule 144A offering with a term of 364 days and used the proceeds of such notes to redeem 85.7% of its ARPS.

[2] Each Applicant believes that refinancing would be appropriate and, over the longer term would provide additional investment income net of borrowing costs, and thus would be beneficial to its common shareholders.

[3] *See, e.g.*, Eaton Vance Management, SEC No-Action Letter (June 13, 2008) (permitting the issuance of ''liquidity protected preferred shares'' to supplement or replace Eaton Vance funds' auction rate preferred stock).

[4] Section 18(h) of the Act defines asset coverage of a senior security representing indebtedness of an issuer as the ratio which the value of the total assets of the issuer, less all liabilities and indebtedness not represented by senior securities, bears to the aggregate amount of senior securities representing indebtedness of the issuer. The section defines asset coverage of the preferred stock of an issuer as the ratio which the value of the total assets of the issuer, less all liabilities and indebtedness not represented by senior securities, bears to the aggregate amount of senior securities representing indebtedness of the issuer plus the amount the class of senior security would be entitled to on involuntary liquidation.

[5] An exception is made for the declaration of a dividend on a class of preferred stock if the senior security representing indebtedness has an asset coverage of at least 200% at the time of declaration after deduction of the amount of such dividend. *See* section 18(a)(1)(B) of the Act. Further, section 18(g) of the Act provides, among other things, that ''senior security,'' for purposes of section 18(a)(1)(B), does not include any promissory note or other evidence of indebtedness issued in consideration of any loan, extension or renewal thereof, made by a bank or other person and privately arranged, and not intended to be publicly distributed.

February 1, 2008 that are outstanding at the time of the Order with debt subject to the 200% asset coverage requirement for stock, rather than the 300% asset coverage that would ordinarily apply under section 18 to senior securities representing indebtedness, (a) when they incur that debt, and (b) when they declare dividends or any other distributions on, or purchase, their capital stock, after deduction of the amount of such dividend, distribution or purchase price. Applicants state that, except as permitted under the requested Order, if issued, the Funds would meet all of the asset coverage requirements of section 18(a) of the Act. In addition, applicants state that within the Exemption Period each Fund that borrows in reliance on the Order will either pay down or refinance the debt so that the Fund would, then and thereafter, comply with the applicable asset coverage requirements (200% for equity or 300% for debt) under section 18 of the Act.

5. Applicants state that section 18 reflects congressional concerns regarding preferential treatment for certain classes of shareholders, complex capital structures, and the use of excessive leverage. Applicants submit that another concern was that senior securities gave the misleading impression of safety from risk. Applicants believe that the request for temporary relief is necessary, appropriate and in the public interest and that such relief is consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

6. Applicants note that the illiquidity of ARPS is a unique, exigent situation that is posing urgent, and in some cases devastating, hardships on ARPS shareholders. Applicants represent that the proposed replacement of the ARPS with debt would provide liquidity for the Funds' ARPS shareholders while the Funds continue their efforts to obtain a more permanent form of financing (such as through the issuance of preferred equity-based instruments) that fully complies with the asset coverage requirements of section 18.[6]

7. Applicants represent that the Order would help avoid the potential harm to common shareholders that could result if the Funds were to deleverage their portfolios in the current difficult market environment[7] or that could result if a reduction in investment return reduced the market price of common shares. Applicants also state that the requested Order would permit the Funds to continue to provide their common shareholders with the enhanced returns that leverage may provide.

8. Applicants believe that the interests of both classes of the Funds' current investors would be well served by the requested order—the ARPS shareholders because they would achieve the liquidity that the market currently cannot provide (as well as full recovery of the liquidation value of their shares), and the common shareholders because the adverse consequences of forced deleveraging would be avoided and each Fund's investment return would be enhanced to the extent that the cost of the new form of leverage is lower than the investment return on the capital raised through the borrowings.

9. Applicants represent that the proposed borrowing would be obtained from banks, insurance companies or qualified institutional buyers (as defined in Rule 144(a)(1) under the Securities Act of 1933) who would be capable of assessing the risk associated with the transaction. Applicants also state that, to the extent the Act's asset coverage requirements were aimed at limiting leverage because of its potential to magnify losses as well as gains, they believe that the proposal would not unduly increase the speculative nature of the Funds' common shares because the relief is temporary and the Funds would be no more highly leveraged if they replace the existing ARPS with borrowing.[8] Applicants also state that the proposed liquidity solution actually would simplify the Funds' capital structures, not make them more complex, opaque, or hard to understand or result in pyramiding or inequitable distribution of control.

10. Applicants state that the current state of the credit markets, which has affected the ARPS, is an historic event of unusual severity, which requires a creative and flexible response on the part of both the public and private sectors. Applicants believe that these issues have created an urgent need for limited, quick, thoughtful and responsive solutions. Applicants believe that the request meets the standards for exemption under section 6(c) of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each Fund that borrows subject to 200% asset coverage under the order will do so only if such Fund's Board, including a majority of the trustees who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) (''Independent Trustees''), shall have determined that such borrowing is in the best interests of such Fund, its common shareholders, and its ARPS shareholders. Each Fund shall make and preserve for a period of not less than six years from the date of such determination, the first two years in an easily accessible place, minutes specifically describing the deliberations by the Board and the information and documents supporting those deliberations, the factors considered by the Board in connection with such determination, and the basis of such determination.

2. Upon expiration of the Exemption Period, each Fund will have asset coverage of at least 300% for each class of senior security representing indebtedness.

3. The Board of any Fund that has borrowed in reliance on the order shall receive and review, no less frequently than quarterly during the Exemption Period, detailed progress reports prepared by management (or other parties selected by the Independent Trustees) regarding and assessing the efforts that the Fund has undertaken, and the progress that the Fund has made, towards achieving compliance with the appropriate asset coverage requirements under section 18 by the expiration of the Exemption Period. The Board, including a majority of the Independent Trustees, will make such adjustments as it deems necessary or appropriate to ensure that the applicant comes into compliance with section 18 of the Act within a reasonable period of time, not to exceed the expiration of the Exemption Period. Each Fund will make and preserve minutes describing these reports and the Board's review, including copies of such reports and all other information provided to or relied upon by the Board, for a period of not

[6] *See supra* note 4.

[7] Applicants state that a significant portion of each Fund's portfolio is in convertible securities. Applicants believe that it is difficult to sell such securities in the current market without artificially depressing market prices because the liquidity of that market has been reduced due to deleveraging by hedge funds and as a result of market makers' own impaired capital positions. Applicants believe, however, that convertible securities generally remain sound even though they are presently trading below their intrinsic value. Applicants thus believe it would be disadvantageous to sell these securities in the current market.

[8] Applicants acknowledge that managing any portfolio that relies on borrowing for leverage entails the risk that, when the borrowing matures and must be repaid or refinanced, an economically attractive form of replacement leverage may not be available in the capital markets. For that reason, any portfolio that relies on borrowing for leverage is subject to the risk that it may have to forcibly deleverage, which could be disadvantageous to the portfolio's common shareholders. Applicants therefore state that they regard leveraging through borrowing as potentially a temporary, interim step, with the issuance of new preferred equity-based instruments as a possible longer-term replacement source of portfolio leverage.

less than six years from the date of such determination, the first two years in an easily accessible place.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–1299 Filed 1–22–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59254; File No. SR–FINRA–2008–054]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change To Adopt FINRA Rule 5280 (Trading Ahead of Research Reports) in the Consolidated FINRA Rulebook

January 15, 2009.

I. Introduction

On October 29, 2008, the Financial Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt NASD Interpretive Material 2110–4 (Trading Ahead of Research Reports) as a FINRA rule, subject to certain amendments. The proposed rule change was published for comment in the **Federal Register** on November 6, 2008.[3] The Commission received two comment letters in response to the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

As part of the process of developing the new consolidated rulebook (''Consolidated FINRA Rulebook''),[4] FINRA proposed to adopt in the Consolidated FINRA Rulebook NASD Interpretive Material (''IM'') 2110–4 (Trading Ahead of Research Reports) with certain modifications.

IM–2110–4 states that it is conduct inconsistent with just and equitable principles of trade for a member to establish or adjust an inventory position in an exchange-listed security traded over-the-counter or a derivative of such security in anticipation of the issuance of a research report on that security. The IM further recommends—but does not require—that firms establish policies and procedures to develop and implement effective internal controls to isolate specific information within research and other relevant departments so as to prevent the trading department from utilizing advance knowledge of the issuance of research reports. Those members that choose not to establish such procedures bear the burden to show that changes in inventory positions in advance of research reports were not purposeful.[5]

The proposed rule change would amend the IM in three respects. First, it would extend the application of the IM to cover inventory positions with respect to any security—including debt—or derivative thereof, irrespective of whether the security is exchange-listed. FINRA believes the purpose of the IM—to prevent the manipulation of the supply of a security for the benefit of a firm and to the detriment of investors—applies equally to inventory positions in non-exchange-listed securities.

Second, the proposed rule change would apply the rule only to circumstances where a member establishes or adjusts its inventory based on non-public advance knowledge of the content or timing of a research report in that security. As such, it would not be a violation of the rule for a member to increase or decrease inventory of a security based on publicly available information regarding the likely timing of a research report. By way of example, when a member's trading desk adjusts an inventory position in anticipation of a research report because of a publicly discernible trend that a member's report tends to follow an earnings announcement, the prohibitions of the rule would not be triggered. However, having knowledge of a publicly discernible trend is not a viable alternative basis for the member's trading desk to adjust its inventory position when the trading desk is also the recipient of non-public advance knowledge of the content or timing of a research report in that security.

Finally, the proposal would eliminate the option to establish internal controls to manage the flow of information between the research and trading departments and instead mandate that firms establish policies and procedures reasonably designed to restrict or limit the information flow between research department personnel, or other persons with knowledge of the content or timing of a research report, and trading department personnel, so as to prevent trading department personnel from utilizing non-public advance knowledge of the issuance or content of a research report for the benefit of the member or any other person.

FINRA believes that a member should have an affirmative obligation to manage conflicts of interest in its trading of securities. Moreover, this approach is more consistent with existing and proposed rules regarding supervision and the requirements of NASD Rule 2711 and NYSE Rule 472 to eliminate conflicts involving the publication and distribution of research reports.

III. Comments

The SEC received two comment letters.[6] The commenters' concerns, as well as FINRA's responses are discussed below.

The first comment letter expressed general support for the proposed rule change, but requested a few clarifications. First, the commenter sought clarification that the term ''research report'' in the proposed rule change has the same definition as that in NASD Rule 2711(a)(9). The latter defines research report as ''any written (including electronic) communication that includes an analysis of equity securities of individual companies or industries, and that provides information sufficient upon which to base an investment decision.'' Rule 2711(a) also includes several exceptions to the definition, among them communications limited to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 58905 (November 6, 2008), 73 FR 67237 (November 13, 2008) (SR–FINRA–2008–054) (notice).

[4] The current FINRA rulebook includes, in addition to FINRA Rules, (1) NASD Rules and (2) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together, the NASD Rules and Incorporated NYSE Rules are referred to as the ''Transitional Rulebook''). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). For more information about the rulebook consolidation process, *see* FINRA *Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[5] Incorporated NYSE Rule Interpretation 401/01 includes aspects similar to IM–2110–4. FINRA deleted that Interpretation as part of an earlier filing to transfer NASD Rule 2110 (Standards of Commercial Honor and Principles of Trade) and 2120 (Use of Manipulative, Deceptive or Other Fraudulent Devices) to the Consolidated FINRA Rulebook, as the conduct addressed in the Interpretation is subsumed by those rules. *See* Securities Exchange Act Release No. 58643 (September 24, 2008) 73 FR 57174 (October 1, 2008) (Order Approving SR–FINRA–2008–028).

[6] Letter from Amal Aly, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (''SIFMA''), December 5, 2008; Letter from Peter C. Chepucavage, General Counsel, Plexus Consulting, LLC, January 12, 2009.

commentaries on economic, political or market conditions.

FINRA responded that the term ''research report'' in the proposed rule change is intended to be much broader than that in NASD Rule 2711(a)(9) and is meant to cover adjustments to inventory positions based on non-public knowledge of the content or timing of both debt and equity research.[7] The proposed rule change differs in objective from NASD Rule 2711(a)(9) and is intended to ''enhance investor protection and market integrity by deterring member firms from improperly accumulating or otherwise altering investor positions in securities'' based on non-public advance knowledge of the content or timing of a research report in those securities. FINRA interprets the term research report in proposed FINRA Rule 5280 to cover any written information from the research department that a reasonable person would expect to result in a transaction based on that information. Thus, to the extent a reasonable person would expect that a communication containing market commentary would result in a transaction in a particular security or securities, a member could not establish or adjust its inventory in those securities based on non-public advance knowledge of that communication or the timing of its public release. Based on these reasons, FINRA declined the commenter's additional request that the proposal be narrowed to cover only those actions taken by a member firm to adjust its inventory based upon advance non-public knowledge of material investment conclusions, such as ratings or price targets.

Second, the commenter requested that FINRA confirm that the requirement in subparagraph (b) of the proposal to establish, maintain and enforce certain policies and procedures is not meant to (1) limit or restrict communications between sales and trading personnel and research personnel concerning an analyst's published views or (2) to require that such communications must be pre-cleared or monitored.

FINRA responded that the proposed rule sets forth an unambiguous supervision standard that ''a member must establish, maintain and enforce policies and procedures reasonably designed to restrict or limit the information flow between research department personnel, or others with knowledge of the content or timing of a research report, and trading department personnel, *so as to prevent trading department personnel from utilizing non-public advance knowledge of the issuance or content of a research report for the benefit of the member or any other person.*'' FINRA views the supervisory standard in the proposal as purposefully flexible, to allow firms to tailor their policies and procedures to their size, structure, business model and compliance system. As such any number of specific policies and procedures may be appropriate to satisfy the standard. Thus, absent ambiguity in the standard, FINRA believes it inappropriate to opine on the adequacy of one or more elements of potentially many approaches that could satisfy the rule's supervision requirement.

The second comment letter expressed concern that while the proposed rule addresses that a broker-dealer cannot trade ahead of its own research report, the broker-dealer's customers and potential customers should also be so prohibited and that all customers and potential customers should get the research report at the same time. Further, the commenter indicated that the issue of whether the public should simultaneously get such reports should be explored and addressed. Per discussion, FINRA noted that the commenter's concerns are more appropriate to and are addressed in FINRA's proposed ''Research Registration and Conflict of Interest Rules.''[8]

IV. Discussion and Findings

After careful review of the proposed rule change, the comments and FINRA's response to the comments, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities association.[9] In particular, the Commission believes the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and questionable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change will protect the investing public by preventing firms from utilizing non-public advance knowledge of the timing or content of a research report to benefit its own trading to the detriment of its customers. Moreover, the Commission believes the proposed rule change further would clarify and streamline NASD IM–2110–4 for adoption as a FINRA Rule in the Consolidated FINRA Rulebook.[11] NASD IM–2110–4 has previously been found to meet the statutory requirements, and FINRA believes the rule has since proven effective in achieving statutory mandates.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–FINRA–2008–054) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–1298 Filed 1–22–09; 8:45 am]

BILLING CODE 8011–01–P

[7] *See* Letter from Philip Shaikun, Associate Vice President and Associate General Counsel, FINRA, January 2, 2008.

[8] *See,* FINRA NTM 08–55, October 2008.

[9] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78o–3(b)(6).

[11] *See* supra note 4.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59243; File No. SR–Phlx–2008–86]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amending the Phlx Fee Schedule

January 13, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 30, 2008, NASDAQ OMX PHLX, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been substantially prepared by the Exchange. Phlx has designated this proposal as one establishing or changing a member due, fee, or other charge imposed under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to Section 19(b)(1) of the Act [5] and Rule 19b–4 thereunder,[6] proposes to amend its Summary of Equity Option, and MNX, NDX, RUT and RMN Charges (''Summary of Equity Option''), Summary of Index Option Charges, $60,000 ''Firm Related'' Equity Option and Index Option Cap, and Summary of U.S. Dollar-Settled Foreign Currency Option Charges fee schedules. Specifically, the Exchange proposes to: (1) Consolidate the comparison and transaction charges on its fee schedules into one charge, (2) assess a customer execution charge of $0.12 per contract side on options on the Russell 2000® Index (the ''Full Value Russell Index'' or ''RUT''), and options on the one-tenth value Russell 2000® Index [7] (the ''Reduced Value Russell Index'' or ''RMN'') on the Summary of Equity Option fee schedule; and (3) create a Broker-Dealer transaction charge on the Summary of Index Option Charges and Summary of U.S. Dollar-Settled Foreign Currency Option Charges fee schedules.

The Exchange also proposes to delete from the Summary of Equity Option fee schedule the Specialist Deficit (Shortfall) fee and the 14,000 contract cap that is applied to Registered Options Traders (''ROTs'') transaction and comparison charges and Specialist transaction charges when contra-party to a non-AUTOM delivered customer order.

The Exchange also proposes to delete from its Summary of Equity Option fee schedule unnecessary footnotes [8] and to delete from its Summary of Index Option Charges and Summary of U.S. Dollar-Settled Foreign Currency Option Charges fee schedules unnecessary text (marked with ''**'') relating to rebate request forms for Firm/Proprietary transaction charges.

Additionally, the Exchange proposes to increase the Firm Related [9] equity option and index option cap from $60,000 per month to $65,000 per month and to exclude the current U.S. dollar-settled foreign currency option transaction and comparison charges from this cap.

While changes to the fee schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative for transactions settling on or after January 2, 2009.[10]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Generally, the purpose of the proposed rule change is to update the Exchange's fee schedules by adopting new fees and deleting fees and text that are no longer deemed necessary.

Currently, the Exchange separately itemizes comparison and transaction charges. The Exchange proposes to eliminate the comparison fee as a separate line item and instead imbed the fee in the existing transaction charge. This change will not change the actual amount being charged to Exchange members, but should simplify the fee schedules so that total transaction costs are more easily understood.[11]

The purpose of creating a separate Broker-Dealer transaction charge on the Summary of Index Option Charges and Summary of U.S. Dollar-Settled Foreign Currency Option Charges fee schedules is to raise revenue and to specifically set forth the Broker-Dealer transaction charges, which are currently included in the customer transaction charges. Previously, Broker-Dealers and customers were each charged a $.40 transaction fee and a $.04 comparison fee for a combined charge of $.44. The Exchange proposes to raise revenue by increasing the total fee charged to Broker-Dealers by $.01. This new rate of $.45 for Broker-Dealers is the same charge that Broker-Dealer incur with respect to equity options.[12] The Exchange believes that separating the Broker-Dealer transaction charges from the customer transaction charges should help to more readily identify the applicable transaction charges.

The purpose of assessing a customer an equity option transaction charge of $0.12 per contract side for customer executions in RUT and RMN is to raise revenue, while remaining competitive in the marketplace.[13]

The Exchange proposes to delete the language that is marked with ''**'' on both the Summary of Index Option Charges and the Summary of U.S. Dollar-Settled Foreign Currency Option Charges in order to delete obsolete language. The Exchange is able to identify Firm/Proprietary Orders electronically and therefore submitting a rebate request form is no longer necessary.

The purpose of deleting language, which relates to identifying certain trademarks, from footnotes that appear in the Summary of Equity Option fee schedule is to remove unnecessary and/or outdated language from the fee schedule. Although the Exchange

[5] 15 U.S.C. 78s(b)(1).

[6] 17 CFR 240.19b–4.

[7] Russell 2000® is a trademark and service mark of the Frank Russell Company, used under license. Neither Frank Russell Company's publication of the Russell Indexes nor its licensing of its trademarks for use in connection with securities or other financial products derived from a Russell Index in any way suggests or implies a representation or opinion by Frank Russell Company as to the attractiveness of investment in any securities or other financial products based upon or derived from any Russell Index. Frank Russell Company is not the issuer of any such securities or other financial products and makes no express or implied warranties of merchantability or fitness for any particular purpose with respect to any Russell Index or any data included or reflected therein, nor as to results to be obtained by any person or any entity from the use of the Russell Index or any data included or reflected therein.

[8] The Commission also notes that the remaining footnotes have been re-numbered.

[9] *See, e.g.*, Securities Exchange Act Release Nos. 54981 (December 20, 2006), 71 FR 78251 (December 28, 2006) (SR–Phlx–2006–86); 53287 (February 14, 2006), 71 FR 9186 (February 22, 2006) (SR–Phlx–2006–10) and 56437 (September 13, 2007), 72 FR 53616 (September 19, 2007) (SR–Phlx–2007–65).

[10] This filing was inadvertently filed as a Stock Clearing Corporation of Philadelphia filing instead of a NASDAQ OMX PHLX filing. As a result of refiling, Exhibit 5 now reflects amendments that were made in SR–Phlx–2008–85. The Commission notes that SR–Phlx–2008–85 has since been withdrawn and re-filed as SR–Phlx–2008–87.

[11] This proposal is similar to a proposal filed by the International Securities Exchange, LLC (''ISE'') whereby ISE eliminated its comparison fee as a separate line item and imbedded the fee into the execution fee. *See* Securities Exchange Act Release No. 58139 (July 10, 2008), 73 FR 41142 (July 17, 2008) (SR–ISE–2008–54).

[12] *See* e-mail from Angela S. Dunn, Counsel, Phlx, to Richard Holley III, Senior Special Counsel, Commission, dated January 8, 2009.

[13] The Exchange currently assesses an equity option transaction charge of $0.12 per contract for customer executions options on the one-tenth of the value of the Nasdaq 100 Index (the ''*Mini Nasdaq 100 Index*'' or ''MNX'') and options on the full value of the Nasdaq 100 Index (the ''Full-size Nasdaq 100 Index'' or ''NDX''). *See* Securities Exchange Act Release No. 58049 (June 27, 2008), 73 FR 38286 (July 3, 2008) (SR–Phlx–2008–46).

intends to continue trading the MNX, NDX, RUT and RMN products, it does not believe that, at this time, the language in the related footnotes should be included on the Summary of Equity Option fee schedule.

The Exchange has decided for business purposes to exclude the current U. S. dollar-settled foreign currency option transaction and comparison charges from the $60,000 Firm-Related Equity Option and Index Option Cap calculation. The Exchange believes that it can continue to attract this business without offering the cap, which should also help to raise revenue.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act [14] in general, and furthers the objectives of Section 6(b)(4) of the Act [15] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. By amending the Exchange's fee schedule and adding nominal fees and deleting fees and text the Exchange no longer deems necessary, the Exchange believes that members and member organizations should benefit from the proposals described herein.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [16] and paragraph (f)(2) of Rule 19b–4 [17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2008–86 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2008–86. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–Phlx-2008–86 and should be submitted on or before February 13, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–1297 Filed 1–22–09; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59234; File No. SR–NYSEArca–2008–140]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Adding Liquidity Only Order

January 12, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by NYSE Arca. NYSE Arca filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.31(nn), the Adding Liquidity Only Order (''ALO Order''). The text of the proposed rule is attached as Exhibit 5. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE Arca included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE Arca has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

At present, an ALO Order would be rejected when, at the time of entry, it would interact with an un-displayed order on the Exchange.[5] The Exchange proposes a limited exception to the ALO Order whereby an ALO Order will not be rejected when interacting with a Mid-Point Passive Liquidity Order (''MPL Order''). This proposed change will incorporate existing functionality into the ALO Order that permits designated limit orders to ignore MPL Orders.

Currently, NYSE Arca Users may elect to mark incoming limit orders with a ''No Midpoint Execution'' designator which will ignore MPL Orders and trade against the Arca Book.[6] The ALO Order will incorporate the functionality of the ''No Midpoint Execution'' designator. As such, the ALO Order will ignore MPL Orders and proceed to post to the NYSE Arca Book.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the proposed rule change will clarify the rule cross-references and eliminate unnecessary confusion in its rule structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[11] However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change operative upon filing. The Exchange stated the waiver of this period will allow it to immediately offer the ALO Order as amended to market participants on NYSE Arca, providing them with greater discretion and flexibility to post liquidity on NYSE Arca. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2008–140 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2008–140. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2008–140 and should be

[5] The ALO Order was recently introduced as Rule 7.31(nn). *See* Securities Exchange Act Release No. 59049 (December 3, 2008), 73 FR 75154 (December 10, 2008) (notice of immediate effectiveness SR–NYSEArca–2008–132).

[6] *See* NYSE Arca Equities Rule 7.31(h)(5).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has complied with this requirement.

[12] *Id.*

[13] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

submitted on or before February 13, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–1300 Filed 1–22–09; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2009–0004]

Future Systems Technology Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of second panel meeting.

DATES: February 9, 2009, 9:15 a.m.–5 p.m. and February 10, 2009, 8:30 a.m.–12 p.m.

Location: Hilton Baltimore Hotel.

ADDRESSES: 401 West Pratt Street, Baltimore, MD 21201.

SUPPLEMENTARY INFORMATION:

Type of meeting: The meeting is open to the public.

Purpose: The Panel, under the Federal Advisory Committee Act of 1972, as amended, (hereinafter referred to as ''the FACA'') shall report to and provide the Commissioner of Social Security independent advice and recommendations on the future of systems technology and electronic services at the agency five to ten years into the future. The Panel will recommend a road map to aid SSA in determining what future systems technologies may be developed to assist in carrying out its statutory mission. Advice and recommendations can relate to SSA's systems in the area of internet application, customer service, or any other arena that would improve SSA's ability to serve the American people.

Agenda: The Panel will meet on Monday, February 9, 2009 from 9:15 a.m. until 5 p.m. and Tuesday, February 10, 2009 from 8:30 a.m. to 12 p.m. The agenda will be available on the Internet at *http://www.ssa.gov/fstap/index.htm* or available by e-mail or fax on request, one week prior to the starting date.

During the second meeting, the Panel will continue to receive additional information about the agency, its operations, and its programs. The meeting will also include a dialogue with the senior executives of the agency to answer panel questions. This dissemination of information and discussion with the executives will enable panel members to gain a broader and more in-depth understanding of the agency and its operations.

Contact Information: Records are kept of all proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the staff by:

Mail addressed to SSA, Future Systems Technology Advisory Panel, Room 800, Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–0001; Telephone at 410–965–6011; Fax at 410–965–0201; or e-mail to *FSTAP@ssa.gov.*

Dated: January 14, 2009.

Dianne L. Rose,

Designated Federal Officer, Future Systems Technology Advisory Panel.

[FR Doc. E9–1345 Filed 1–22–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications of Avjet Corporation for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2009–1–7); Dockets DOT–OST–2008–0224 and DOT–OST–2008–0231.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue orders finding Avjet Corporation, fit, willing, and able, and awarding it certificates of public convenience and necessity to engage in interstate and foreign charter air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than January 28, 2009.

ADDRESSES: Objections and answers to objections should be filed in Dockets DOT–OST–2008–0224 and DOT–OST–2008–0231 and addressed to U.S. Department of Transportation, Docket Operations (M–30), 1200 New Jersey Avenue, SE., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Vanessa R. Balgobin, Air Carrier Fitness Division (X–56), U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–9721.

Robert S. Goldner,

Special Counsel for Aviation and International Affairs.

[FR Doc. E9–1378 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 35–1, Certification of Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 35–1, Certification of Propellers. This AC provides guidance and describes acceptable methods, but not the only methods, that may be used to demonstrate compliance with provisions of the requirements of part 35 of Title 14 of the Code of Federal Regulations (14 CFR part 35).

DATE: The Engine and Propeller Directorate issued AC 35–1 on December 29, 2008.

FOR FURTHER INFORMATION CONTACT: The Federal Aviation Administration, Attn: Jay Turnberg, Engine and Propeller Standards Staff, ANE–111, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7116; fax: (781) 238–7199; e-mail: *jay.turnberg@faa.gov.*

We have filed in the docket all substantive comments received, and a report summarizing them. If you wish to review the docket in person, you may go to the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. If you wish to contact the above individual directly, you can use the above telephone number or e-mail address provided.

How to Obtain Copies: A paper copy of AC 35–1 may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC 121.23, Ardmore East Business Center, 3341Q 75th Ave., Landover, MD 20785, telephone 301–322–5377, or by faxing your request to the warehouse at 301–386–5394. The AC will also be available on the Internet at *http://www.faa.gov/regulations_policies* (then click on ''Advisory Circulars'').

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

Issued in Burlington, Massachusetts on December 29, 2008.

Peter A. White,

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

[FR Doc. E9–1177 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No: FAA–2008–1208]

Helicopter Emergency Medical Services Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of consideration of comments.

SUMMARY: This notice discusses comments received on proposed revisions to Operations Specification A021, pertaining to Helicopter Emergency Medical Services (HEMS) operations, and Operation Specification A050, pertaining to Helicopter Night Vision Goggle Operations (HNVGO) and changes made to the proposed revisions based upon comments received.

FOR FURTHER INFORMATION CONTACT: For technical questions regarding the A021 and A050 Operations Specifications revisions contact: Dennis Pratte or Larry Buehler, FAA Flight Standards—Part 135 Air Carrier Operations Branch, AFS–250, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8166; e-mail *dennis.pratte@faa.gov* or *larry.buehler@faa.gov.* For legal questions concerning this notice, contact: Dean Griffith, FAA Office of the Chief Counsel, AGC–220, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3073; e-mail *dean.griffith@faa.gov.*

SUPPLEMENTARY INFORMATION:

Summary of Action

On November 14, 2008, the FAA issued a notice of availability of proposed revisions to Operations Specifications A021 and A050 pertaining to HEMS operations and requested comments to the proposed revisions. The FAA received 25 comments in response to the notice and has made changes to proposed Operations Specification A021 based on the comments. Operations Specification A050 will not be changed.

Availability of Document

Copies of Operations Specifications A021 (HEMS) and A050 (HNVGO) which are to be implemented can be found and downloaded from the Internet at the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and search for the documents using the Federal docket number FAA–2008–1208.

Discussion of Comments Received

The FAA received 25 comments from industry, including HEMS operators (Omniflight Helicopters, Inc., Intermountain Life Flight, Air Evac Lifeteam, EMS Executive Forum of HEMS Common Carriers), North Memorial Medical Center North Air Care, Reach Air Ambulance, and Hospital Wing), trade associations (Helicopter Association International, the Association of Air Medical Services, and the National EMS Pilots Association), an equipment manufacturer (Max-Viz Inc.), and a designer of helicopter GPS approaches (STI, Inc.). The FAA also received comments from pilots, HEMS medical personnel, and other individuals. A summary of the comments received and the FAA response to the comments follows.

A. General Support

The FAA received numerous comments supporting proposed Operations Specifications A021 and A050. Commenters supporting the revisions included the EMS Executive Forum of HEMS Common Carriers, Helicopter Association International (supported by Life Flight of Maine, TriState Careflight, LLC, EMS Air Services of New York, Inc., Sanford USD Medical Center Trauma 1, Bell Helicopter, and other organizations that also submitted comments independently), the National EMS Pilots Association, the Association of Air Medical Services, Omniflight Helicopters, Inc., and several individual commenters.

B. Instrument Flight Rules (IFR) Point in Space (PinS) Special Instrument Approach Procedures

Several commenters recommended changes to proposed Operations Specification A021 paragraph ''h,'' regarding IFR PinS Special Instrument Approach Procedures, with a proceed Visual Flight Rules (VFR) transition to a heliport or landing area, and standard or special instrument approach procedures. The comments identified that the language proposed in the operation specification could lead to misunderstandings with respect to ''proceed VFR'' transitions and the conduct of visual operations in accordance with visual minimums as noted in A021 Table 1. Commenters also noted that if an approved ''proceed visually'' segment exists as part of an approved Instrument Approach Procedure (IAP) or special IAP, the associated approach minimums would apply.

The FAA acknowledges that proposed Operations Specification A021 made no distinction between the weather minimums associated with an instrument approach which ends in a ''proceed visually'' versus a ''proceed VFR'' instruction. The FAA agrees with the commenters that the language in proposed A021 could lead to confusion for operators making visual transitions from instrument approaches and therefore intends to change A021 paragraph ''h,'' to clarify the procedures to be followed when making VFR or visual transitions from instrument approaches.

C. Weather Minimums

Three commenters recommended different weather minimums from those in the proposed Operations Specification A021. Two generally supported higher weather minimums than the ones proposed by the FAA. The third stated that the 5 mile visibility standard in mountainous terrain would be too restrictive.

Proposed Operations Specification A021 increases the weather minimums for part 135 VFR flight by raising ceilings and increasing visibility requirements. The FAA believes that the proposed weather minimums will enhance safety for HEMS operations by lessening the probability of encountering situations that could lead to inadvertent operation into instrument meteorological conditions (IMC), pilot spatial disorientation, or lack of situational awareness, all causes of HEMS accidents.

The first commenter who suggested higher weather minimums did not provide supporting information for why minimums higher than the ones proposed are warranted. The FAA agrees that as a general principle the likelihood of controlled flight into terrain, loss of control, and obstacle collisions decreases as weather minimums increase. However, the FAA understands that HEMS operators provide an invaluable service to the nation by providing crucial, safe, and efficient transportation of critically ill and injured patients. The FAA believes that the new weather minimums will help to prevent accidents by providing operators a greater margin of safety without unnecessarily impinging upon otherwise safe HEMS operations.

The second commenter suggested higher weather minimums in conjunction with the additional suggestion that pilots should have to maintain a minimum of 300 feet AGL day, or 500 feet AGL night. The commenter believes that the VFR flight planning requirement in proposed A021, that requires vertical clearance of terrain and obstacles by 300 feet during the day and 500 feet at night, would place HEMS aircraft in controlled airspace in high density traffic areas and in the flow of fixed wing and IFR traffic. The commenter further states that in controlled airspace the weather would have to be 500 feet above the aircraft's altitude prohibiting flights although conditions are well above VFR.

In response to the commenter's suggested weather minimums which are higher than the proposed A021's minimums for all but daytime local flight, the FAA refers to its response to the first commenter in this section. With respect to the concern about the proposed preflight planning requirement, paragraph ''i'' of proposed A021 does not require pilots to maintain the highest vertical clearance for the entire flight. Rather, pilots may vary altitudes over portions of the flight. Further, operators may plan flights so that major obstacles are not along the planned route. Finally, paragraph ''i'' notes that pilots may deviate from the planned flight path as required by conditions or operational considerations.

The third commenter expressed concern that the 5 mile visibility requirement would unnecessarily restrict safe cross-country mountainous terrain operations because night visibility of 3 to 5 miles under clear skies due to haze is common in the Southeast United States during the summer months. The FAA notes that operators have several options that would allow them to operate under different minimums. These options include IFR flight, adopting NVIS (Night Vision Imaging System) or Terrain Awareness and Warning Systems (TAWS) technology, or establishing local flying areas.

D. Technology on Board HEMS Aircraft

One comment stated that the FAA has treated NVGs as a safety appliance not for use ''to extend the 'mission capabilities' of HEMS aircraft'' nor to ''justify the reduction of Night VFR weather minimums.'' The commenter asked for an explanation for why, in light of the previous statement, the proposed A021 operations specification allows decreased visibility and ceiling minimums when using NVIS.

The FAA acknowledges the discrepancy with FAA Order 8900.1 which states FAA policy that NVGs are to be approved only for the purpose of enhancing operational safety. However, providing separate weather minimums for night operations with NVIS is justified by several factors. The Operations Specification A021 currently in effect, and which has been in effect since January 2006, provides that HEMS operators approved for NVG use may use high-lighting weather minimums in low-lighting conditions if using NVG. The current operations specification therefore permits NVG users to operate in weather conditions not available to non-NVG users. The proposed operation specification is essentially a continuation of current FAA practice as it relates to HEMS operators. Further, NVIS technology has become more sophisticated since the initial approval for operational use. Additionally, the FAA is pursuing changes to Order 8900.1, which provides instructions to FAA field inspectors, that would approve agency grants of operational credit for NVG operations on a case-by-case basis.

Another commenter supported adopting Helicopter Terrain Awareness and Warning Systems (HTAWS) rather than TAWS units which are not helicopter specific because TAWS may add additional risk factors such as distractions associated with nuisance warnings.

The FAA disagrees that use of TAWS in helicopters creates additional risk greater than the benefit provided and intends to permit use of TAWS as initially proposed for Operations Specification A021. The commenter is correct that use of certain TAWS units in helicopters could potentially generate false alerts and ''nuisance warnings.'' However, the FAA supports voluntary implementation of TAWS in helicopters. Although not helicopter specific, TAWS does provide helicopter pilots with useful information pertaining to ground proximity, helping to avoid controlled-flight into terrain, and improve obstacle avoidance. In addition, the FAA has moved forward on establishing production standards for helicopter-specific TAWS systems. For example, the FAA published Technical Standards Order C194 to inform manufacturers of the minimum performance standards required for HTAWS for approval. HTAWS units developed to this standard will correct the unique issues created by use of TAWS in rotorcraft. Additionally, HEMS operators that wish to install HTAWS systems may do so; the terms of the proposed Operations Specification A021 are not limited to TAWS systems.

One commenter objected to the use of the term ''NVIS'' in A021 Table 1, and stated that NVIS technology should be considered an advisory technology no different than TAWS rather than included as an associated technology with Night Vision Goggles (NVG). This commenter further stated that the only technology associated with the proposed operations specification that should require supplemental training or currency is NVG technology.

The use of the term ''NVIS'' to include NVG is consistent with FAA usage. For example FAA Order 8900.1, Section 4.1126, states ''NVG is the common term used for [NVIS] operations.'' Additionally, Radio Technical Commission for Aeronautics, Inc. (RTCA), an FAA Advisory Committee, states in Document 275, Minimal Operational Performance Standards for Integrated Night Vision Imaging System Equipment, that the term NVIS relates to the broader imaging system that includes the NVG goggles as well as the cockpit windows, internal and external lighting, and crew station design. Accordingly, the FAA intends to keep the term NVIS in A021, Table 1. Note that the FAA does not intend to extend NVIS to include systems other than NVG through this document.

Another commenter suggested that aircraft equipped with Global Positioning System (GPS) moving map displays should be excluded from the requirement to document the highest obstacles along the flight path.

A key component of the revisions to A021 is to ensure that pilots determine the minimum safe cruising altitude and required weather for the flight before takeoff rather than making such assessments during the flight. The FAA acknowledges that technologies, like GPS moving map systems, may assist operators with managing risks associated with HEMS operations. However, providing exceptions for technology to the preflight requirement would defeat the purpose of making pilots aware of the terrain and obstacles along the planned route of flight prior to departing.

Additional commenters suggested other technological enhancements including requiring NVGs for all crew, and mandating satellite tracking, autopilot, and weather radar for all operators.

The FAA encourages HEMS operators to adopt technologies that would provide additional safety measures; however, the revisions to A021 and A050 focus on safety enhancements to the operational aspects of HEMS

operations rather than the equipment requirements for HEMS aircraft.

E. Maintaining Part 91 IFR Flight

One commenter requested the ability to continue to fly IFR under Part 91 using Part 135 weather minimums.

Proposed Operations Specification A021 does not prohibit part 91 IFR operations. As noted in A021 paragraph ''d,'' operators equipped and approved to so may elect to fly IFR following the part 91 IFR, or more stringent, weather minimums. The weather minimums found in Table 1 apply to VFR flight segments in Class G airspace.

F. Part 135 Compliance for All HEMS Flights

One commenter suggested requiring all segments of HEMS flights to be flown under Part 135 operating requirements.

This operations specification revision will increase safety for HEMS operators by requiring all VFR segments of flights that include a part 135 segment to adhere to increased weather minimums. This is an important factor in preventing controlled flight into terrain, obstacle collisions, inadvertent IMC, and spatial disorientation, or loss of situational awareness. The FAA believes that the increased weather minimums combined with the preflight planning requirements will provide an increased margin of safety for HEMS operations. Operators equipped and approved to do so may also elect to fly IFR which provides an additional measure of safety to VFR flight due to factors such as increased interaction with controllers, increased flight planning, and guaranteed obstacle clearance while in controlled airspace. IFR flight also provides the benefit of easier access to updated real-time en-route and destination weather as well as Notice to Airmen (NOTAMS).

The FAA has chosen to focus on the enhanced weather minimums and preflight planning at this time because of the enhancements to safety created by the proposed operations specifications, and the breadth of the regulatory revisions required if the FAA were to require compliance with part 135 for all HEMS operations.

G. Application to Public Aircraft

Two commenters raised the issue of application of the proposed operations specifications to public aircraft: One asked whether the proposed operations specifications would apply to public aircraft, another recommended applying A021 to all HEMS transports, whether public or civil.

The FAA intends to apply these operations specifications to part 135 HEMS operators currently required by their part 135 certificate to obtain operations specifications, or to future HEMS operations that obtain a part 135 certificate. The FAA will consider the public aircraft issue separately.

H. Medical Personnel

The FAA received several comments related to medical personnel that serve on board HEMS aircraft. These comments included limiting the non-patient transport related duties assigned to air-medical crew, flight time and duty period limitations, incorporation of medical personnel into safety aspects of HEMS operations, training requirements, and recordkeeping requirements.

The FAA recognizes that the air medical personnel are an important part of a HEMS operation. However, these operations specifications revisions focus on the flight operations and planning aspects of HEMS operations; therefore requirements pertaining to medical personnel are outside the scope of the revisions.

I. Other Comments

The FAA received numerous comments on a number of other topics. Topics included: Requiring HEMS operators to be based at full-service airports; establishing regional dispatch centers for HEMS operations; Requiring Commission on Accreditation of Medical Transport Systems (CAMTS) certification for all operators; focusing on increased training rather than more stringent operations specifications; permitting landings only at preapproved landing sites; requiring two pilot crews; requiring two engine aircraft; pilot testing on local area hazards and procedures; operational credit for autopilot operations; use of common radio frequencies; prohibiting HEMS operators from selling memberships; establishment of obstacle free corridors; concern over pressure exerted on flight crew to engage in operations by for-profit operators; the FAA's role in making medical determinations; and continuing current exemptions for operators.

These comments are outside the scope of the operations specifications revisions, relate to business decisions by HEMS operators, or are already addressed by the operations specification.

Issued in Washington, DC, on January 13, 2009.

John Duncan,

Manager, Air Transportation Division, AFS–200.

[FR Doc. E9–1448 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twelfth Meeting—Special Committee 215—Aeronautical Mobile Satellite (Route) Services, Next Generation Satellite Services and Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 215, Aeronautical Mobile Satellite (Route) Services, Next Generation Satellite Services and Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 215, Aeronautical Mobile Satellite (Route) Services, Next Generation Satellite Services and Equipment.

DATES: The meeting will be held February 17, 2009, 9 a.m. to 5 p.m. and February 18, 2009, 9 a.m. to 12 noon.

ADDRESSES: RTCA Headquarters, 1828 L Street, NW., Washington, DC 20036; USA, Tel: + 1 202 833–9339, Fax: + 1 202 833–9434, *http://www.rtca.org.*

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org* for directions. For additional details contact: Kelly O'Keefe, Tel: + 1 202 772–1873, e-mail: *Kelly@accesspartnership.com.*

Note: Dress is business casual.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 215 meeting. The agenda will include:

February 17 (continued February 18 as necessary)

- Opening Plenary Session (Greetings, Introductions, Administrative Remarks).
- Review and Approval of Agenda for 12th Plenary.
- Review and Approval of 11th Meeting Summary (RTCA Paper No. 004–09/SC215–038).
- DO–262 Normative Appendix.
- Program Management Committee (PMC) Approval of Final Draft.

- DO–270 Normative Appendix.
- Review and Resolution of Final Review and Comment (FRAC) responses.
- Approval of DO–270 Normative Appendix for submission to PMC.
- Closing Plenary (Any Other Business, Review of Next Plenary Meeting Dates (if required), Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 13, 2009.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. E9–1342 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement Adoption; Washington, DC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public of its intent to adopt an existing Final Environmental Impact Statement (EIS) in accordance with the Council on Environmental Quality regulations, 40 CFR 1506.3. The Final EIS has been prepared and approved by the General Services Administration (GSA), National Capital Region.

FOR FURTHER INFORMATION CONTACT: Jack Van Dop, Senior Technical Specialist, Federal Highway Administration, 21400 Ridgetop Circle, Sterling, VA 20166, Telephone 703–404–6282

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's Web site at: *http://www.access.gpo.gov/nara*. The Final EIS, prepared by GSA is posted at *http://www.stelizabethswestcampus.com*. A related Section 4(f) Evaluation, prepared by FHWA is posted at the above project Web site as well as at *http://www.efl.fhwa.dot.gov/projects-environment.aspx*. A hard copy of the GSA Final EIS and the Section 4(f) Evaluation can be viewed at the following location until March 30, 2009: Federal Highway Administration, Eastern Federal Lands Highway Division, 21400 Ridgetop Circle, Sterling, VA 20166.

Background

The FHWA, in cooperation with the District of Columbia Department of Transportation (DDOT) intends to adopt those portions of an approved Final EIS, related to the specific transportation aspects, for consolidation of the Department of Homeland Security (DHS) Headquarters offices located in the District of Columbia. The FHWA, in consultation with the DDOT, will determine if additional documentation will be provided as a supplement to this Final EIS prior to issuing a decision document. The Final EIS was prepared by the General Services Administration, National Capital Region. The FHWA, DDOT and other federal agencies are cooperating agencies for this Final EIS. The Revised Notice of Intent for the EIS appeared in the FR, Volume 72, Number 124, June 28, 2007. The project consists of consolidation of the DHS Headquarters at the St. Elizabeths Campus in Southeast Washington, DC. DHS requested that GSA fulfill its requirement of collocating 4.5 million gross square feet of office; with parking, the project would accommodate up to 6.4 million gross square feet of development and adaptive re-use. The EIS considered the social, environmental, and economic impacts of the project. The No-Action alternative, three campus redevelopment alternatives, four interchange alternatives (I–295/Malcolm X Interchange) and a transportation no-build alternative were considered in the Final EIS.

Agency Action

The FHWA action subject to the requirements of the National Environmental Policy Act for this project is approval of modifications to the I–295/Malcolm X Interchange, and a related access road. Approval of modifications to the interchange may have the potential to impact other transportation infrastructure in the District of Columbia. The GSA preferred alternative is identified in the Final EIS. In accordance with 49 U.S.C. 303, the FHWA has also prepared and coordinated the distribution of a Section 4(f) Evaluation for the project. The Evaluation assesses the reasonable transportation alternatives subject to Section 4(f) to determine if they are they are the only feasible and prudent alternatives pursuant to Section 4(f). In addition, FHWA will prepare its own Record of Decision for the Selected Alternative in accordance with 40 CFR 1505.2.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Dated: January 14, 2009.

Karen A. Schmidt,

Director, Program Administration.

[FR Doc. E9–1385 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind Notice of Intent To Prepare an Environmental Impact Statement: Lawrence, Christian, and Greene Counties, MI

AGENCY: Federal Highway Administration (FHWA), DOT and the Missouri Department of Transportation.

ACTION: Rescind Notice of Intent to prepare an environmental impact statement.

SUMMARY: The FHWA is issuing this notice to advise the public that we are rescinding the Notice of Intent (NOI) to prepare an environmental impact statement (EIS) for improvements that were proposed to the transportation system in Lawrence, Christian, and Greene Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Peggy J. Casey, Environmental Projects Team Leader, FHWA Division Office, 3220 West Edgewood, Suite H, Jefferson City, Missouri 65109, Telephone: (573) 638–2620 or Kathy Harvey, State Design Engineer, Missouri Department of Transportation, P.O. Box 270, Jefferson City, Missouri 65102, Telephone: (573) 526–5678.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Department of Transportation (MoDOT), is rescinding the NOI to prepare an EIS for a project that had been proposed to improve the transportation system in Lawrence, Christian and Greene Counties,

Missouri. The NOI is being rescinded because MoDOT lacks funding to build this project. They do not want to concentrate their efforts on completing an EIS for a project which may not be built for 20 years.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 15, 2009.

Peggy J. Casey,

Environmental Projects Team Leader, Jefferson City.

[FR Doc. E9–1420 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Paul S. Sarbanes Transit in Parks Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Availability: Paul S. Sarbanes Transit in Parks Program.

SUMMARY: This notice solicits proposals to compete for Fiscal Year (FY) 2009 funds through the Paul S. Sarbanes Transit in Parks Program (Transit in Parks Program), formerly the Alternative Transportation in Parks and Public Lands program (ATPPL), administered by the Federal Transit Administration (FTA) in partnership with the Department of the Interior (DOI) and the U.S. Department of Agriculture's Forest Service. The purpose of the program is to enhance the protection of national parks and Federal lands, and increase the enjoyment of visitors' experience. The program funds capital and planning expenses for alternative transportation systems such as buses and trams in federally-managed parks and public lands. Federal land management agencies, as well as State, tribal and local governments acting with the consent of a Federal land management agency are eligible to apply. DOI, after consultation with and in cooperation with FTA, will determine the final selection and funding of projects.

DATES: Complete proposals must be received by 12 midnight EST on February 27, 2009.

ADDRESSES: Project proposals must be submitted to FTA. Applicants are encouraged to submit proposals through the government-wide electronic grants Web site at *http://www.grants.gov*. Click on ''Find Grant Opportunities,'' then on ''Basic Search,'' and enter Paul S. Sarbanes Transit in Parks Program as the keyword. Submissions will also be accepted by e-mail, mail, or fax to: Vanessa Williams, Office of Program Management, FTA, 202–366–2053, fax: 202–366–7951, e-mail: *SarbanesProgram@dot.gov*, mail: 1200 New Jersey Ave., SE.; E44–417; Washington, DC 20590. The required project proposal template is available at grants.gov and on the program Web site at *http://www.fta.dot.gov/Transit_in_Parks_Program.*

FOR FURTHER INFORMATION: Contact Vanessa Williams, Office of Program Management, FTA, 202–366–2053, e-mail: *vanessa.williams@dot.gov.* Applicants may also contact the following Transit in Parks Program points of contact at the Federal land management agencies:

- *National Park Service:* Mark H Hartsoe, *Mark_H_Hartsoe@nps.gov*; tel: 202–513–7025, fax: 202–371–6675, mail: 1849 C Street, NW. (MS2420); Washington, DC 20240–0001.
- *Fish and Wildlife Service:* Nathan Caldwell, *nathan_caldwell@fws.gov*, tel: 703–358–2205, fax: 703–358–2517, mail: 4401 N. Fairfax Drive, Room 634; Arlington, VA 22203.
- *Forest Service:* Ellen LaFayette, *elafayette@fs.fed.us*, tel: 703–605–4509, cell: 703–472–2456, fax: 703–605–1542, mail: 1400 Independence Avenue, SW.; Washington, DC 20250–1101. FedEx: USDA Forest Service, Engineering Suite RPC 500, 1601 N. Kent Street, Arlington, VA 22209.
- *Bureau of Land Management:* Linda Force, *linda_force@blm.gov*, tel: 202–452–5110, fax: 202–452–5046, mail: 1849 C Street, NW.; Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

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I. General Program Information

A. Authority

Section 3021 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users of 2005 (SAFETEA–LU), as amended established the Paul S. Sarbanes Transit in Parks Program (Transit in Parks Program) (49 U.S.C. 5320). SAFETEA–LU authorized $96.9 million in funding for the program for FYs 2006 through 2009. SAFETEA–LU authorized $26.9 million for FY 2009. Availability of funding is subject to congressional appropriations, which have not yet been finalized for FY 2009. No one project may receive more than 25 percent of available funds.

B. Background

Congestion in and around parks and public lands causes traffic delays and noise and air pollution that substantially detract from the visitor's experience and the protection of natural resources. In August 2001, the Department of Transportation (DOT) and DOI published a comprehensive study of alternative transportation needs in national parks and related Federal lands. The study identified significant alternative transportation needs at sites managed by the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service. Additionally, a supplement to this report identified Forest Service sites that would benefit from such services.

Section 3021 of SAFETEA–LU (49 U.S.C. 5320) addresses these needs by establishing a new program to fund alternative transportation projects in national parks and other Federal lands. The goals of the program are to:

- Conserve natural, historical, and cultural resources;
- Reduce congestion and pollution;
- Improve visitor mobility and accessibility;
- Enhance visitor experience; and
- Ensure access to all, including persons with disabilities.

C. Eligible Applicants

(1) Federal land management agencies that manage an eligible area, including but not limited to the National Park Service, the Fish and Wildlife Service, the Bureau of Land Management, the Forest Service, and the Bureau of Reclamation; and

(2) State, tribal and local governments with jurisdiction over land in the vicinity of an eligible area, acting with the consent of a Federal land management agency, alone or in partnership with a Federal land management agency or other governmental or non-governmental participant. If the applicant is a State, tribal, or local government, a letter from the unit(s) of the Federal land management agency or agencies affected expressing support for the project should be submitted with the project proposal.

Note: An eligible area is any federally owned or managed park, refuge, or recreational area that is open to the general public, including a unit of the National Park System, a unit of the National Wildlife Refuge System, a recreational area managed

by the Bureau of Land Management, a recreational area managed by the Bureau of Reclamation, and a unit of the National Forest System.

D. Eligible Expenses

SAFETEA–LU defines alternative transportation as ''transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service. Such term also includes a non-motorized transportation system (including the provision of facilities for pedestrians, bicycles, and non-motorized watercraft).''

A qualified project is a planning or capital project in or in the vicinity of a Federally-owned or managed park, refuge, or recreational area that is open to the general public and meets the goals of the program. Operating expenses are not eligible under the program. A project proposal may include up to 15 percent for project administration, contingency, and oversight. As specified in 49 U.S.C. 5320(b)(5), the following types of projects are eligible:

Planning

1. Activities to comply with metropolitan and statewide planning provisions. (49 U.S.C. 5320(b)(5)(A) referencing 49 U.S.C. 5303, 5304, 5305).

2. Activities include planning studies for an alternative transportation system including evaluation of no-build and all other reasonable alternatives, traffic studies, visitor utilization studies, transportation analysis, feasibility studies, and environmental studies.

Capital

1. General Capital Expenses for Alternative Transportation System Projects:

a. Eligible capital projects include all aspects of ''acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;''

b. Capital projects may include those projects operated by an outside entity, such as a public transportation agency, state or local government, private company engaged in public transportation, or private non-profit organization; and,

c. Projects may also include the deployment/commercialization of alternative transportation vehicles that introduce innovative technologies or methods.

2. ''Fixed Guideway'' and Bus Projects:

a. The SAFETEA–LU legislation includes language allowing eligibility of ''fixed guideway'' projects. These are defined as those transportation projects that run on a dedicated right of way, like a light rail, trolley, bus rapid transit, or any type of ferry system. For these types of projects, eligible projects can include:

i. Development of a new fixed guideway project;

ii. Rehabilitation or modernization of existing fixed guideway systems; and,

iii. Expansion of existing systems.

b. For bus or shuttle projects, eligible projects can include:

i. Purchase of buses and related equipment;

ii. Replacement of buses and related equipment;

iii. Rehabilitation of buses and related equipment;

iv. Construction of bus-related facilities such as bus shelters; and,

v. Purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on August 10, 2005, with clean fuel vehicles.

3. The Transit in Parks Program specifically includes these other eligible capital projects:

a. The capital costs of coordinating Federal land management agency public transportation systems with other public transportation systems.

b. Non-motorized transportation systems (including the provision of facilities for pedestrians, bicycles and non-motorized watercraft).

c. Water-borne access systems within or in the vicinity of an eligible area as appropriate and consistent with 49 U.S.C. 5320.

d. Any other alternative transportation project that

i. Enhances the environment;

ii. Prevents or mitigates an adverse impact on a natural resource;

iii. Improves Federal land management agency resource management;

iv. Improves visitor mobility and accessibility and the visitor experience;

v. Reduces congestion and pollution (including noise pollution and visual pollution); or

vi. Conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

In order to be considered for funding, a project must consist of one or more of the eligible activities listed above, meet the definition of alternative transportation, and contribute to the goals of the program.

Lease vs. Purchase

The capital cost of leasing vehicles is an eligible expense under the program. For vehicle acquisition projects, sponsors should compare the cost-effectiveness of leasing versus purchasing vehicles. Leasing may be particularly cost effective in circumstances in which transit service is only needed during a peak visitation period that lasts only a few months. In these cases, leasing a vehicle for a few months during the year may be less expensive than purchasing a vehicle only used for a few months during the year. An award can cover the capital cost of leasing vehicles but not the cost of operations, such as fuel or driver's salary.

Project sponsors should also compare the cost effectiveness of providing service versus contracting for service. The capital portion of contracted service is an eligible capital expense under the program. For example, if a public land agency contracts with a private bus company to provide shuttle service with privately owned buses, the portion of the contract that covers the capital expense of the buses is an eligible expense under the Transit in Parks Program. Operating expenses are not eligible under the program. Project sponsors will be asked to compare the cost-effectiveness of their preferred option to other alternatives in the financial sustainability portion of the proposal.

E. Proposal Evaluation Criteria and Other Considerations

It is anticipated that the demand for financial assistance through the Transit in Parks Program will significantly exceed the funds available, and thus the selection process will be highly competitive. Project proposals will be evaluated based on how well the proposed project would meet the goals of the program identified in the legislation and in section I B of this notice. The criteria below, which are consistent with the considerations identified in 49 U.S.C. 5320(g)(2), aid evaluators in determining how well projects would meet these goals. The application template contains specific questions related to each of these criteria to guide the applicant in justifying the project. Proposed capital projects will be evaluated based on the following criteria:

- Demonstration of Need:
  - Visitor mobility and experience current or anticipated problem; and
  - Environmental current or anticipated problem.
- Visitor Mobility and Experience Benefits of Project:
  - Reduced traffic congestion;
  - Enhanced visitor mobility, accessibility, and safety; and
  - Improved visitor education, recreation, and health benefits.
- Environmental Benefits of Project:
  - Protection of sensitive natural, cultural, and historic resources; and
  - Reduced pollution (air, noise, visual).
- Financial Sustainability and Operational Efficiency:
  - Effectiveness in meeting management goals;
  - Realistic financial plan;
  - Cost effectiveness; and
  - Partnering, funding from other sources, innovative financing.

Proposed planning projects will be evaluated based on the following criteria:

- Demonstration of Need:
  - Visitor mobility and experience current or anticipated problem; and
  - Environmental current or anticipated problem.
- Methodology for Assessing Visitor Mobility and Experience Benefits of Project:
  - Reduced traffic congestion;
  - Enhanced visitor mobility, accessibility, and safety; and
  - Improved visitor education, recreation, and health benefits.
- Methodology for Assessing Environmental Benefits of Project:
  - Protection of sensitive natural, cultural, and historical Resources; and
  - Reduced pollution (air, noise, visual).
- Methodology for Assessing Operational Efficiency and Financial Sustainability of Alternatives:
  - Effectiveness in meeting management goals;
  - Realistic financial plan;
  - Cost effectiveness; and
  - Partnering, funding from other sources.

A special note on non-motorized transportation systems: While non-motorized systems, such as trails, are eligible under the program, not all non-motorized systems will meet the goals of the program needed to be considered for funding. Like motorized systems, in order to be considered for funding, non-motorized systems must reduce or mitigate the number of auto trips by providing an alternative to travel by private auto. In addition, non-motorized systems must provide a high degree of connectivity within a transportation system. Finally, they should improve safety for motorized and non-motorized transportation system users.

Additional consideration will be given to projects based upon geographic diversity, balance between urban and rural projects, and balance in size of projects.

The program of projects may also be balanced by type of project, as categorized below, to best show accomplishments from the program.

- New alternative transportation systems—to show new systems made possible by this new program.
- Expansion or enhancement of an existing alternative transportation system—to demonstrate improvements and expansions enabled by the program.
- Rehabilitation or replacement of vehicles or facilities of existing alternative transportation systems—to support and sustain existing meritorious systems into the future.
- Planning studies—to prepare for new systems that can be funded in future years.

II. Guidelines for Preparing and Submitting Proposals

Applicants are encouraged to submit proposals through the Federal government-wide electronic grants Web site at *http://www.grants.gov.* Click on ''Find Grant Opportunities,'' then on ''Basic Search,'' and enter Paul S. Sarbanes Transit in Parks Program as the keyword. Submissions will also be accepted by e-mail, mail, or fax to the Federal Transit Administration using the contact information found in the **ADDRESSES** section of this notice. The required project proposal template as well as guidance on completing a proposal can be found on grants.gov and on the program Web site at *http://www.fta.dot.gov/Transit in Parks Program.* There are separate proposal templates for planning and capital (''implementation'') projects. Project proposals must adhere to the page limits listed on the proposal templates.

A ''Webinar''-style workshop to provide information on the program and guidance on how to apply will be held on February 4, 2009 EST. Check the Web site at *http://www.fta.dot.gov/Transit in Parks Program* for more details. If you do not have adequate Internet access you may request hard copies of the Webinar presentations and information on how to phone-in to the Webinar from Vanessa Williams at 202–366–2053, e-mail: *vanessa.williams@dot.gov.*

Applicants must reapply each year; however an applicant may also propose a project that would expend money in multiple years even though the award is from one year's worth of appropriated Transit in Parks Program funds. The project would, however, need to be ready to begin and need to be completed in a reasonable period of time, as evaluated on a case by case basis. In sum, the period of performance of the award is separate from the year of funds of the award.

III. Selection and Notification

FTA will announce project selections in the **Federal Register** in the latter part of FY 2009. DOI will notify each Federal land management agency of projects awarded for sites under the agency's jurisdiction. The **Federal Register** will include the list of all selected projects and funding levels.

IV. Additional Program Information

A. Funds Administration

Once proposals have been reviewed and projects have been selected, FTA will award funds to the lead project sponsor to implement the project. These funds will be administered according to Federal requirements as well as the appropriate policies, guidelines and rules of the pertinent agencies.

For projects directly administered by a Federal land management agency, these funds will be administered by an interagency agreement between FTA and the respective agency. For programs administered by a State, tribal, or local governmental authority, these funds will be administered through a grant administered by FTA.

B. Program Requirements and Oversight

The requirements for recipients of funding through the program can be found at *http://www.fta.dot.gov/Transit in Parks Program* under ''Requirements for Recipients of Funding.'' This document also describes the oversight FTA will provide for this program.

C. Performance Measures

In order to allow FTA to compute aggregate program performance measures as required by the President's Management Agenda, FTA requests that all recipients of funding for capital projects under the Transit in Parks Program submit the following information annually:

- Annual visitation to the land unit;
- Annual number of persons who use the alternative transportation system (ridership/usage);
- An estimate of the number of vehicle trips mitigated based on alternative transportation system usage and the typical number of passengers per vehicle;
- Cost per passenger; and,

• A note of any special services offered for those systems with higher costs per passenger but more amenities.

Federal land management agencies should send this information as part of their fourth quarter report. Examples can be found on the program Web site at *http://www.fta.dot.gov/Transit* in Parks Program.

All planning documents that result from Transit in Parks Program funding must be submitted to FTA within thirty days. These should also be submitted to Vanessa Williams.

D. Technical Assistance

FTA has established a technical assistance program to assist participants in planning, implementing, and evaluating alternative transportation projects. As part of FTA's technical assistance efforts, FTA is in the process of establishing a National Alternative Transportation Technical Assistance Center which will carry out multiple planning, research and technical assistance initiatives. FTA anticipates that the Center will be operational by March 2009. For more information regarding the Technical Assistance Center, contact Julie Atkins, Office of Planning and Environment, at 202–366–4491, e-mail: *Julie.atkins@dot.gov.*

In addition, a limited number of technical assistance visits are available to assist potential project sponsors in the initial stages of planning. Project sponsors or potential project sponsors may contact the relevant Federal land management agency headquarters contact (see **ADDRESSES** section) to request technical assistance.

Issued in Washington, DC, this 14th day of January, 2009.

Sherry E. Little,

Acting Administrator.

[FR Doc. E9–1258 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket FTA–2009–0003]

Notice of Proposed Policy Statement for Eligible New Freedom Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Federal Transit Administration (FTA) is proposing to expand the type of projects it considers to be ''beyond the ADA'' and thus increase the types of projects eligible for funding under the New Freedom program. Under the proposed interpretation, new and expanded fixed route and demand responsive transit service designed to meet the needs of individuals with disabilities would be eligible projects.

DATES: FTA must receive all comments by February 23, 2009. FTA will consider late-filed comments to the extent practicable.

ADDRESSES: To ensure your comments are not entered more than once into the Docket, please identify your submissions with the following Docket No. FTA–2009–0003. Please make your submissions by only one of the following means:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

U.S. Post or Express Mail: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Ave., SE., Washington, DC 20590.

Hand Delivery: The West Building of the U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name (Federal Transit Administration) and the Docket number (FTA–2009–0003) at the beginning of your comment. You should include two copies of your comment if you submit it by mail. If you wish to receive confirmation that FTA received your comment, you must include a self-addressed stamped postcard. Note that FTA will post all comments that it receives, including any personal information provided therein, without change to *http://www.regulations.gov.*

Due to security procedures in effect since October 2001 regarding mail deliveries, mail received through the U.S. Postal Service may be subject to delays. Anyone submitting a comment responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Graves, Attorney-Advisor, Legislation and Regulations Division, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave., SE., Washington, DC 20590, phone: (202) 366–4011, fax: (202) 366–3809, or e-mail, *Bonnie.Graves@dot.gov;* or David Schneider, same address, (202) 493–0175, or e-mail, *David.Schneider@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The New Freedom Program (49 U.S.C 5317) was established to fund capital and operating expenses that support new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act (ADA), in order to assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

When developing guidance for the New Freedom program, FTA initially proposed that ''new public transportation services'' and ''public transportation alternatives beyond those required by the ADA'' be considered separate categories of service. (*See* 71 FR 13456, Mar. 15, 2006). Subsequent to this notice, FTA received feedback from the Congressional authors of the New Freedom program that projects that do not meet both criteria—new and beyond the ADA—are not eligible for funding.

FTA also determined that projects are ''beyond the ADA'' only if they allow a recipient to exceed its obligations under the ADA. For example, because the ADA and its implementing regulations at 49 CFR parts 37 and 38 provide very specific minimum requirements for complementary paratransit service when an agency provides fixed route service, New Freedom funds can be used to expand the scope of ADA complementary paratransit service beyond the minimum requirements stipulated in the ADA regulations at 49 CFR part 37. On the other hand, the ADA does not require that a minimum level of public transit service be provided in any given area. Once service is provided, however, it must be ADA compliant, so FTA determined that projects to establish or expand fixed route or demand responsive service would not result in an agency exceeding its obligations under the ADA, and therefore would not be eligible for New Freedom funding. This interpretation was conveyed in subsequent **Federal Register** notices on the New Freedom program (71 FR 52610, Sept. 6, 2006, and 72 FR 14851, Mar. 29, 2007) and in the Frequently Asked Questions document on FTA's website: *http://www.fta.dot.gov/funding/grants/grants_financing_3549.html.*

Over the past several months, grant recipients have expressed concerns that FTA's interpretation of which projects go ''beyond the ADA'' prevents agencies in rural and small urbanized areas with limited public transportation service from using New Freedom funds to provide new fixed route or demand response service targeted to meet the

needs of people with disabilities. Stakeholders argue that these types of projects do go ''beyond the ADA'' because they represent transportation services that are not required under the Act or under the U.S. DOT ADA implementing regulations.

Although stakeholders in areas with limited public transportation service can use New Freedom funds to implement new alternatives to public transportation, such as accessible taxis, travel training, and mobility management, many potential recipients have informed FTA that their greatest need is for new fixed route or demand responsive transportation services for people with disabilities.

Proposed FTA Policy

FTA proposes that new or expanded fixed route service and new or expanded demand response service would be eligible for New Freedom funding provided that:

(1) The service is identified in the locally developed, coordinated public transit-human services transportation plan;

(2) The service is designed to meet the needs of individuals with disabilities;

(3) The service removes barriers to transportation and assists persons with disabilities with transportation;

(4) The service was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Program (TIP) or the State Transportation Improvement Program (STIP); and

(5) The service is not designed to allow an agency to meet its obligations under the ADA or the DOT ADA implementing regulations at 49 CFR parts 37 and 38.

This policy change retains the existing requirement that services under the program be ''new'' services and adopts the interpretation voiced by transportation providers that transit services other than those that are required to be implemented under the ADA go ''beyond the ADA.'' Examples of newly eligible projects would be fixed route service extended to serve a congregate living facility or a workplace serving large numbers of individuals with disabilities; new or expanded demand responsive service, including new hours or days of operation, or increased geographic coverage, to meet the needs of individuals with disabilities. FTA encourages transit providers to include the general public in any service that is added, that is, that providers not create new ''silo'' transportation that is limited to individuals with disabilities. FTA also notes that expanded fixed route service may result in expanded ADA complementary paratransit service; since the ADA complementary paratransit service is required under the ADA, it would not be eligible for New Freedom funding. All new or expanded fixed route and demand responsive services funded under the New Freedom program will be subject to the requirements of the ADA and DOT ADA implementing regulations.

Issued in Washington, DC, this 15th day of January 2009.

Severn E.S. Miller,

Acting Deputy Administrator.

[FR Doc. E9–1412 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Modification of Special Permit.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Request of modifications of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' demote a modification request. There applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before February 9, 2009.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, Southeast, Washington, DC or at *http://dms.dot.gov*.

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

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

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

MODIFICATION SPECIAL PERMIT

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
10869–M	Norris Cylinder Company, Longview, TX.	49 CFR 173.301(b); 173.302(a)(5); 173.304(a); 175.3.	To modify the special permit to authorize an increase of 2 inches to the length of the cylinder.	
11646–M	Bioclean System & Supply, Inc., Moundsview, MN.	49 CFR 173.28(b)(2); 173.150(f)(3)(vii).	To modify the special permit to authorize an additional Class 8 hazardous material and an alternative method of product transfer.	

MODIFICATION SPECIAL PERMIT—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
11666–M	Alcoa, Inc., Pittsburgh, PA.	49 CFR 173.240(b)	To modify the special permit to authorize the addition of intermodal containers and unitizing the electrodes with steel banding to wooden runners or to wooden pallets.	
11818–M	Space Systems/Loral, Palo Alto, CA.	49 CFR 180.205	To modify the special permit to authorize the transportation in commerce of a Class 9 material.	
14467–M	Brenner Tank, LLC Fond Du Lac, WI.	49 CFR 178.345–2	To modify the special permit to authorize relief from minimum thickness tables for duplex stainless steels used in the construction of DOT–400 series specification cargo tanks.	
14649–M	Olin Corporation, Winchester Division, East Alton, IL.	49 CFR 173.62(b), 172.10 1 column (8C), 173.60(b)(8), 172.300 and 172.400.	To modify the special permit to authorize an additional Division 1.4C hazardous material.	

[FR Doc. E9–1175 Filed 1–22–09; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the 'Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before February 23, 2009.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, Southeast, Washington, DC or at *http://dms.dot.gov.*

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 12, 2009.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

NEW SPECIAL PERMITS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
14796–N		Chammas Cutters Inc., Houston, TX.	49 CFR 173.228	To authorize the transportation in commerce of non-DOT specification cylinders containing Bromine trifluoride. (modes 1, 2, 3, 4, 5)
14797–N		Department of Energy, Washington, DC.	49 CFR 173.416 and 173.417.	To authorize the continued use of DOT 6M packages for the transportation in commerce of radioactive materials. (mode 1)
14798–N		Cymaco NV	49 CFR 173.302a(b) and 180.205.	To authorize the ultrasonic examination of certain DOT specification cylinders in lieu of the specified internal visual examination and hydrostatic pressure test and to allow the plus marking without determining the elastic expansion by the water jacket method. (modes 1, 2, 3, 4, 5)
14799–N		Takata-Petri CCI	49 CFR 173.30 1(a) and 173. 302a.	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders similar to a OT 39 cylinder for use as components of safety systems. (modes 1, 2, 3, 4)

NEW SPECIAL PERMITS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
14801–N	.....	CVS Transportation, L.L.C., Woon-socket, RI.	49 CFR 171.8 Materials of Trade.	To authorize the transportation in commerce of certain hazardous materials as Materials of Trade when transported by a dedicated contract carrier and meet all the provisions of 49 CFR 173.6. (mode 1)
14802–N	.....	Sporting Arms and Ammunition Manufacturers' Institute, Inc. Newtown, CT.	49 CFR 173.6	To authorize the transportation in commerce of certain Division 1.4S explosives under the Materials of Trade exception in 49 CFR 173.6. (mode 1)

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. RSPA–00–8026 (PD–26(R))]

Massachusetts' Definitions of Hazardous Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of administrative determination of preemption.

Applicant: Boston and Maine Corporation (Boston and Maine).

Local Laws Affected: Massachusetts General Laws (M.G.L.) chapter 21 E, section 2 (ch. 21 E); and chapter 21 K, section 1 (ch. 21 K).

Applicable Federal Requirements: The Federal Hazardous Material Transportation Law (Federal Hazmat Law), 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180.

Modes Affected: Rail and Highway.

SUMMARY: The Federal Hazmat Law does not preempt the definitions of ''hazardous material'' in M.G.L. chs. 21 E and 21 K. As applied and enforced, the challenged provisions of Massachusetts' laws are not an ''obstacle'' to accomplishing and carrying out the Federal Hazmat Law, the HMR, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security. Because a regulated entity may comply with the State and Federal requirements at the same time the Massachusetts' laws are not preempted under the ''dual compliance'' test. These definitions and State requirements also do not concern any of the five subject areas in which State Authority is expressly preempted by the Federal Hazmat Law, and State enforcement of these laws does not otherwise frustrate Congressional intent.

FOR FURTHER INFORMATION CONTACT: Thomas D. Seymour, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, (202) 366–4400, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room E26–322, Washington, DC 20590; e-mail: *tom.seymour@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Issues Under Consideration

In this determination, PHMSA considers the definitions of ''hazardous material'' as contained in M.G.L. chs. 21 E and 21 K. Chapter 21 E and entitled ''Massachusetts Oil and Hazardous Materials Release Prevention and Response Act'' to be parallel with the Federal Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.* (''CERCLA'' or ''Superfund law''). Chapter 21 K, ''Mitigation of Hazardous Materials,'' governs the State's emergency mitigation response to a release, or threat of release, of materials determined by the state to pose a risk of contamination to the local environment. This statute authorizes the Massachusetts Department of Fire Services to deploy personnel and equipment for emergency mitigation response caused by a release, or threat of release, of materials determined to be a potential environment contaminant. Chapter 21 K also provides for the dispatch of trained personnel to evaluate a potential risk of contamination to the environment.

Both M.G.L. chs. 21 E and 21 K use the term ''hazardous material'' to refer to substances triggering the laws' requirements. Under Chapter 21 E a ''hazardous material'' is defined as:

> A material including but not limited to, any material, in whatever form, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed.

Chapter 21 K contains the same definition except that it expressly identifies ''oil'' as a hazardous material.

II. Background

A. Summary of Facts

On June 27, 1999, six railcars from a Boston and Maine train derailed in the Charlemont, MA area, causing an unidentified material to leak into the ground and nearby Deerfield River. The Charlemont Fire Department responded to the incident and, when it could not identify the material, called the Massachusetts Hazardous Material Response Team. When the Response team identified the material, and determined it did not pose a risk to the environment, the team abandoned further cleanup efforts and turned the scene over to Boston and Maine's personnel.

Massachusetts later presented an invoice to Boston and Maine for the cost of the response and the discontinued cleanup. Boston and Maine objected and sought relief through state administrative procedures. Subsequently, Boston and Maine filed a complaint in Massachusetts Superior Court for Middlesex County, alleging errors in law associated with the Massachusetts Department of Fire Services' assessment of the response costs. While the State civil action was pending, Boston and Maine filed the present request for an Administrative determination of preemption. (The petition was filed with the Research and Special Programs Administration (RSPA) the predecessor of the Pipeline and Hazardous Materials Safety Administration (PHMSA)). For ease of reading, this publication will refer to PHMSA in describing the agency's conduct during this proceeding.

B. Application for Preemption

Boston and Maine applied for a determination of preemption, contending the Federal Hazmat Law preempts the definitions of ''hazardous material'' contained in M.G.L. chs. 21 E and 21 K. Boston and Maine makes three arguments for preemption: (1) The definitions of ''hazardous material'' in the Massachusetts laws are not substantively the same as those in the Federal Hazmat Law; (2) the definitions pose an obstacle to the uniform regulation of transportation; and (3) by passing 49 U.S.C. 5125(b), Congress intended the Federal Hazmat Law to encompass all aspects of a response to a release or threat of release of a hazardous material while in transportation.

On November 16, 2000, PHMSA published a Notice in the **Federal Register** inviting interested parties to comment on the application (65 FR 69365). In response to requests from Massachusetts, and to give the parties an opportunity to research and analyze the issues, PHMSA twice extended the time for public comment (65 FR 79458 (Dec. 19, 2000), 66 FR 8845 (Feb. 2, 2001)).

C. Federal Preemption

In the absence of a waiver of preemption by DOT (49 U.S.C. 5125(e)) or a grant of specific authority in another Federal law, the Federal Hazmat Law preempts a requirement of a State, political subdivision of a State, or Indian tribe if:

(1) Complying with a requirement of the State, political subdivision or tribe and a requirement of this chapter or a regulation issued under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security is not possible; or

(2) The requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter or a regulation prescribed under this chapter or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security (49 U.S.C. 5125(a)).

The two paragraphs in 49 U.S.C. 5125(a) set forth the ''dual compliance'' and ''obstacle'' tests. Prior to the 1990 codification of these two tests, PHMSA applied the tests when issuing inconsistency rulings under the original preemption provisions in the Hazardous Materials Transportation Act (HMTA) (Pub. L. 93–633, 112(a), 88 Stat. 2161 (1975)). The two tests evolved from U.S. Supreme Court decisions (See *Hines* v. *Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.*, 435 U.S. 151 (1978)).

PHMSA also has preemption authority under a ''substantively the same'' test (49 U.S.C. 5125(b)(1)). A non-Federal requirement concerning any of the subjects listed in 49 U.S.C. 5125(b)(1), which is not ''substantively the same as'' a provision of the Federal Hazmat Law or a regulation prescribed under that law, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security, is preempted unless the non-Federal requirement is authorized by another Federal law or DOT grants a waiver of preemption. Section 5125(b)(1) of 49 U.S.C. lists the following categories:

(A) The designation, description, and classification of hazardous material;

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; and

(E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

These areas ''are critical both to the safe transportation of hazardous materials and the free flow of commerce,'' and any non-Federal law or requirement falling within one of these areas creates an obstacle if the non-Federal requirement is substantively different (PD–23 (RF); *Morrisville, PA, Requirements for Transportation of ''Dangerous Waste,'' Decision on Petition for Reconsideration*, 67 FR 2948, 2949 (Jan. 22, 2002), internal quotes omitted). The non-Federal requirement must ''conform in every significant respect to the Federal requirement to be considered substantively the same. Editorial and other similar *de minimis* changes are permitted'' (49 C.F.R. 107.202(d)).

The preemption provisions in 49 U.S.C. 5125 are intended to promote the safe movement of goods in interstate commerce by ''preclude[ing] a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation'' (S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974)). When amending the HMTA in 1990, Congress specifically found:

(1) Many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(2) Because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(3) In order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable (Pub. L. 101–615, 2, 104 Stat. 3244).

Uniformity is the ''linchpin'' in the design of the HMTA, including the 1990 amendments expanding the original preemption provisions (*Colorado Pub. Util. Comm'n* v. *Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991)). (In 1994, Congress revised, codified, and enacted the HMTA ''without substantive change,'' at 49 U.S.C. Chapter 51 (Pub. L. 103–272, 108, Stat. 745)).

Any person directly affected by a non-Federal law or regulation may apply to the Secretary of Transportation for a determination whether a State, local or tribal requirement is preempted (49 U.S.C. 5125(d)(1)). The Secretary of Transportation delegated to PHMSA the authority to make determinations of preemption concerning hazardous materials transportation issues, except for issues concerning highway routing, which the Secretary delegated to the Federal Motor Carrier Safety Administration (49 CFR 1.53(b) and 1.73(d)(2)).

PHMSA Preemption determinations do not address issues of preemption arising under the Commerce Clause, the Fifth Amendment or other provisions of the Constitution. Preemption determinations issued by PHMSA also do not address questions arising under other Federal statutes unless it becomes necessary to determine whether the requirement questioned in the preemption request is authorized or required by another Federal law.

In making preemption determinations, PHMSA is guided by the principles of Federalism and the policies set forth in Executive Order No. 13132 (64 FR 43255 (August 10, 1999)). PHMSA may preempt a State law only if a Federal statute contains an express preemption provision, there is other clear evidence that Congress intended to

preempt State law, or the exercise of State authority directly conflicts with the exercise of Federal authority. The Federal Hazmat Law contains an express preemption provision at section 5125, and PHMSA implemented this provision through its regulations.

PHMSA must publish a notice of an application for a preemption determination in the **Federal Register** (49 U.S.C. 5125(d)(1)). Following the receipt and consideration of written comments, PHMSA must publish its determination in the **Federal Register** (49 CFR 107.209(d) and 107.211(d)).

D. Summary of Comments to Application for Preemption

Nufarm, Inc (Nufarm), and the National Tank Truck Carriers, Inc. (NTTC) provided comments in support of Boston and Maine's application (RSPA–2000–8026–8 and RSPA–2000–8026–10 respectively). Nufarm and NTTC urge PHMSA to declare the Massachusetts provisions preempted on the ground that the definitions in question are not substantively the same as the definition found in the Federal Hazmat Law.

PHMSA received comments in opposition to Boston and Maine's application from: (1) The Massachusetts Attorney General (AG), on behalf of (a) The Commonwealth of Massachusetts, (b) Massachusetts Department of Fire Services, and (c) Department of Environmental Protection; (2) the State of New York (Department of Environmental Conservation and the Attorney General); (3) the Fire Chief for Devens, Massachusetts; (4) the Fire Chiefs' Association of Massachusetts, Inc.; (5) the State of Vermont; (6) the State of Connecticut; and (7) the Massachusetts Public Interest Group (MASSPRG).

The Massachusetts AG argues the intention of Congress in passing the Federal Hazmat Law was not to preempt the entire field of a State's emergency response necessitated by the threat of environmental contamination. Accordingly, the AG argues, the State laws in question do not frustrate, and are not an obstacle to, the accomplishment of the goals of the Federal Hazmat Law or the regulations promulgated thereunder.

Likewise, the AG asserts that PHMSA should not find that the Federal Hazmat Law preempts State requirements under the dual-compliance test, because a person may simultaneously comply with both the Federal and non-Federal laws and regulations. MASSPRG agrees with the Commonwealth's dual-compliance argument (RSPA–2000–8026–12).

In the alternative, the AG challenges the applicability of the preemption standards. The AG contends that the Federal Hazmat Law has no application to the subjects addressed in M.G.L. Chs. 21 E and 21 K, because once a release occurs, the materials are no longer in transportation (See also letters from MASSPRG, The State of New York (RSPA–2000–8026–14); Deven's Fire Chief (RSPA–2000–80226–15) and the Fire Chiefs' Association of Massachusetts (RSPA–2000–8026–16)).

Lastly, the AG argues preemption is not appropriate because other Federal laws, such as CERCLA and Superfund Amendments and Reauthorization Act (SARA), title III, require States to respond to releases of potentially hazardous materials or environmental contaminants. The existence of such laws, the AG argues, shows Congress did not intend for the Federal Hazmat Law to apply to emergency response situations.

III. Discussion

A. ''Substantively the Same'' Test

In the Federal Hazmat Law, Congress provided for express preemption of a non-Federal requirement ''about * * * the designation, description, and classification of hazardous materials'' not ''substantively the same'' as the provisions of Title 49, Chapter 51 of the United States Code (49 U.S.C. 5125(b)). In order to fully evaluate Boston and Maine's claim, PHMSA must look at the goals and objectives of the Federal Hazmat Law and the State laws in question. When reviewing the goals and objectives of these laws, PHMSA ''start[s] with the assumption that the historic police powers of the States were not to be superseded by the Federal [Hazmat Law] unless that was the clear and manifest purpose of Congress'' *Rice* v. *Santa Fe Elevator Corp., 331 U.S. 218, 230 (1947)*. Physical cleanup after a release of a material is traditionally a police power of the State (Inconsistency Ruling No. 2; *State of Rhode Island Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended To Be Used by a Public Utility* (44 FR 75566, 75568, Dec. 20, 1979)).

The purpose of the Federal Hazmat Law is to ''provide adequate protection against the risk to life and property inherent in the transportation of hazardous materials in commerce'' (49 U.S.C. 5103(b)). Massachusetts General Law ch. 21 K is intended to provide for the quick, efficient, and effective cleanup of releases of environmental contaminants and the evaluation of threats of releases of materials possibly posing a threat to the environment. It provides the mechanism by which the State or private individuals may seek recompense for the costs of response and cleanup caused by a release of certain materials into the environment. The focus of ch. 21 K is environmental protection, not the transportation of hazardous materials.

Massachusetts General Law ch. 21 E focuses on the State response to, and cleanup of, a release of environmental contaminants and, to that end, requires the identification of materials that may contaminate the local environment. This statute allows proper state authorities to determine which materials cause, or might cause, a contamination to the local environment if released. The Federal Hazmat Law requires the DOT to also identify materials that pose a risk to the environment. However, in contrast to the Massachusetts laws, the Federal Hazmat Law endeavors to ensure that materials are transported without release. With a primary focus on preventing a release, the Federal Hazmat Law serves a more limited environmental role after a release that necessitates a cleanup or mediation. For example, if a release of a hazardous material occurs during transportation, the Federal Hazmat Law, through the HMR, ensures that first responders receive adequate information concerning the materials listed in the HMR, and it also requires the reporting of release information to the appropriate authorities.

The Massachusetts laws do not directly or indirectly affect or conflict with the transportation of hazardous materials or with transportation in general. The State's use of the term ''hazardous material'' to describe materials that may contaminate the local environment does not bring it into conflict with Federal law and is not a basis for preemption.

Given the distinct purposes served by the Federal Hazmat Law and the State laws, the lack of direct or indirect effect or conflict between them, and the States' traditional police powers in matters involving environmental protection, the Massachusetts laws are not preempted under 49 U.S.C. 5125(b). Accordingly, we need not address the question of whether a material remains in transportation after a release has occurred.

B. Obstacle Test

In applying the ''obstacle'' test, we consider any and all requirements imposed by the HMR, including those governing packaging; the marking and labeling of packages; and the reporting of a release occurring during

transportation. We next consider whether the non-Federal requirement ''as applied and enforced'' stands in the way of compliance with, or enforcement of, the Federal Hazmat Law.

The State laws currently under consideration provide authority to respond to a release or threat of release of materials that Massachusetts found to pose a risk to the soil, water, or environment of Massachusetts. These laws also allow for the cleanup of contaminants and the recovery of the cleanup and response costs. No evidence in the record suggests that ch. 21 E or 21 K, as applied and enforced, interferes with accomplishing the packaging, marking, labeling, reporting, or any other provision of the HMR. Neither Boston and Maine, nor any commenter, has alleged or shown Massachusetts to be applying or enforcing either ch. 21 E or 21 K in a manner imposing different or additional requirements on a carrier, or any other persons subject to the HMR. Accordingly, M.G.L. chs. 21 E and 21 K are not preempted by the Federal Hazmat Law by operation of the ''obstacle'' test.

C. Dual Compliance Test

For similar reasons, we do not find M.G.L. chs. 21 E or 21 K preempted under the ''dual compliance'' test. Nothing in those laws, including the subject definitions, affects either: (1) The manner in which a shipper must package, label, or mark a hazardous material for transportation; (2) the duties of a carrier when it accepts a shipment of hazardous materials complying with the HMR; or (3) a carrier's obligation to report a release of a material determined by the Secretary of Transportation to be a ''hazardous material.'' Therefore, the facts presented in this matter show a person can simultaneously comply with the requirements of the Federal Hazmat Law and the State laws.

D. Intent of Congress

Finally, we consider the contention of Boston and Maine that the Massachusetts laws fall within a regulatory field that Congress intended would be exclusively reserved to PHMSA. We conclude to the contrary. On matters concerning the physical response and cleanup of contamination, Congress left room for States and localities to exercise their traditional authority.

PHMSA enters this field in limited respects, imposing certain requirements related to the release of designated hazardous materials in or in connection with transportation. Other Federal agencies regulate aspects of releases or threats of releases of hazardous materials and any other materials posing a risk to the environment. Congress granted the Environmental Protection Agency (EPA), and Occupational Safety and Health Administration (OSHA) authority to regulate aspects of the response to a release or threat of release of hazardous materials. Furthermore, States have retained their traditional authority relating to the release or threat of release of materials occurring within State borders.

Under the Federal Hazmat Law, PHMSA promulgates regulations requiring a person offering hazardous materials for transportation to provide carriers with certain emergency response information to accompany the hazardous materials while in transportation. The mandatory information includes: (1) Information regarding the materials present in the shipment, (2) what hazards the materials may present, (3) how to treat the materials, (4) preliminary first aid measures, and (5) how to avoid risk of injury. This information is conveyed by the placarding of the transport vehicle, the marking and labeling of the packaging, and the content of shipping papers. PHMSA also regulates incident reporting and recording, prescribing when, how, and to whom reports must be made of hazardous materials releases occurring during transportation.

PHMSA has long recognized that the actual physical response and cleanup after a release of materials during transportation is a local responsibility. In Inconsistency Ruling No. 2; *State of Rhode Island Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended To Be Used by a Public Utility* (44 FR 75566, Dec. 20, 1979), PHMSA identified subjects as to which the need for national uniformity is so crucial and the scope of the HMTA (now Federal Hazmat Law) is so pervasive that State or local regulations would present obstacles to the HMTA. PHMSA also identified subjects as to which the Federal Hazmat Law and HMR did not (and still do not) apply. Specifically, PHMSA stated:

> Despite the dominant role that Congress contemplated for the Departmental standards, there are certain aspects of hazardous materials transportation that are not amenable to effective nationwide regulation. One example is safety hazards that are peculiar to a local area. * * * Another example is emergency response activity. Although the Federal Government can regulate in order to avert situations where emergency response is necessary, and can aid in local and State planning and preparing, when an accident does occur, response is, of necessity, a local responsibility (44 FR at 75568).

The HMR also prescribe requirements for written notification, recording, and reporting after a release of a material the Secretary of Transportation has deemed poses ''an unreasonable risk to health and safety or property'' when the material is in transportation or in storage incidental to its movement in transportation. The Secretary of Transportation lists these materials in 49 CFR 172.101. Even as to those materials, the Federal Hazmat Law does not authorize PHMSA to regulate the cleanup, assessment, remediation, evaluation of releases of such materials, or to seek reimbursement for the costs caused by a release of such materials.

In short, in the area of response and cleanup of materials released during transportation, the Federal Hazmat Law does not provide PHMSA authority that ''is so pervasive as to make reasonable the inference that Congress left no room for the state to supplement it.'' Accordingly, we do not find that the Massachusetts laws regulate a field reserved to PHMSA by Federal law and are not otherwise persuaded that in adopting the Federal Hazmat Law, Congress intended to preempt laws such as the Massachusetts laws under consideration here.

V. Ruling

The Federal Hazmat Law does not preempt Massachusetts' definitions of hazardous materials contained in M.G.L., Ch. 21 E, section 2 and Ch. 21 K, section 1 because these definitions relate solely to environmental response and cleanup requirements. The State requirements as applied and enforced are not an obstacle to accomplishing and carrying any provision of the Federal Hazmat Law, the HMR, or a transportation security regulation or directive issued by the Secretary of Homeland Security and do not concern any of the five subject areas reserved to federal jurisdiction under 49 U.S.C. 5125(b) or 49 CFR 171.202(a).

VI. Petition for Reconsideration/ Judicial Review

This determination is a final agency action upon publication in the **Federal Register** (49 CFR 107.209(c), as amended at 71 FR 30067 [May 25, 2006]), except with respect to a person who files a timely petition for reconsideration. In accordance with 49 CFR 107.211(a) (as amended at 71 FR 30068 [May 25, 2006]), a person aggrieved by this determination may file a petition for reconsideration within 20 days of publication of this

determination in the **Federal Register**. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review under 49 U.S.C. 5127(a).

A person who is adversely affected or aggrieved by a preemption determination may file a petition for judicial review of that determination in the United States Court of Appeals for the District of Columbia or in the Court of Appeals for the United States for the circuit in which the petitioner resides or has its principal place of business, within 60 days after the determination becomes final. 49 U.S.C. 5127(a).

Issued in Washington, DC on this 15th day of January, 2009.

David E. Kunz,

Chief Counsel.

[FR Doc. E9–1419 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–99–3599 (PD–19(R))]

New York State Department of Environmental Conservation Requirements on Gasoline Transport Vehicles

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of administrative determination of preemption.

Local Laws Affected: New York Codes, Rules and Regulations (NYCRR), Chapter 6, Sections 230.4(a)(3), 230.6(b) & (c).

Applicable Federal Requirements: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR Parts 171–180.

Modes Affected: Highway.

SUMMARY: Federal hazardous material transportation law does not preempt that part of 6 NYCRR 230.4(a)(3) requiring that a gasoline transport vehicle must be marked, near the U.S. DOT specification plate, with the date on which the tank was last tested for vapor tightness. Federal hazardous material transportation law preempts (1) the provisions in 6 NYCRR 230.4(a)(3) which require that the marking be a minimum two inches and contain ''NYS DEC''; (2) the requirement in 6 NYCRR 230.6(b) for maintaining a copy of the most recent pressure-vacuum test results with the gasoline transport vehicle; and (3) the requirement in 6 NYCRR 230.6(c) to retain pressure-vacuum test and repair results for two years, because these requirements are not substantively the same as requirements in the HMR on the marking, maintaining, repairing, or testing of a package or container that is represented, marked, certified, or sold as qualified for transporting hazardous material.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Background

A. Application

In this determination, PHMSA considers whether the Federal hazardous material transportation law preempts the following requirements of the New York State Department of Environmental Conservation (NYSDEC):

—Marking a gasoline transport vehicle, ''near with U.S. Department of Transportation certificate plate, in letters and numerals at least two inches high, which reads: NYS DEC and the date on which the gasoline transport vehicle was last tested'' for vapor tightness (6 NYCRR 230.4(a)(3));

—Maintaining a copy of the ''most recent pressure-vacuum test results * * * with the gasoline transport vehicle'' (6 NYCRR 230.6(b)); and

—Retaining test and repair records ''for two years after the testing occurred'' (6 NYCRR 230.6(c)).

In February 1998, the National Tank Truck Carriers, Inc. (NTTC) applied for a determination that the Federal hazardous materials transportation law preempts these marking and record keeping requirements. NTTC has not challenged the underlying requirement in 6 NYCRR 230.4(b) that gasoline transport vehicles undergo the annual pressure-vacuum test set forth in ''Reference method 27 in Appendix A of 40 CFR'' (EPA Method 27). NTTC also stated it has no quarrel with the requirement in 6 NYCRR 230.6(a) to ''maintain records of pressure-vacuum testing and repairs.''

In a notice published in the **Federal Register** on June 2, 1998 (63 FR 30032), the Research and Special Programs Administration (PHMSA's predecessor agency) [1] invited interested persons to submit comments on NTTC's application. In response to this notice, comments were submitted by NYSDEC; the environmental agencies of three other States (Connecticut, Delaware, and Pennsylvania); Region 2 of the U.S. Environmental Protection Agency (Region 2); and four industry associations: Association of American Railroads (AAR), Empire State Petroleum Association, Inc. (ESPA), National Propane Gas Association (NPGA), and Petroleum Marketers Association of America (PMAA). NYSDEC, NTTC, and AAR submitted rebuttal comments. PHMSA denied NYSDEC's request to formally extend or reopen the comment period, but advised NYSDEC that an interested person may always bring new developments or address a newly raised issue under the procedural regulations which provide that ''Late-filed comments are considered so far as practicable.'' 49 CFR 107.205(c).

In its application, NTTC stated that its members had received citations for violations of these requirements. ESPA confirmed that these requirements were being actively enforced and stated that, in January and February 1998, NYSDEC ''conducted separate enforcement details outside the ports of Albany and Rensselaer in upstate New York. Numerous citations were issued alleging the failure to post a mandated DEC label and the failure to keep a copy of the tank test results with the cargo tank or transport vehicle.''

PHMSA's decision on NTTC's application has been delayed in order for PHMSA to:

1. Consult with the U.S. Environmental Protection Agency (EPA) whether the NYSDEC marking and record keeping requirements are authorized by the Clean Air Act, 42 U.S.C. 7401 *et seq.*, EPA's December 1978 control technology guidance document ''Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems'' (EPA 1978 CTG), and Region 2's approval of New York's State Implementation Plan (SIP) (see 51 FR 21577 [June 13, 1986]), as contended by NYSDEC, the Connecticut, Delaware,

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[1] Effective February 20, 2005, PHMSA was created to further the ''highest degree of safety in pipeline transportation and hazardous materials transportation,'' and the Secretary of Transportation redelegated hazardous materials safety functions from the Research and Special Programs Administration (RSPA) to PHMSA's Administrator. 49 U.S.C. 108, as amended by the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108–426, § 2, 118 Stat. 2423 (Nov. 30, 2004)); and 49 CFR 1.53(b), as amended at 70 FR 8301–02 (Feb. 18, 2005). For consistency, the terms ''PHMSA'' and ''we'' are used in the remainder of this determination, regardless of whether an action was taken by RSPA before February 20, 2005, or by PHMSA after that date.

and Pennsylvania environmental agencies, and Region 2;

2. Attempt to resolve the issue concerning the marking requirements in 6 NYCRR 230.4(a)(3) by adding to the HMR a separate marking on a cargo tank which has been leakage tested under EPA Method 27 in order to ''establish a national, uniform marking requirement for cargo tanks tested for vapor tightness in accordance with EPA regulations instead of, or in addition to, the leak test procedures specified in the HMR.'' Final rule, ''Requirements for Cargo Tanks,'' 68 FR 19258, 19263 (Apr. 18, 2003).

3. Determine whether NYSDEC was still enforcing its marking and record keeping requirements after issuance of PHMSA's 2003 final rule adding the EPA Method 27 marking to the HMR.

NTTC has recently advised that NYSDEC is continuing to enforce its different marking provisions in 6 NYCRR 230.4(a)(3) and its record keeping requirements in 6 NYCRR 230.6(b) and (c). In October 2007, NTTC submitted a copy of a July 22, 2006 citation issued to one of its members for failing to maintain records of the pressure vacuum test on the vehicle and photographs of tank trucks marked ''NYS DEC'' plus the month and year of the most recent pressure-vacuum test. NTTC also stated that NYSDEC has not responded to inquiries about the present level of enforcement of these requirements.

Neither NTTC's application nor any of the comments indicate that NYSDEC has been actively applying the requirements for a pressure-vacuum test, or the marking and record keeping requirements challenged by NTTC, to rail tank cars used to transport gasoline or other petroleum products. PHMSA understands that relatively little gasoline is transported by rail. PHMSA's Office of Hazardous Materials Safety concluded that less than 1.5% of the tonnage of petroleum products moves by rail, in its 1998 study of ''Hazardous Materials Shipments.'' Based on the 2002 Vehicle Inventory Use Survey maintained by the U.S. Bureau the Census, PHMSA estimates that, in contrast, there are approximately 40,000 cargo tank motor vehicles in service which deliver some 332 million gallons of gasoline each day in the United States. While PHMSA understands that motor vehicle deliveries of gasoline are primarily local (traveling an average of 50 miles per trip), both NTTC and ESPA stated that gasoline tank trucks are regularly moved from southern states to the northeast in winter. ESPA also noted that ''it is common for gasoline and other petroleum transport vehicles in New York to switch cabs and cargo tanks for delivery,'' so that the test record must be transferred ''whenever a cab and a cargo tank are interchanged.'' The difficulty (if not impossibility) of maintaining test and repair records with a rail tank car is a final reason to assume that NYSDEC is not applying its marking and record keeping requirements to rail tank cars.

For these reasons, this determination considers the NYSDEC marking and recordkeeping requirements only as applied to motor vehicles and does not address whether Federal hazardous material transportation law preempts these requirements with respect to rail tank cars.

B. Cargo Tank Testing, Marking, and Recordkeeping Requirements in the HMR

The HMR contain requirements for the design, manufacture, and maintenance of the cargo tank on a motor vehicle used to transport gasoline, including marking the cargo tank to indicate when periodic testing has been performed and keeping records that the testing has been successfully performed. The requirements for maintenance and periodic testing of cargo tanks are contained in 49 CFR part 180, subpart E, which was added to the HMR in 1989. Final rule, ''Requirements for Cargo Tanks,'' 54 FR 24982 (June 12, 1989); delay of effective date, response to petitions for reconsideration and revisions, 55 FR 37028 (Sept. 7, 1990); corrections and revisions, 56 FR 27872 (June 17, 1991).

In this final rule, PHMSA required that a cargo tank used to transport gasoline or other petroleum products must undergo a leakage test and an external visual inspection every year, and an internal visual inspection and pressure test every five years. 49 CFR 180.407(c). The person performing or witnessing the required tests and inspections must be a registered inspector, familiar with DOT specification cargo tanks, and trained and experienced in the inspection and testing equipment utilized. 49 CFR 180.409. After completion of the required inspection or test, the cargo tank must be marked durably and legibly with the month and year of the test or inspection and the type of test or inspection performed; the marking must be at least 1.25 inches high and located near the specification plate or on the front head; and the following abbreviations are authorized:

V for external visual inspection and test
I for internal visual inspection
P for pressure test
K for leakage test

49 CFR 180.415.[2] Each test or inspection must be documented in a report containing certain required information, and the owner and the motor carrier (if not the owner) must retain a copy of the test and inspection reports until the next successful test or inspection of the same type. 49 CFR 180.417(b).[3] Records of any repairs to the cargo tank, ''including notation of any tests to verify the suitability of the repair,'' must be retained at the vehicle owner's principal place of business. 49 CFR 180.413(f). Repair records must be provided to a person who purchases or leases the cargo tank for more than 30 days. 49 CFR 180.417(d).

In the June 12, 1989 final rule, PHMSA specifically provided that ''Where applicable, the [EPA Method 27] is an acceptable alternative test'' for performing the leakage test. 49 CFR 180.407(h)(2), as adopted at 54 FR 25037. As revised in PHMSA's further final rule published in the **Federal Register** on April 18, 2003 (68 FR 19258, 19288), § 180.407(h)(2) currently provides that:

> (2) Cargo tanks used to transport petroleum distillate fuels that are equipped with vapor collection equipment may be leak tested in accordance with the Environmental Protection Agency's ''Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test,'' as set forth in Appendix A to 40 CFR part 60. Test methods and procedures and maximum allowable pressure and vacuum changes are in 40 CFR 63.425(e)(1). The hydrostatic test alternative, using liquid in Environmental Protection Agency's ''Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test,'' may not be used to satisfy the leak testing requirements of this paragraph. The test must be conducted using air.

In the April 18, 2003 final rule, PHMSA also amended the test and inspection marking requirements in § 180.415(b)(2) to add the abbreviation ''K–EPA27 for a cargo tank tested under § 180.407(h)(2) after October 1, 2004.'' *Id.* at 19290. In the preamble *id.* at 19263), PHMSA stated that this

> Special marking will allow an inspector to know the tank was tested using the EPA Method 27 test and also standardize the

[2] Cargo tanks used to transport corrosive materials must also undergo a lining inspection (if the tank is lined) or a thickness test (if the tank is unlined), and be marked ''L'' to indicate the lining inspection or ''T'' for the thickness test. 49 CFR 180.407(c), 180.415(b).

[3] Inspection and test records for Specification MC 330 and MC 331 cargo tanks must be retained by the carrier ''during the period the cargo tank is in the carrier's service and for one year thereafter,'' at the carrier's principal place of business or, with approval of the Federal Motor Carrier Safety Administration (FMCSA), at a regional or terminal office. 49 CFR 180.417(c)(2).

marking for tanks undergoing this test throughout the United States. RSPA's marking requirement will preempt state marking requirements for cargo tanks tested with the EPA Method 27 test, eliminating possible confusion by enforcement personnel attempting to verify that a cargo tank has met the HMR leak test requirements.

C. New York State Requirements

The New York State Commissioner of Transportation has adopted the HMR as state law, including the requirements in 49 CFR part 180 for the maintenance and testing of cargo tanks. 17 NYCRR 820.8(j). Prior to 2004, the requirements in the HMR were incorporated by reference in 17 NYCRR part 507. When the New York State Department of Transportation (NYSDOT) revised and relocated these provisions to 17 NYCRR part 820, it stated that its purpose was:

> To provide consistency, regarding commercial motor vehicles and operational requirements for drivers involved in commerce, with the standards and requirements of the Code of Federal Regulations that have been incorporated by reference and to provide clearer language to describe what is required to better preserve public safety.

NYS Register, Oct. 13, 2004, p. 16. In its earlier notice of proposed rulemaking on these changes, NYSDOT stated that:

> The update to these regulations is essential to prevent jeopardizing the 7 million dollars of federal funding New York State receives annually to perform commercial vehicle safety programs. This update ensures uniformity in enforcement efforts for those motor carriers traveling solely within New York State as well as for those carriers traveling through the State.

NYS Register, June 2, 2004, p. 24.[4] Under its ''Regulatory Flexibility Analysis'' (*id.*) NYSDOT added that:

> The updated regulations will be more consistent with federal requirements which will facilitate a better understanding of what is required of the drivers and motor carriers operating vehicles subject to both NYSDOT and USDOT safety requirements. In most cases, the Department has made its commercial vehicle safety regulations consistent with the current Federal requirements and State statutes. As a result, there will be less confusion for drivers and motor carriers operating in both intrastate and interstate commerce.

Authorized employees of NYSDEC, as well as NYSDOT, police officers (including the New York State Police) and FMCSA, must be afforded ''reasonable opportunity to enter vehicles or any place where hazardous materials are offered into commerce for the purpose of inspection to determine compliance with the provisions of this Part.'' 17 NYCRR 820.8(i).

Nonetheless, NYSDEC has adopted and applies separate regulations to a ''gasoline transport vehicle,'' defined as ''[a]ny tank truck, trailer or railroad tank car, with a capacity of 300 gallons or more, used for the transportation of gasoline.'' 6 NYCRR 230.1(b)(5). These regulations prohibit a gasoline transport vehicle from being filled or emptied unless the vehicle passes an annual vacuum-pressure test performed in accordance with EPA Method 27 and the vehicle ''displays a marking near the U.S. Department of Transportation certificate plate, in letters and numerals at least two inches high, which reads: NYSDEC and the date on which the gasoline transport vehicle was last tested.'' 6 NYCRR 230.4(a)(3), (b). The vehicle owner must retain records of pressure-vacuum testing and repairs for two years, and a ''copy of the most recent pressure-vacuum test results, in a form acceptable to the [NYSDEC] commissioner must be kept with the gasoline transport vehicle.'' 6 NYCRR 230.6(b), (c).

According to NYSDEC, these marking and record keeping requirements are part of its SIP promulgated pursuant to Section 110 of the Clean Air Act (42 U.S.C. 7410) which requires States to implement, maintain and enforce National Ambient Air Quality Standards (NAAQS) for specific pollutants, including ozone. NYSDEC stated that, ''[o]nce a SIP has been approved by EPA it becomes enforceable as a matter of Federal law,'' and the Clean Air Act ''specifically allows EPA to bring an enforcement action against any person who has violated or is in violation of any requirement or prohibition of a SIP.''

NYSDEC stated that part of its ''strategy to attain the NAAQS for ozone'' is the requirement in 6 NYCRR 230.4(b) to perform an annual pressure-vacuum test to determine that a gasoline transport vehicle is ''vapor-tight,'' pursuant to the suggestion in the EPA 1978 CTG. NYSDEC stated that its marking ''requirement had its genesis in the EPA's 1978 CTG document which suggested labeling the tank truck with the date of the vapor tightness inspection and the tank identification number.'' It did not indicate that the EPA 1978 CTG included any recommendation for requiring that the test results must be maintained on the gasoline transport vehicle itself, or that test and repair records must be retained for any specific period of time.

New York is a part of the Northeast ''ozone transport region'' (OTR) encompassing 11 States, the District of Columbia, and part of Virginia. See 42 U.S.C. 7511c(a). NYSDEC submitted copies of these States' regulations to support its assertion that all of the States in the Northeast OTR require gasoline transport vehicles to undergo a pressure-vacuum test and allow or require the use of EPA Method 27 as an acceptable means of performing the pressure-vacuum test. However, contrary to comments by NYSDEC and the Pennsylvania and Delaware environmental agencies, there is a remarkable lack of consistency among the marking and record keeping requirements of the States in the Northeast OTR. First of all, only NYSDEC and two other States in the Northeast OTC (Vermont and Massachusetts) specifically provide discretion to accept an ''equivalent certification in another State.''

In comparison to provisions on the size (2″) and lettering (''NYSDEC'') of the marking requirement in 6 NYCRR 230.4(c),

—Only three other States (Maine, Massachusetts, and Connecticut) specify that the marking on the vehicle include letters referring to the State environmental agency (*e.g.*, ''DEC'' or ''DEP'').
—Only two other States (Maine and Massachusetts) specify the size of the required marking (2″).
—Two States (Virginia and Maryland) specify that the marking contain the test expiration date, rather than the date that the most recent test was performed.
—One State (Maine) requires the marking in two places (on ''both the left and right bulkhead of the tank truck'').

In comparison to the NYSDEC record keeping requirements in 6 NYCRR 230.6(b) and (c), only four other States in the Northeast OTR (New Hampshire, Pennsylvania, New Jersey, and Delaware) require a copy of the test results to be carried on the vehicle. A total of seven states (including New York) require retention of repair records, and the retention period for test records in other States in the Northeast OTR varies from one year (Pennsylvania) to five years (Connecticut); three States do not specify a time period that test records must be retained.

II. Federal Preemption

As discussed in the June 2, 1998 notice, 49 U.S.C. 5125 contains express

[4] In accordance with 49 CFR part 350, States which adopt and enforce ''State safety laws and regulations that are compatible with'' the Federal Motor Carrier Safety Regulations, 49 CFR parts 390–397, and the HMR qualify for grants under the Federal Motor Carrier Safety Assistance Program (MCSAP). 49 CFR 350.201. FMCSA has advised that New York State received $7,399,535 in Basic and Incentive MCSAP grant awards for fiscal year 2008.

preemption provisions that are relevant to this proceeding. 63 FR at 30033–34. As amended by Section 1711(b) of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2320), 49 U.S.C. 5125(a) provides that—in the absence of a waiver of preemption by DOT under § 5125(e) or specific authority in another Federal law—a requirement of a State, political subdivision of a State, or Indian tribe is preempted if

(1) Complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security is not possible; or

(2) The requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.

These two paragraphs set forth the ''dual compliance'' and ''obstacle'' criteria that PHMSA had applied in issuing inconsistency rulings (IRS) prior to 1990, under the original preemption provision in the Hazardous Materials Transportation Act (HMTA). Public Law 93–633 § 112(a), 88 Stat. 2161 (1975). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz,* 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul,* 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.,* 435 U.S. 151 (1978).

Subsection (b)(1) of 49 U.S.C. 5125, as slightly revised in 2005,[5] provides that a non-Federal requirement concerning any of the following subjects is preempted—unless authorized by another Federal law or DOT grants a waiver of preemption—when the non-Federal requirement is not ''substantively the same as'' a provision of Federal hazardous material transportation law, a regulation prescribed under that law, or a hazardous materials security regulation or directive issued by the Secretary of Homeland Security:

(A) The designation, description, and classification of hazardous material.

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) The designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing of a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material.

To be ''substantively the same,'' the non-Federal requirement must conform ''in every significant respect to the Federal requirement. Editorial and other similar de minimis changes are permitted.'' 49 CFR 107.202(d).

The 2002 and 2005 amendments to the preemption provisions in 49 U.S.C. 5125 reaffirmed Congress's long-standing view that a single body of uniform Federal regulations promotes safety (including security) in the transportation of hazardous materials. More than thirty years ago, when it was considering the HMTA, the Senate Commerce Committee ''endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation.'' S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). When Congress expanded the preemption provisions in 1990, it specifically found that:

(3) Many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) Because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) In order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Public Law 101–615 § 2, 104 Stat. 3244. A United States Court of Appeals has found that uniformity was the ''linchpin'' in the design of the Federal laws governing the transportation of hazardous materials. *Colorado Pub. Util. Comm'n* v. *Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991).

Under 49 U.S.C. 5125(d)(1), any person (including a State, political subdivision of a State, or Indian tribe) directly affected by a requirement of a State, political subdivision or tribe may apply to the Secretary of Transportation for a determination whether the requirement is preempted. The Secretary of Transportation has delegated authority to PHMSA to make determinations of preemption, except for those that concern highway routing (which have been delegated to FMCSA). 49 CFR 1.53(b).

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. Following the receipt and consideration of written comments, PHMSA publishes its determination in the **Federal Register**. See 49 CFR 107.209. A short period of time is allowed for filing of petitions for reconsideration. 49 CFR 107.211. A petition for judicial review of a final preemption determination must be filed in the United States Court of Appeals for the District of Columbia or in the Court of Appeals for the United States for the circuit in which the petitioner resides or has its principal place of business, within 60 days after the determination becomes final. 49 U.S.C. 5127(a).

Preemption determinations do not address issues of preemption arising under the Commerce Clause, the Fifth Amendment or other provisions of the Constitution, or statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law, or whether a fee is ''fair'' within the meaning of 49 U.S.C. 5125(f)(1). A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n* v. *Harmon*, above, 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), PHMSA is guided by the principles and policies set forth in Executive Order No. 13132, entitled ''Federalism.'' 64 FR 43255 (Aug. 10, 1999). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other clear evidence that Congress intended to preempt State law, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which

[5] These revisions are contained in the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, which is Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, 119. Stat. 1891 (Aug. 10, 2005). Further editorial corrections to § 5125 were made in Section 302 of the SAFETEA–LU Technical Corrections Act of 2008, Public Law 110–244, 122 Stat. 1618 (June 6, 2008).

PHMSA has implemented through its regulations.

III. Discussion

The central issue to be resolved in this proceeding is whether the NYSDEC marking and recordkeeping requirements are ''authorized by another law of the United States.'' 49 U.S.C. 5125(a), (b)(1). While NYSDEC asserted that there are ''four issues'' to be considered, all of them appear to relate to and depend on the argument that its requirements are ''authorized by another law of the United States.'' NYSDEC stated that (1) there is ''no Federal right of action'' when its requirements are authorized by another law of the United States; (2) PHMSA lacks ''subject matter jurisdiction'' and ''the only valid action [PHMSA] can take here is to dismiss *or* deny the application on the basis that the challenged regulations are federally authorized''; (3) NTTC lacks standing because it has not shown that it or its members ''have a legally protected interest in avoiding compliance with the Clean Air Act''; and (4) the 1990 Clean Air Act Amendments ''left room for states to regulate, recognizing the important role they historically played in protecting the public health and welfare through air pollution measures.'' [6]

The three State environmental protection agencies and Region 2 also contend that the NYSDEC marking and record keeping requirements are ''authorized by another law of the United States.'' The Pennsylvania Department of Environmental Protection stated that ''an EPA approved SIP is federal law and enforceable as such.'' The Connecticut Department of Environmental Protection stated that ''compliance by all states with EPA CAA requirements is essential for improvements in the levels of ozone experienced by citizens of all states.'' The Delaware Department of Natural Resources and Environmental Control stated that all states in the Northeast OTR ''have adopted rules substantially equivalent'' to the EPA 1978 CTG for gasoline tank trucks, and ''these states relied on the provisions of the Clean Air Act as a basis for these rules.'' Region 2 stated that the NYSDEC marking and recordkeeping requirements responded to the EPA 1978 CTG and were approved by EPA ''based on the fact that they adequately addressed the requirements for control of gasoline tank trucks as identified in EPA's December 1978 CTG.''

The Clean Air Act, itself, does not specifically authorize the NYSDEC marking and record keeping requirements. Rather, that Act requires each State to adopt and submit to EPA ''a plan which provides for implementation, maintenance, and enforcement of'' the national ambient air quality standards within that State. 42 U.S.C. 7410(a)(1). While the EPA 1978 CTG specifies the use of a pressure-vacuum test to assure that the gasoline tank is leak tight, that CTG does not require—or authorize—the specific NYSDEC marking and record keeping requirements. Rather the EPA 1978 CTG contains only two provisions under ''Record Keeping and Reporting Requirements.''

First, in Section II.D.1, ''Each truck must have a sticker displayed on each tank indicating the identification number of the tank and the date each tank last passed the pressure and vacuum test. This sticker must be located near the Department of Transportation Certification plate.'' The K–EPA27 marking added to 49 CFR 180.415(b)(2) in PHMSA's April 18, 2003, final rule clearly fits the standard of ''a sticker'' with ''the date each tank last passed the pressure and vacuum test * * * located near the Department of Transportation Certification plate.''

Second, in Section II.D.2, ''Bulk terminal, bulk plant and service station owners or operators must keep records for two years indicating the last time the vapor collection facility passed'' the standards for these fixed facilities and ''identifying points at which VOC leakage exceeded a prescribed level.'' The EPA 1978 CTG contains no provision specifically authorizing—or even suggesting—that a State require that records of the vacuum-pressure test must be carried on the gasoline transport vehicle or that test and repair records must be retained for two years.

The Clean Air Act does require a State to include ''a program to provide for the enforcement of'' the ''emission limitations and other control measures, means, or techniques'' in its SIP, 42 U.S.C. 7110(a)(2)(A), (C), but those provisions do not insulate from preemption under 49 U.S.C. 5125 any enforcement measures that NYSDEC asserts are ''effective and practicable * * * to implement and ensure compliance with the air pollution standards set forth in [6 NYCRR] Part 230 and * * * necessary for the Department to get approval from EPA for its SIP revisions containing Part 230.'' Rather, the Clean Air Act and Federal hazardous material transportation law must be read in a manner that carries out the provisions of both, if at all possible. This is made clear by Section 310 of the Clean Air Act which provides, with an exception that is not relevant here, that ''Act shall not be construed as superseding or limiting the authorities and responsibilities, under any other provision of law, of * * * any other Federal officer, department, or agency.'' 42 U.S.C. 7610(a).

EPA has previously stated that its authorization of a State hazardous waste program does not resolve issues of preemption under Federal hazardous material transportation law. Rather, ''preemption issued under other Federal laws * * * do not affect the State's RCRA authorization.'' EPA's Final Authorization of State Hazardous Waste Management Program for California, 57 FR 32726, 32728 (July 23, 1992). ''In addition, EPA does not believe that an individual State's authorization application is the appropriate forum to resolve problems which clearly affect a large number of States. * * * [A] process is already in place intended to address the problem pursuant to'' Federal hazardous material transportation law. *Id.* See also the discussion of this authorization and other EPA letters in PD–12(R), ''New York Department of Environmental Conservation Requirements on the Transfer and Storage of Hazardous Wastes Incidental to Transportation,'' 60 FR 62527, 62534 (Dec. 5, 1995), decision on petition for reconsideration, 62 FR 15970 (Apr. 3, 1997), petition for judicial review dismissed, *New York* v. *U.S. Dep't of Transportation*, 37 F. Supp. 2d 152 (N.D.N.Y 1999).

The same principle applies here. Region 2's approval of New York's SIP does not address or resolve issues of preemption under 49 U.S.C. 5125 with respect to the enforcement measures in

[6] Separate from the issue whether the NYSDEC marking and record keeping requirement are ''authorized by another law of the United States,'' the explicit language of 49 U.S.C. 5125(d) resolves the issues of a ''Federal right of action,'' ''standing,'' and ''subject matter jurisdiction,'' in providing that any person ''directly affected'' by the NYSDEC's requirements (as NTTC's members are) may apply to DOT for an administrative preemption determination and for DOT to issue a determination on that application. The Court of Appeals for the Sixth Circuit held that the ''unique * * * structure'' of the administrative determination procedure ''does not mirror * * * civil litigation'' but rather ''falls within the rule-making process lying at the center of the responsibilities of federal executive agencies.'' *Tennessee* v. *U.S. Dep't of Transportation*, 326 F.3d 729, 734, 735, 736 (6th Cir. 2003). Thus, doctrines of a ''right of action,'' ''standing,'' and ''jurisdiction'' simply do not apply. In PD–20(RF), ''Cleveland, Ohio Requirements for Transportation of Hazardous Materials,'' 66 FR 29867, 29869 (June 1, 2001), PHMSA and FMCSA addressed, and rejected, arguments that the historic ''police power'' of States and localities can trump ''DOT's authority to regulate the transportation of hazardous materials in commerce and to find, by regulation or other process, that a non-Federal requirement on transportation conflicts with the Federal hazardous material transportation law and is preempted.''

the SIP. This was made clear in PHMSA's April 18, 2003, final rule, which was coordinated with EPA. As we stated in the preamble to the final rule, the additional K–EPA27 ''marking requirement will preempt state marking requirements for cargo tanks tested with the EPA Method 27 test, eliminating possible confusion by enforcement personnel attempting to verify that a cargo tank has met the HMR leak test requirements.'' 68 FR at 19263.

The portion of 6 NYCRR 230.4(a)(3) which requires marking the ''date each tank last passed the pressure and vacuum test * * * near the U.S. Department of Transportation certificate plate,'' is ''substantively the same as'' requirements in the HMR. Otherwise, however, the provisions that specify that the marking be a minimum 2″ size and include ''NYSDEC'' clearly go beyond—and are not substantively the same as—requirements in 49 CFR 180.415(b) for the marking of a packaging or container that is ''represented, marked, certified, or sold as qualified for use in transporting hazardous material.''

Similarly, the recordkeeping requirements in 6 NYCRR 230.6(b) and (c) are substantively different from specific requirements in the HMR on ''inspecting,'' ''maintaining,'' ''repairing'' and ''testing a package [or] container * * * that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.''

A State requirement for additional markings on the cargo tank itself increases the potential that the markings required by the HMR will not be complete or clear and that shipments will be delayed by State inspectors who are familiar only with their own State's requirements, or by Federal inspectors who cannot discern which markings are those required by the HMR. The inconsistencies among the gasoline tank truck marking requirements of the different States in the Northeast OTR and these States' lack of complete reciprocity amply demonstrate the need for a uniform Federal marking system to eliminate confusion whether a cargo tank has undergone the required inspections and tests.

Confusion and non-compliance are also created by the requirement in 6 NYCRR 230.6(b) to maintain a copy of the pressure-vacuum test results on the transport vehicle. In the *Harmon* case, the Court of Appeals found that the HMR ''require only that a limited amount of documentation be carried in the vehicle, which avoids carrier confusion and promotes quick access to critical documentation. Colorado's requirement of additional information [to carry an inspection report on the vehicle] could create confusion in an emergency situation and could thereby increase the potential hazard'' during transportation. 951 F.2d at 1583.

Contrary to the assertion of the Pennsylvania Department of Environmental Protection, a requirement to carry the test and repair records on the vehicle does not eliminate ''the need to place a copy of the results in archived files.'' The FMCSA (or NYSDOT) inspector who visits a carrier's principal place of business or regional or terminal office will be frustrated when the test results are not maintained at that location, but only on the vehicle. As NPGA commented, ''the vehicle file is the primary source of information regarding the vehicle's qualifications for continued use,'' and the requirement to maintain test and repair records on the vehicle ''would seem to cause the vehicle owner to not comply with these DOT requirements.'' The differences among the States within the Northeast OTR make confusion and lack of compliance with the HMR's requirements inevitable.

NYSDEC's two-year retention period for records of pressure-vacuum testing and repairs in 6 NYCRR 230.6(c) also creates confusion and potential non-compliance. Most seriously, this provision tells cargo tank owners that they may discard repair records after two years, but the HMR require that records of repair must be retained ''during the time the cargo tank motor vehicle is in service and for one year thereafter.'' 49 CFR 180.413(f). In addition, the requirement to retain more than one set of pressure-vacuum test records (covering the last two or more annual tests, depending on the State) will inevitably lead to confusion as to which set of records cover the most recent testing.

IV. Ruling

Federal hazardous material transportation law does not preempt that part of 6 NYCRR 230.4(a)(3) requiring that a gasoline transport vehicle must be marked, near the U.S. DOT specification plate, with the date on which the tank was last tested for vapor tightness. However, that marking must be substantively the same as specified in 49 CFR 180.417(b): ''K–EPA27'' in association with the date (month and year) of the most recent test.

Federal hazardous material transportation law preempts (1) the provisions in 6 NYCRR 230.4(a)(3) which require that the marking be a minimum two inches and contain ''NYS DEC''; (2) the requirement in 6 NYCRR 230.6(b) for maintaining a copy of the most recent pressure-vacuum test results with the gasoline transport vehicle; and (3) the requirement in 6 NYCRR 230.6(c) to retain pressure-vacuum test and repair results for two years, because these requirements are not substantively the same as requirements in the HMR on the marking, inspecting, maintaining, repairing, or testing of a package or container that is represented, marked, certified, or sold as qualified for transporting hazardous material.

V. Petition for Reconsideration/Judicial Review

In accordance with 49 CFR 107.211(a), any person aggrieved by this decision may file a petition for reconsideration within 20 days of publication of this decision in the **Federal Register**. A petition for judicial review of a final preemption determination must be filed in the United States Court of Appeals for the District of Columbia or in the Court of Appeals for the United States for the circuit in which the petitioner resides or has its principal place of business, within 60 days after the determination becomes final. 49 U.S.C. 5127(a).

This decision will become PHMSA's final decision 20 days after publication in the **Federal Register** if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of this decision under 49 U.S.C. 5127(a).

If a petition for reconsideration is filed within 20 days of publication in the **Federal Register**, the action by PHMSA's Chief Counsel on the petition for reconsideration will be PHMSA's final action. 49 CFR 107.211(d).

Issued in Washington, DC on January 15, 2009.

David E. Kunz,

Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2008–0333]

Pipeline Safety: Requests for Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: The Federal pipeline safety laws allow a pipeline operator to request PHMSA to waive compliance with any part of the Federal pipeline safety regulations by granting a special permit to the operator. PHMSA is publishing this notice to provide a list of special permit requests we have received from pipeline operators seeking relief from compliance with certain pipeline safety regulations. This notice seeks public comment on these requests, including comments on any environmental impacts. At the conclusion of the 30 days comment period, PHMSA will evaluate each request individually to determine whether to grant or deny a special permit.

DATES: Submit any comments regarding any of these special permit requests by February 23, 2009.

ADDRESSES: Comments should reference the docket number for the special permit request and may be submitted in the following ways:

- *E-Gov Web Site: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- *Hand Delivery:* DOT Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: Comments are posted without changes or edits to *http://www.Regulations.gov,* including any personal information provided. There is a privacy statement published on *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: *General:* Kay McIver by telephone at (202) 366–0113; or, e-mail at *kay.mciver@dot.gov.*

Technical: Steve Nanney by telephone at (713) 272–2855, or, e-mail at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA has filed in the Federal Docket Management System (FDMS) requests for special permits we have received from pipeline operators seeking relief from compliance with certain pipeline safety regulations. Each request has been assigned a separate docket number in the FDMS. We invite interested persons to participate by reviewing these special permit requests and by submitting written comments, data or other views. Please include any comments on environmental impacts granting the special permit may have.

Before acting on any special permit request, PHMSA will evaluate all comments received on or before the comment closing date. We will consider comments received after this date if it is possible to do so without incurring additional expense or delay. We may grant a special permit or deny a request based on the comments we receive.

PHMSA has received the following special permit requests:

Docket No.	Requester	Regulation(s) affected	Nature of special permit
PHMSA–2008–0188	Texas Eastern Transmission, L.P. (“TETLP”) (Spectra Energy).	49 CFR 192.611	To authorize Texas Eastern Transmission, L.P. (TETLP) to operate two pipeline segments on its 24-inch Line 12 system downstream of its Grantville Compressor station in Lebanon County, Pennsylvania to Bernville Compressor station in Pennsylvania without reducing operating pressure as a result of changes from Class 1 to Class 2 locations. Grantville Line 12 would continue to operate at its maximum allowable operating pressure (“MAOP”) of 1,050 psig without replacing the pipe in the new Class 2 area.
PHMSA–2008–0213	Empire Pipeline	49 CFR 192.611	To authorize the Empire Pipeline to operate 5 segments on its 24-inch natural gas pipeline without reducing the operating pressure as a result of changes from Class 1 to Class 3 locations. The special permit is sought with respect to these five segments: Segment 1: (MP 57.33 to MP 57.49) in the town of Byron, Genesee County, NY, west of NY Route 237. Segment 2: (MP 76.09 to MP 76.42) located in the town of Henrietta, in Monroe County, NY and 375 feet west of East River Road. Segment 3: (MP 84.88 to MP 85.19) located in the town of Pittsford, Monroe County, NY, beginning approximately 200 feet west of West Bloomfield Road and continuing approximately 3/10th of a mile to the west. Segment 4: (MP 23.30 to MP 23.81) located in the town of Pendleton, Niagara County, NY, west of Transit Road (Route 78). Segment 5: (MP 25.19 to MP 25.54) located in the town of Lockport, Niagara County, New York, east of Old Beattie Road.

Docket No.	Requester	Regulation(s) affected	Nature of special permit
PHMSA–2008–0257	Texas Eastern Transmission.	49 CFR 192.112(a)(1), 49 CFR 192.112(c)(1), 49 CFR 192.112(c)(2)(i), 49 CFR 192.112(c)(2)(ii), 49 CFR 192.112(c)(2)(iii), 49 CFR 192.112(d)(2)(i), 49 CFR 192.112(f)(1), 49 CFR 192.620(d)(5)(iii).	To authorize an increase in MAOP on the Texas Eastern Transmission, L.P. (''TETLP'') 36-inch Lines 1 and 2 from the Uniontown, Pennsylvania compressor station to a mainline regulating station, approximately 7 miles west of its Lambertville, New Jersey compressor station. The pipeline system operating pressure would increase to 80% of specified minimum yield strength (SMYS) in Class 1 locations, 67% SMYS in Class 2 locations, and 56% SMYS in Class 3 locations. There are no Class 4 areas on the system and TETLP does not propose to include future Class 4 areas under this special permit. The existing pipeline system pressure is 1000 psig and will be uprated to 1112 psig. The MAOP uprate is part of two proposed pipeline capacity expansion projects, called the TEMAS and TIME III Projects.
PHMSA–2008–0285	TransCanada Keystone Pipeline LP 36-inch XL Pipeline.	49 CFR 195.106	To authorize TransCanada to design, construct and operate the proposed 36-inch TransCanada Keystone XL Pipeline Project, using a design factor and operating stress level of 80% SMYS.
PHMSA–2008–0327	Trunkline LNG (TLNG).	49 CFR 190.341	To authorize Trunkline LNG (TLNG) to operate two potassium formate heat-exchange vaporizers at the TLNG facility near Lake Charles, Louisiana. These vaporizers are part of a nearly completed expansion project at the facility and are referred to as the IEP (Infrastructure Expansion Project). This request is to adjust the allowed distance between the second and third vaporizers.
PHMSA–2008–0330	Columbia Gas Transmission (CGT).	49 CFR 192.611	To authorize Columbia Gas Transmission (CGT) to operate 2 segments on its 30-inch Mainline 200, and its 36-inch Mainline 300 pipeline systems located in Mt. Juliet, Wilson County, Tennessee, without reducing operating pressure as a result of changes from original Class 1 or Class 2 to Class 3 locations, and without replacing the pipe in Class 3 areas.
PHMSA–2008–0331	Columbia Gas Transmission (CGT).	49 CFR 192.611	To authorize Columbia Gas Transmission (CGT) to operate six segments of 30-inch SM–80 and 30-inch SM–80–Loop pipelines in Cabell and Putnam Counties, WV, at the current 935 psig operating pressure without replacing pipe in the Class 3 locations. The SM–80 and SM–80–Loop pipelines are parallel to one another across their full length starting at Boyd County, Kentucky and ending at the Lanham compressor station at Rocky Fork, West Virginia.
PHMSA–2008–0332	Columbia Gas Transmission (CGT).	49 CFR 192.611	To authorize Columbia Gas Transmission (CGT) to operate 5 segments of 20-inch Mainline 1804 pipeline system in Adams and York Counties, PA without reducing operating pressure as a result of changes from Class 1 to Class 3 locations.
PHMSA–2008–0345	Columbia Gas Transmission (CGT).	49 CFR 192.611	To authorize Columbia Gas Transmission (CGT) to operate four segments of its 24-inch Mainline R–701 pipeline in Southern Ohio without reducing operating pressure as a result of changes from Class 1 to Class 3 locations. Line R–701 runs south to north starting at Burlington, Ohio and ending at McArthur, Ohio.

Authority: 49 U.S.C. 60118(c)(1) and 49 CFR 1.53.

Issued in Washington, DC on January 15, 2009.

John Gale,

Director, Office of Regulations.

[FR Doc. E9–1425 Filed 1–22–09; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of an Entity Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of one newly-designated entity whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designation by the Director of OFAC of the one entity identified in this notice, pursuant to Executive Order 13224, is effective on January 6, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On January 6, 2009, the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, one entity whose property and interests in property are blocked pursuant to Executive Order 13224.

The designee is as follows:

1.WAAD PROJECT (a.k.a. AL-WAAD AL-SADIQ; a.k.a. 'MASHURA WAAD LAADAT AL-AAMAR; a.k.a. WAAD; a.k.a. WA'AD AS SADIQ; a.k.a. WAAD COMPANY; a.k.a. WAAD FOR REBUILDING THE SOUTHERN SUBURB; a.k.a. WAAD PROJECT FOR RECONSTRUCTION; a.k.a. WA'D PROJECT; a.k.a. WAED; a.k.a. WA'ED ORGANIZATION; a.k.a. WA'ID COMPANY), Harat Hurayk, Lebanon; Beirut, Lebanon; Telephone No. 009613679153; Telephone No. 009613380223; Telephone No. 03889402; Telephone No. 03669916 [SDGT].

Dated: January 6, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9–1310 Filed 1–22–09; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations of Individuals and Entities Pursuant to Executive Order 13448 or Executive Order 13464 and Identifications of Individuals and Entities Blocked Pursuant to the JADE Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of two newly-designated individuals and twenty-three entities whose property and interests in property are blocked pursuant to Executive Order 13448 of October 18, 2007, ''Blocking Property and Prohibiting Certain Transactions Related to Burma'' or Executive Order 13464 of April 30, 2008, ''Blocking Property and Prohibiting Certain Transactions Related to Burma.'' OFAC is also identifying certain individuals and entities that are subject to the blocking provisions of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (the ''JADE Act'').

DATES: The designation by the Director of OFAC of two individuals and twenty-three entities identified in this notice, pursuant to Executive Order 13448 or Executive Order 13464 is effective January 15, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., (Treasury Annex),

Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

Information about these designations and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background to Designations Made Pursuant to Executive Order 13448

On October 18, 2007, the President signed Executive Order 13448 (the ''Order'') pursuant to, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). In the Order, the President took additional steps with respect to, and expanded, the national emergency declared in Executive Order 13047 of May 20, 1997, to address the Government of Burma's continued repression of the democratic opposition in Burma. The President identified twelve individuals and entities in the Annex to the Order as subject to the economic sanctions.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in, or hereafter come within, the United States, or within the possession or control of United States persons, of the persons listed in the Annex, as well as those persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to satisfy any of the criteria set forth in subparagraphs (b)(i)–(b)(vi) of Section 1. On January 15, 2009, the Director of OFAC exercised the Secretary of the Treasury's authority to designate, pursuant to one or more of the criteria set forth in Section 1, subparagraphs (b)(i)–(b)(vi) of the Order, the following two individuals and twelve entities, whose names have been added to the list of Specially Designated Nationals and whose property and interests in property are blocked pursuant to Executive Order 13448:

Individuals

1. AUNG, Win (a.k.a. AUNG, Dagon Win; a.k.a. AUNG, U Win); DOB circa 1953; nationality Burma; c/o Dagon International Limited; c/o Dagon Timber Limited (individual) [BURMA] [JADE]

2. ZAW, Zaw (a.k.a. ZAW, U Zaw); DOB 22 Oct 1966; citizen Burma; nationality Burma; Passport 828461 (Burma) issued 18 May 2006 expires 17 May 2009; c/o Hotel Max; c/o Max Myanmar Group of Companies; c/o Max Singapore International Pte. Ltd. (individual) [BURMA] [JADE]

Entities

1. DAGON INTERNATIONAL LIMITED (a.k.a. DAGON INTERNATIONAL; a.k.a. DAGON INTERNATIONAL CONSTRUCTION COMPANY), Dagon Centre, 6th Floor, 262–264 Pyay Road, Myayingone, Sanchaung Township, Yangon, Burma [BURMA] [JADE]

2. DAGON TIMBER LIMITED (a.k.a. DAGON TIMBER), Dagon Centre, 262–264 Pyay Road, Myaynigone, Yangon, Burma [BURMA]

3. ESPACE AVENIR EXECUTIVE SERVICED APARTMENT (a.k.a. ESPACE AVENIR), No. 523, Pyay Road, Kamaryut Township, Yangon, Burma [BURMA] [JADE]

4. HOTEL MAX (a.k.a. HOTEL CHAUNG THA BEACH RESORT), No. 1 Ywama Curve, Ba Yint Naung Road, Block-2, Hlaing Township, Yangon, Burma [BURMA]

5. MAX MYANMAR GROUP OF COMPANIES (a.k.a. MAX MYANMAR; a.k.a. MAX MYANMAR CO.; a.k.a. MAX MYANMAR COMPANY LIMITED; a.k.a. MAX MYANMAR GROUP), No. 1 Ywama Curve, Ba Yint Naung Road, Ward (2), Hlaing Township, Yangon, Burma [BURMA] [JADE]

6. MAX (MYANMAR) CONSTRUCTION CO., LTD (a.k.a. CONSTRUCTION CO., LTD.), 1Ywama Curve, Bayint Naung Road, Ward (2), Hlaing Township, Yangon, Burma [BURMA] [JADE]

7. MAX MYANMAR GEMS AND JEWELLERY CO., LTD. (a.k.a. GEMS AND JEWELLERY CO., LTD.), 1 Ywama Curve, Bayint Naung Road, Ward (2), Hlaing Township, Yangon, Burma [BURMA] [JADE]

8. MAX MYANMAR MANUFACTURING CO., LTD. (a.k.a. MANUFACTURING CO., LTD.), 1 Ywama Curve, Bayint Naung Road, Ward (2), Hlaing Township, Yangon, Burma [BURMA] [JADE]

9. MAX MYANMAR SERVICES CO., LTD. (a.k.a. SERVICES CO., LTD.), 1 Ywama Curve, Bayint Naung Road, Ward (2), Hlaing Township, Yangon, Burma [BURMA] [JADE]

10. MAX MYANMAR TRADING CO., LTD. (a.k.a. TRADING CO., LTD.), 1 Ywama Curve, Bayint Naung Road, Ward (2), Hlaing Township, Yangon, Burma BURMA] [JADE]

11. MAX SINGAPORE INTERNATIONAL PTE. LTD., 3 Shenton Way, #24–02, Shenton House 068805, Singapore [BURMA] [JADE]

12. ROYAL KUMUDRA HOTEL, No. 1 Ywama Curve, Ba Yint Naung Road, Block (2), Hlaing Township, Rangoon, Burma; No. 9 Hotel Zone, Nay Pyi Taw, Burma [BURMA] [JADE]

Background to Designations Made Pursuant to Executive Order 13464

On April 30, 2008, the President signed Executive Order 13464 (the ''Order'') pursuant to, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). In the Order, the President took additional steps with respect to the national emergency declared in Executive Order 13047 of April 20, 1997, and expanded in Executive Order 13448 of October 18, 2007, to address the Government of Burma's continued repression of the democratic opposition in Burma. The President identified three entities as subject to the economic sanctions in the Annex to the Order.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in, or hereafter come within, the United States, or within the possession or control of United States persons, of the persons listed in the Annex, as well as those persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to satisfy any of the criteria set forth in subparagraphs (b)(i)—(b)(iii) of Section 1. On January 15, 2009, the Director of OFAC exercised the Secretary of the Treasury's authority to designate, pursuant to one or more of the criteria set forth in Section 1, subparagraphs (b)(i)–(b)(iii) of the Order, the following eleven entities, whose names have been added to the list of Specially Designated Nationals and whose property and interests in property are blocked pursuant to Executive Order 13464:

Entity

1. MYANMAR IVANHOE COPPER COMPANY LIMITED (a.k.a. MICCL; a.k.a. MYANMAR IVANHOE COPPER CO. LTD.; a.k.a. MONYWA JVCO); 70 (I) Bo Chein Street, 6.5 miles Pyay Road, Yangon, Burma; No. 70 (I) Bo Chein Street, Pyay Road, Hlaing Township, Yangon, Burma; Monywa, Sagaing Division, Burma; (ENTITY) [BURMA]

2. GOLDEN AARON PTE. LTD., 3 Shenton Way, 10–01 Shenton House, Singapore 068805, Singapore; 101 Cecil Street, 08–08 Tong Eng Building, Singapore, 069533, Singapore; (ENTITY) [BURMA] [JADE]

3. G A ARDMORE PTE. LTD., 101 Cecil Street, 08–08 Tong Eng Building, Singapore 069533, Singapore; 3 Shenton Way, 10–01 Shenton House, Singapore 068805, Singapore; (ENTITY) [BURMA] [JADE]

4. G A CAPITAL PTE. LTD., 101 Cecil Street, 08–08 Tong Eng Building, Singapore 069533, Singapore; (ENTITY) [BURMA] [JADE]

5. G A FOODSTUFFS PTE. LTD., 101 Cecil Street, 08–08 Tong Eng Building, Singapore 069533, Singapore; (ENTITY) [BURMA] [JADE]

6. G A LAND PTE. LTD., 1 Scotts Road, 21–07/08 Shaw House, Singapore 228208, Singapore; (ENTITY) [BURMA] [JADE]

7. G A RESORT PTE. LTD., 1 Scotts Road, 21–07 Shaw House, Singapore 228208, Singapore; 3 Shenton Way, 10–01 Shenton House, Singapore 068805, Singapore; (ENTITY) [BURMA] [JADE]

8. G A SENTOSA PTE. LTD., 101 Cecil Street, 08–08 Tong Eng Building, Singapore 069533, Singapore; (ENTITY) [BURMA] [JADE]

9. G A TREASURE PTE. LTD., 3 Shenton Way, 10–01 Shenton House, Singapore 068805, Singapore; (ENTITY) [BURMA] [JADE]

10. G A WHITEHOUSE PTE. LTD., 3 Shenton Way, 10–01 Shenton House, Singapore 068805, Singapore; (ENTITY) [BURMA] [JADE]

11. SENTOSA TREASURE PTE. LTD., 3 Shenton Way, 10–01 Shenton House, Singapore 068805, Singapore; (ENTITY) [BURMA] [JADE]

Background to Identifications Made Pursuant to the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008

On July 29, 2008, the President signed into law the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (Pub. L. 110–286) (''JADE Act''). Section 5(b)(1) of the JADE Act blocks, with certain exceptions, all property and interests in property that are in, or hereafter come within, the United States, or within the possession or control of a United States person, of those persons described in Section 5 (a)(1). On January 15, 2009, the Director of OFAC identified as being described in Section 5(a)(1) of the JADE Act certain persons whose names have, as discussed above, been added to the list of Specially Designated Nationals and whose property and interests in property are blocked pursuant to IEEPA and the JADE Act. The names of persons whose property and interests in property have been identified as blocked pursuant to the JADE Act are accompanied by the identifier ''[BURMA][JADE].''

Dated: January 15, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9–1311 Filed 1–22–09; 8:45 am]

BILLING CODE 4811–42–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1127

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1127, Application For Extension of Time For Payment of Tax.

DATES: Written comments should be received on or before March 24, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application For Extension of Time For Payment of Tax.

OMB Number: 1545–1961.

Form Number: Form 1127.

Abstract: Form 1127 is used by taxpayers to request an extension of time to pay taxes. The conditions under which extensions may be granted are stated under Section 6161 of the Internal Revenue Code.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 25 min.

Estimated Total Annual Burden Hours: 833.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 13, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–1280 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8895

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8895, One-Time Dividends Received

Deduction for Certain Cash Dividends from Controlled Foreign Corporations.

DATES: Written comments should be received on or before March 24, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: One-Time Dividends Received Deduction for Certain Cash Dividends from Controlled Foreign Corporations.

OMB Number: 1545–1948.

Form Number: 8895.

Abstract: Form 8895 is used by a U.S. corporation to elect the 85% dividends received deduction provided under section 965 and to compute the DRD.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time per Respondent: 25 hours, 1 minute.

Estimated Total Annual Burden Hours: 50,020.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 13, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–1281 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–868–89]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–868–89 (TD 8353), Information With Respect to Certain Foreign-Owned Corporations (§§ 1.6038A–2 and 1.6038A–3).

DATES: Written comments should be received on or before March 24, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information With Respect to Certain Foreign-Owned Corporations.

OMB Number: 1545–1191.

Regulation Project Number: INTL–868–89 (Final).

Abstract: This regulation requires record maintenance, annual information filing, and the authorization of the U.S. corporation to act as an agent for IRS summons purposes. These requirements allow IRS international examiners to better audit the tax returns of corporations engaged in crossborder transactions with a related party.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 63,000.

Estimated Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 630,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 13, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–1317 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8023

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8023, Elections Under Section 338 for Corporations Making Qualified Stock Purchases.

DATES: Written comments should be received on or before March 24, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Elections Under Section 338 for Corporations Making Qualified Stock Purchases.

OMB Number: 1545–1428.

Form Number: 8023.

Abstract: Form 8023 is used by a corporation that acquires the stock of another corporation to elect to treat the purchase of stock as a purchase of the other corporation's assets. This election allows the acquiring corporation to depreciate these assets and claim a deduction on its income tax return. IRS uses Form 8023 to determine if the election is properly made and as a check against the acquiring corporation's deduction for depreciation. The form is also used to determine if the selling corporation reports the amount of sale in its income.

Current Actions: There are no changes being made to Form 8023 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 201.

Estimated Time per Respondent: 12 hr., 44 min.

Estimated Total Annual Burden Hours: 5,559.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 13, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–1318 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2008–79

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2008–XX, Tax Exempt Housing Bonds and 2008 Housing Legislation.

DATES: Written comments should be received on or before March 24, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tax Exempt Housing Bonds and 2008 Housing Legislation.

OMB Number: 1545–2119.

Notice Number: Notice 2008–79.

Abstract: This information is being requested from issuers of tax-exempt bonds who issue bonds subject to the new volume cap or utilize proceeds of mortgage revenue bonds to refinance certain qualified subprime mortgage loans, as provided in the Housing Assistance Tax Act of 2008, enacted July 30, 2008 (''2008 Housing Act''). We are asking issuers to report bonds issued pursuant to the new volume cap on existing form 8038 that is already required to be filed in connection with bond issues, and issuers of mortgage revenue bonds to attach a schedule to the 8038 providing a reasonable estimate of the total expected principal amount that will be utilized to refinance qualified subprime mortgage loans. We are asking issuers to file a second copy of an existing IRS Form 8328 in order to make the election to carry forward additional volume cap provided under

the 2008. This notice sets forth the procedures to be followed by service recipients and service providers in order to correct certain operational failures of a nonqualified deferred compensation plan to comply with § 409A(a). It also describes the types of operational failures that can be corrected under the notice.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: This is an extension of a currently approved collection.

Affected Public: State, local, or tribal governments.

Estimated Number of Respondents: 100.

Estimated Average Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–1319 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8931

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8931, Agricultural Chemicals Security Credit.

DATES: Written comments should be received on or before March 24, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Agricultural Chemicals Security Credit.

OMB Number: 1545–2122.

Form Number: 8931.

Abstract: This is a new form for tax year 2008 in response to Pub. L. 110–246 Sec. 15343. The form allows taxpayers to calculate credits against income tax allowed by new provisions in law.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 66,666.

Estimated Time per Respondent: 4 hours, 40 minutes.

Estimated Total Annual Burden Hours: 310,664.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–1320 Filed 1–21–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–63–84: EE–96–85]

Notice and Request for Comments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning and existing temporary regulation, EE–63–84

(TD 8073) and notice of proposed rulemaking, EE–96–85, Effective Dates and Other Issues Arising Under the Employee Benefit Provisions of the Tax Reform Act of 1984 (§§ 1.505(c)–1T, 1.1042–1T and 1.463–1T).

DATES: Written comments should be received on or before March 24, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, or through the internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Effective Dates and Other Issues Arising Under the Employee Benefit Provisions of the Tax Reform Act of 1984.

OMB Number: 1545–0916.

Regulation Project Number: EE–63–84 (temporary regulation) and EE–96–85 (noticed of proposed rulemaking).

Abstract: The regulations provide rules relating to effective dates and certain other issues arising under sections 91. 223 and 511–561 of the Tax Reform Act of 1984. The regulations affect qualified employee benefit plans, welfare benefit funds, and employees receiving benefits through such plans.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and individuals.

Estimated Number of Respondents: 12,800.

Estimated Time per Respondent: 31 minutes.

Estimated Total Annual Burden Hours: 6,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 13, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–1324 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Announcement 2008–103

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Announcement 2008–103, Export Coal Refund.

DATES: Written comments should be received on or before March 24, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Export Coal Refund.

OMB Number: 1545–2121.

Announcement Number: Announcement 2008–103.

Abstract: This Announcement provides guidance to taxpayers regarding the filing of a claim for refund of the coal tax paid on exported coal. The guidance includes the form on which the claim is to be filed and the additional information needed to substantiate a claim.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: This is an extension of a currently approved collection.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Average Time Per Respondent: 6 hours.

Estimated Total Annual Burden Hours: 600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–1326 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 17, 2009.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, March 17, 2009, at 10 a.m. Eastern Time. For more information please contact Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085. If you would like to have the TAP consider a written statement, please write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1289 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 17, 2009.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, March 17, 2009, at 10 a.m. Eastern Time. For more information please contact Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085. If you would like to have the TAP consider a written statement, please write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1293 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, March 18, 2009.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227, or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Wednesday, March 18, 2009, at 2:30 p.m. Eastern Time. For more information please contact Donna Powers. Ms. Powers may be reached at 1–888–912–1227 or 954–423–7977, or you can write to Donna Powers, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1335 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and the Territory of Puerto Rico)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, March 9, 2009.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or (954) 423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 3 Taxpayer Advocacy Panel will be held Monday, March 9, 2009, at 12:30 p.m. Eastern Time. You can submit written

comments to the panel by faxing the comments to (954) 423–7975, or by mail to Taxpayer Advocacy Panel, Room 340, 1000 South Pine Island Road, Plantation, FL 33324, or you can contact us at *http://www.improveirs.org.* This meeting is not required to be open to the public, but because we are always interested in community input we will accept public comments. Please contact Sallie Chavez at 1–888–912–1227 or (954) 423–7979 for more information.

The agenda will include the following: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1336 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 10, 2009.

FOR FURTHER INFORMATION CONTACT: Patricia Robb at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Tuesday, March 10, 2009, at 9:30 a.m. Central Time. You can submit written comments to the panel by faxing the comments to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53201–2221, or you can contact us at *http://www.improveirs.org.* Please contact Patricia Robb at 1–888–912–1227 or (414) 231–2360 for more information.

The agenda will include the following: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1278 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 7 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, March 18, 2009.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227, or (206) 220–6098.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 7 Taxpayer Advocacy Panel will be held Wednesday, March 18, 2009, at 2 p.m. Pacific Time. You can submit written comments to the panel by faxing the comments to 206–220–5760, or write to Janice Spinks, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Janice Spinks. Ms. Spinks can be reached at 1–888–912–1227 or 206–220–6098, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1274 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Forms and Publications Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the IRS Forms and Publications Issue Committee of the Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, March 4, 2009.

FOR FURTHER INFORMATION CONTACT: Marianne Ayala at 1–888–912–1227 or 954–423–7978.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the IRS Forms and Publications Issue Committee of the Taxpayer Advocacy Panel will be held Wednesday, March 4, 2009, at Noon, Eastern Time. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7978, or write Marianne Ayala, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Ms. Ayala can be reached at 1–888–912–1227 or 954–423–7978, or you can post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1292 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via conference call. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, March 25, 2009.

FOR FURTHER INFORMATION CONTACT: Susan Gilbert at (404) 338–7185.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, March 25, 2009, at 3 p.m. Eastern Time via a conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call (404) 338–7185 or write Susan Gilbert, TAP Office, Stop 211–D, 401 West Peachtree Street NW., Atlanta, GA, 30308–3520, or FAX to (404) 338–8691, or you can contact us at *http://www.improveirs.org.* For information to join the Joint Committee meeting, contact Susan Gilbert.

The agenda will include the following: discussion of issues and responses brought to the Joint Committee, office report, and discussion of annual meeting.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1331 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Multi-Lingual Initiatives Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Multi-Lingual Initiatives Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, March 12, 2009.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or (718) 488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Multi-Lingual Initiatives Issue Committee will be held Thursday, March 12, 2009, at 2 p.m. Eastern Time. You can submit written comments to the panel by faxing to (718) 488–2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can contact us at *http://www.improveirs.org.* Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1–888–912–1227 or (718) 488–3557 for additional information.

The agenda will include the following: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1330 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Small Business/Self Employed Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, March 26, 2009.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227 or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Small Business/Self Employed Issue Committee of the Taxpayer Advocacy Panel will be held Thursday, March 26, 2009, at 8:30 a.m. Pacific Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Janice Spinks, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Janice Spinks. Ms. Spinks can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1270 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 10, 2009.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or (718) 488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, March 10, 2009, at 2 p.m. Eastern Time. You can submit written comments to the panel by faxing to (718) 488–2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY, 11201, or you can contact us at *http://www.improveirs.org.* Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1–888–912–1227 or (718) 488–3557 for additional information.

The agenda will include the following: Various VITA Issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1269 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be Wednesday, March 11, 2009.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be held Wednesday, March 11, 2009, at 1 p.m. Eastern Time. For information, please contact Ms. Audrey Y. Jenkins. Ms. Jenkins may be reached at 1–888–912–1227 or (718) 488–2085. Send written comments to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post comments to the Web site: *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance.

The agenda will include various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1272 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 24, 2009.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be held Tuesday, March 24, 2009, at 1 p.m. Central Time. For more information, please contact Ellen Smiley. Ms. Smiley can be reached at 1–888–912–1227 or 414–231–2360. If you would like to have the TAP consider a written statement, write to Ellen Smiley at 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1271 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 6 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 3, 2009.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or (206) 220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Tuesday, March 3, 2009, at 1 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman may be reached at 1–888–912–1227, or (206) 220–6096.

The agenda will include the following: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1275 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, March 12, 2009.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held

Thursday, March 12, 2009, at 2 p.m. Eastern Time. For more information, please contact Ms. Sallie Chavez. Please call Ms. Chavez at 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: January 13, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–1333 Filed 1–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for applications for assistance under the Capital Grant component of VA's Homeless Providers Grant and Per Diem Program. This Notice contains information concerning the program, funding priorities, application process, and amount of funding available.

Applicants who do not require funding for acquisition, renovation or new construction to create new housing for homeless veterans should not respond to this Notice of Fund Availability (NOFA). Per Diem Only funding will not be given under this notice. If your agency is in need of funding for operations only, your agency should apply under a future Grant and Per Diem; Per Diem Only Funding Notice.

DATES: An original completed and collated grant application (plus three completed collated copies) for assistance under the VA's Homeless Providers Grant and Per Diem Program must be received in the Grant and Per Diem Field Office by 4 p.m. Eastern Time on Wednesday, March 25, 2009. Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of Grants.gov), or other delivery-related problems.

For a Copy of the Application Package: Download directly from VA's Grant and Per Diem Program Web page at: *http://www.va.gov/homeless/page.cfm?pg=3* or *http://www.grants.gov/.* Questions should be referred to the Grant and Per Diem Program at (toll-free) 1–877–332–0334. For a document relating to the VA Homeless Providers Grant and Per Diem Program, see the Final Rule published in the **Federal Register** on September 26, 2003.

Submission of Application: An original completed and collated grant application (plus three copies) and a cover letter clearly stating under which funding priority applicants (see funding priorities) wish to be considered must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617. Applications must be received in the Grant and Per Diem Field office by the application deadline. This includes applications submitted through Grants.gov. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Ms. Chelsea Watson, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617; (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This Notice announces the availability of capital funds for assistance under VA's Homeless Providers Grant and Per Diem Program for eligible entities to: (1) Expand existing transitional housing projects; or (2) develop new transitional housing programs. Supportive service centers will not be considered in this NOFA. Funding applied for under the capital grant component may be used for: (1) Remodeling or alteration of existing buildings; (2) acquisition of buildings, acquisition and rehabilitation of buildings; (3) new construction; and (4) acquisition of vans (in connection with a new Grant and Per Diem grant project) for outreach to and/or transportation for homeless veterans. Funding applied for under this Notice is authorized by the ''Homeless Veterans Comprehensive Assistance Act of 2001,'' Public Law 107–95, § 5, codified as amended at 38 U.S.C. 2011, 2012, 2013, 2061, 2064. For eligibility criteria please refer to 38 CFR part 61.

Capital grant applicants may not receive assistance to replace funds provided by any State or local government to assist homeless persons.

Note: Applicants considering the use of Low Income Housing Tax Credits (LIHTC) in conjunction with the capital grants in this NOFA should take into account that these tax credits are often used for permanent housing projects. Permanent housing is not an eligible activity under VA's Homeless Providers Grant and Per Diem Program. Other issues such as site control, leases for residents, and using the grant funds as a loan may be problematic to applicants even if transitional housing is provided and upon review and discovery may result in the application being denied.

A proposal for an existing project that seeks to shift its focus by changing the population being served or the precise mix of services being offered is not eligible for consideration. No more than 25 percent of housing and services available in projects funded through this grant program may be provided to clients who are not receiving those services as veterans.

VA is pleased to issue this NOFA for the Homeless Providers Grant and Per Diem Program. The Department expects to award approximately $15 million under the capital grant component.

Funding available under this NOFA is being offered to help offset the capital expenses of existing state and local governments, Indian Tribal Governments, faith-based, and community-based organizations that are capable of creating and providing supported transitional housing for homeless veterans. The District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, are considered eligible entities under the definition of ''State'' in the Final Rule, Sec. 61.1 Definitions.

Note, all organizations that are conditionally selected will be requested to submit the Second Submission portion of the application package. In order to be considered eligible for funding, organizations must demonstrate in the Second Submission firm commitments of match for 35% of the total project cost or the difference between the total project cost and what is requested from VA, whichever is greater.

Per diem for these programs is requested in the grant application and may be paid at the time of grant project completion. It should be noted that VA per diem payment is limited to the applicant's cost of care per eligible veteran minus other sources of payments to the applicant for furnishing services to homeless veterans up to the per day rate VA pays for State Home

Domiciliary care. Awardees will be required to support their request for per diem payment with adequate fiscal documentation as to program income and expenses.

Interested organizations should know that the vast majority of homeless veterans in this country suffer from mental illness or substance abuse disorders or are dually diagnosed with both mental illness and substance abuse disorders. In addition, many homeless veterans have serious medical problems. The recent events associated with the Global War on Terrorism (GWOT) coupled with the Nation's returning OEF/OIF veterans further emphasizes the need for collaboration with VA medical centers, VA community-based outpatient clinics or other health care providers as well as with VA and other benefit providers as an important aspect of assuring that homeless veterans have access to appropriate health care services. VA considers this program an important part of our effort to end chronic homelessness among all veterans.

It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to verify the completion of the capital grant as well as monitor services provided to homeless veterans and outcomes associated with the services provided in grant and per diem-funded programs. Applicants should be aware of the following:

All awardees that are conditionally selected in response to *this NOFA* must meet the requirements of the current edition of the Life Safety Code of the National Fire Protection Association as it relates to their specific facility. Applicants should note that all facilities are to be protected throughout by an approved automatic sprinkler system unless a facility is specifically exempted under the Life Safety Code. Applicants should make consideration of this when submitting their capital grant applications. VA will conduct an inspection prior to awardees being able to submit request for per diem payment to ensure this requirement is met.

Upon capital grant completion each program seeking per diem will have a liaison appointed from a nearby VA medical facility to provide oversight and monitor services provided to homeless veterans in the per diem-funded program.

Monitoring will include at a minimum an annual review of each per diem program's progress toward meeting internal goals and objectives in helping veterans attain housing stability, adequate income support, and Self-Sufficiency as identified in each per diem program's original application. Monitoring will also include a review of the agency's income and expenses as they relate to this project to ensure per diem payment is accurate.

Each per diem-funded program will participate in VA's national program monitoring and evaluation system administered by VA's Northeast Program Evaluation Center (NEPEC). NEPEC's monitoring procedures will be used to determine successful accomplishment of these housing outcomes for each per diem-funded program.

*Authority:*Funding applied for under this Notice is authorized by the ''Homeless Veterans Comprehensive Assistance Act of 2001,'' Public Law 107–95, § 5, codified as amended at 38 U.S.C. 2011, 2012, 2013, 2061, 2064. The program is implemented by the final rule codified at 38 CFR Part 61.0. The regulations can be found in their entirety in 38 CFR, Sec. 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $15 million is available for the capital grant component. Capital grant awards will be limited to transitional housing projects (service center programs will not be considered in this round). Vans must be directly connected to a new Grant and Per Diem Grant project and will be limited to one per project number. Per diem payments to capital grant recipients are subject to the availability of funds and recipients maintaining the program for which the grant was awarded.

Funding Priorities: VA establishes the following funding priorities in order to: (1) Implement the provisions of Public Law 107–95 regarding geographical dispersion and non-duplication of service; and (2) bolster capacity in areas that are underserved by the Grant and Per Diem Program. These areas may have high populations of homeless veterans and limited services to address homeless veterans' needs. These areas can include both urban and rural areas but may be particularly prevalent outside the high population areas.

VA is offering to eligible applicants funding priorities for transitional housing and services to: (1) serve women and women with care of dependent children; (2) Indian Tribal Governments or non-profit agencies that will provide transitional housing and services on Indian Tribal Property and finally, VA is encouraging interested state and local governments and faith-based and community-based organizations to apply for funding under this NOFA. In this round of capital grant funding, VA expects to award funding to create approximately 1000 community-based supported housing beds.

Funding priority 1. VA is offering the opportunity for providers who are willing to create new projects specifically for women and women with care of dependent children only, which are 30 beds or less. Of those eligible entities in the first funding priority, that are legally fundable, the highest scoring applicants will be funded first until approximately $2 million is awarded. Applicants not funded in this priority will be considered in the third funding priority. Should not enough eligible projects be funded under the first funding priority, funds not expended in this priority will fall to the third funding priority.

Funding priority 2. VA is offering the opportunity to Indian Tribal Governments or non-profit agencies that will provide transitional housing and services on Indian Tribal Property to apply for funding under this NOFA to create transitional housing and services for homeless veterans. Eligible entities that are Indian Tribal Governments or non-profit agencies willing to provide transitional housing and services on Indian Tribal Property will be considered in the second funding priority as applicable. Of those eligible entities in the second funding priority, that are legally fundable, the highest scoring applicants will be funded first until approximately $1 million is awarded. Applicants not funded in this priority will be placed in the third funding priority. Should not enough eligible projects be funded under the second funding priority, funds not expended in this priority will fall to the third funding priority.

Note: Non-profit agencies who apply under this priority will be required to provide a letter of assurance from the Indian Tribal Government that if funded the provision of service will occur on Indian Tribal Property.

Funding priority 3. VA is encouraging interested state and local governments, faith-based and community-based organizations, as well as eligible entities located in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, to apply for funding under this NOFA to create transitional housing and services for all homeless veterans. Eligible entities that are state and local governments, Indian Tribal Governments, faith-based, and community-based organizations, or any territory or possession of the United States, will be considered in the third funding priority as applicable. Of those

eligible entities that are legally fundable, the highest-ranked applications for which funding is available, will be conditionally selected for eligibility to receive a capital grant in accordance with their ranked order until funding is expended (approximately $12 million).

Methodology: VA will review all capital grant applications in response to this notice of funding availability as follows: VA will group the applicants into the funding priorities categories as applicable. Applicants will then be ranked within their respective funding category based on score and any ranking criteria set forth in that funding category only if the applicant scores at least 600 cumulative points and receives points under the criteria in paragraphs (b), (c), (d), (e) and (i) of section 61.13.

The highest-ranked application for which funding is available, within the highest funding category, will be conditionally selected in accordance with their ranked order until VA reaches the projected amount of funding for each category. If funds are still available after selection of those applications in the highest priority group VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in the final rule Sec. 61.14.

Application Requirements: Applicants must include a cover letter clearly stating under which funding priority they wish to be considered. Non-profit agencies who apply under funding priority two are required to provide a letter of assurance from the Indian Tribal Government that if funded the provision of service will occur on Indian Tribal Property. The grant application requirements will be specified in the application package. Applicants should be careful to complete the proper application package. Submission of the incorrect or incomplete application package will result in the application being rejected at threshold. The packages include all required forms and certifications. Selections will be made based on criteria described in the application, Final Rule, and NOFA. Applicants who are conditionally selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: January 8, 2009.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E9–1509 Filed 1–22–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for applications for assistance under the Technical Assistance Grant component of VA's Homeless Providers Grant and Per Diem Program. This notice contains information concerning the program, application process, and amount of funding available.

DATES: An original completed and collated grant application (plus three completed collated copies) for assistance under the VA's Homeless Providers Grant and Per Diem Program must be received in the Grant and Per Diem Field Office, by 4 p.m. Eastern Time on Wednesday, March 25, 2009. Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of Grants.gov), or other delivery-related problems.

For a Copy of the Application Package: Download directly from VA's Grant and Per Diem Program Web page at: *http://www.va.gov/homeless/page.cfm?pg=3* or call the Grant and Per Diem Program at (toll-free) 1–877–332–0334. In this package is information on Grants.gov submission should applicants so desire. For a document relating to the VA's Homeless Providers Grant and Per Diem Program, see the final rule codified at 38 CFR Part 61.0.

Submission of Application: An original completed and collated grant application (plus three copies) and a cover letter clearly stating under which funding priority applicants (see funding priorities) wish to be considered must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617. Applications must be received in the Grant and Per Diem Field office by the application deadline. This includes applications submitted through Grants.gov. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Ms. Chelsea Watson, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 North 46th Street, Suite C–200, Tampa, FL 33617; or call (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This notice announces the availability of funds for assistance under VA's Homeless Providers Grant and Per Diem Program for eligible non-profit entities with expertise in preparing grant applications relating to the provision of assistance for homeless veterans to: Provide technical assistance to those non-profit community-based groups with experience in providing assistance to homeless veterans in order to help such groups apply for grants under the final rule, published in the **Federal Register**, September 26, 2003, or to apply for other grants from any source for addressing the problems of homeless veterans.

Funding applied for under this Notice is authorized by the ''Homeless Veterans Comprehensive Assistance Act of 2001,'' Public Law 107–95, § 5, codified as amended at 38 U.S.C. 2011, 2012, 2013, 2061, 2064. The program is implemented by the final rule codified at 38 CFR Part 61.0. The regulations can be found in their entirety in 38 CFR, Sec. 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Funding applied for under this notice may be used for: (a) Group or individual seminars providing general instructions concerning grant applications; (b) Group or individual seminars providing instructions for applying for a specific grant; or (c) Group or individual instruction for preparing analyses to be included in a grant application. Seminars (course of instruction) may be delivered in electronic, face-to-face (individual or group), and correspondence methodologies (e.g., Internet based training, video teleconferencing, computer media such as CD or disk).

VA's statutory authority is limited to providing grants so that the recipients ''shall provide technical assistance to non-profit community-based groups

with experience in providing assistance to homeless veterans in order to assist such groups in applying for grants under this chapter and other grants relating to addressing problems of homeless veterans'' (38 U.S.C. 2064). Potential applicants should take this into consideration when developing technical assistance applications to ensure their activities as described in the application meet the regulatory criteria of aiding potential non-profits by providing general instructions concerning grant applications, instruction on completing specific grant applications, or providing analyses to be used in grant applications (38 CFR 61.50 (a), (b), (c)).

Entities that are interested in providing technical assistance should be aware that historically the Grant and Per Diem Program office receives over 1,500 nationwide inquiries per Notice of Fund Availability (NOFA) from prospective applicants. It is estimated that an additional 1,000 inquiries are received nationwide at VA Medical Center Homeless Programs. From these inquiries, VA has seen an increase in the number of applicants each year. Approximately 100 to 300 applications per funding round have been received in past responses to NOFAs under VA's Homeless Providers Grant and Per Diem Program. Those entities applying to provide technical assistance should consider not only the numbers but the diversity of the service provider seeking assistance when establishing their service plans.

The applicant for this funding will be expected to develop an integrated technical assistance plan, using funds for purposes as specified in this NOFA, the objectives of the program rules and regulations to offer technical assistance to agencies in their-specified target area. Applicants should take note that they will be held accountable to provide to VA documentation that demonstrates the objectives of technical training are being met throughout the course of the award cycle and documentation that clearly demonstrates the completion of technical assistance objectives were met, cumulatively, at the end of the funding period. Also, VA intends to conduct both periodic fiscal and performance reviews of the awarded agency(s). The technical assistance should not only raise the awareness of providers regarding the availably of funds to assist homeless veterans but also increase providers' proficiency in applying for these funds to assist homeless veterans. Applicants should take the aforementioned into consideration when developing a technical assistance plan. Outcomes measures that are specific and measurable should be an integral part of the technical assistance plan that is submitted in the application.

Grant applicants may not receive assistance to replace funds provided by any State or local government for the same purpose.

Authority: Funding applied for under this Notice is authorized by the ''Homeless Veterans Comprehensive Assistance Act of 2001,'' Public Law 107–95, § 5, codified as amended at 38 U.S.C. 2011, 2012, 2013, 2061, 2064. The program is implemented by the final rule codified at 38 CFR Part 61.0. The regulations can be found in their entirety in 38 CFR, Sec. 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $3 million is available for the technical assistance grant component of this program. Funding will be for a period beginning on October 1, 2009 and ending on September 30, 2011. Not more than $500,000.00 per year per technical assistance provider will be awarded. Applicants should take into consideration the 24-month period of award when calculating and submitting their budgets for this NOFA.

Funding Priorities: Feedback from previous technical assistance users' and documented outcomes from previous technical assistance providers indicates a demand and preference for face-to-face group seminars to deliver technical assistance information. In order to meet this demand VA establishes the following funding priorities.

Funding priority 1. Eligible entities that will provide 45 face-to-face group grant writing seminars, nationwide, per year, specific to the Grant / Per Diem Program will be placed in funding priority one.

With these criteria, of those eligible entities in the first funding priority, that are legally fundable, the highest scoring applicant will be funded first followed by the second highest scoring applicant until $1 million is funded. Of this group not more than one (1) technical assistance grant will be awarded to the same technical assistance recipient (defined by tax identification number). Using the guidance above, should the goal not be met and if funding is still available, remaining funding will go to the second funding priority.

Funding priority 2. Should funding still be available, eligible entities providing general technical assistance activities as stated in the regulations will be placed in the second funding priority. Of this group not more than one (1) technical assistance grant will be awarded to the same technical assistance recipient (defined by tax identification number). Of those eligible entities in the second funding priority, that are legally fundable, the highest scoring applicants will be funded first until funding is expended.

Application Requirements: Applicants must provide a cover letter indicating which funding priority they are applying under. The specific grant application requirements will be specified in the application package. The package includes all required forms and certifications. Selections will be made based on criteria described in the application. Applicants who are selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the time in which to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: January 13, 2009.

James B. Peake,

Secretary of Veterans Affairs.

[FR Doc. E9–1507 Filed 1–22–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for currently operational VA Grant and Per Diem Special Need Grant Recipients in conjunction with their collaborative VA Special Need partners and currently operational VA Grant and Per Diem Special Need Grant Recipients which do not involve a collaborative effort to make re-applications for assistance under the Special Need Grant Component of VA's Homeless Providers Grant and Per Diem (GPD) Program. The focus of this NOFA is to encourage applicants to continue to deliver services to the homeless Special Need veteran population. This Notice contains information concerning the program, application process, and amount of funding available.

DATES: An original completed and collated grant application (plus three completed collated copies) for assistance under the VA's Homeless Providers Grant and Per Diem Program

must be received in the Grant and Per Diem Field Office, by 4 p.m. Eastern Time on Wednesday, March 25, 2009. Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of Grants.gov), or other delivery-related problems.

For a Copy of the Application Package: Download directly from VA's Grant and Per Diem Program Web page at: *http://www.va.gov/homeless/page.cfm?pg=3* or call the Grant and Per Diem Program at (toll-free) 1–877–332–0334. In this package is information on Grants.gov submission should applicants so desire. For a document relating to the VA's Homeless Providers Grant and Per Diem Program, see the final rule codified at 38 CFR Part 61.0.

Submission of Application: An original completed and collated grant application (plus three copies) must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617. Applications must be received in the Grant and Per Diem Field office by the application deadline. This includes applications submitted through Grants.gov. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Ms. Chelsea Watson, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617; (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This Notice announces the availability of funds for assistance under VA's Homeless Providers Grant and Per Diem Program for currently operational Grant and Per Diem Special Need recipients and their collaborative VA partners to obtain grant assistance with additional operational costs that would not otherwise be incurred but for the fact that the recipient is providing supportive housing beds and services for the Special Needs of the centers for the following homeless veteran populations:

Women, including women who have care of minor dependents;
Frail elderly;
Terminally Ill; or
Chronically mentally ill.

Definitions of these populations are contained in 38 CFR 61.1 Definitions. Eligible applicants should review these definitions to ensure their proposed populations meet the specific requirements.

VA is pleased to issue this Notice of Fund Availability (NOFA) for the Homeless Providers Grant and Per Diem Program as a part of the effort to end chronic homelessness among our nation's veterans. Funding applied for under this Notice may be used for: the provision of service, operation, or personnel to facilitate the following with regard to the targeted group:

Women, Including Women Who Have Care of Minor Dependents

(1) Ensure transportation for women and their children, especially for health care and educational needs;
(2) Provide directly or offer referrals for adequate and safe child care;
(3) Ensure children's health care needs are met especially age appropriate wellness visits and immunizations; and
(4) Address safety and security issues including segregation procedures from other program participants if deemed appropriate.

Frail Elderly

(1) Ensure the safety of the residents in the facility to include preventing harm and exploitation;
(2) Ensure opportunities to keep residents mentally and physically agile to the fullest extent through the incorporation of structured activities, physical activity, and plans for social engagement within the program and in the community;
(3) Provide opportunities for participants to address life transitional issues and separation and/or loss issues;
(4) Provide access to assistance devices such as walkers, grippers, or other devices necessary for optimal functioning;
(5) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and
(6) Provide opportunities for participants either directly or through referral for other services particularly relevant for the frail elderly, including services or programs addressing emotional, social, spiritual, and generative needs.

Terminally Ill

(1) Help participants address life-transition and life-end issues;
(2) Ensure that participants are afforded timely access to hospice services;
(3) Provide opportunities for participants to engage in ''tasks of dying,'' or activities of ''getting things in order'' or other therapeutic actions that help resolve end of life issues and enable transition and closure;
(4) Ensure adequate supervision including supervision of medication and monitoring of medication compliance; and
(5) Provide opportunities for participants either directly or through referral for other services particularly relevant for terminally ill such as legal counsel and pain management.

Chronically Mentally Ill

(1) Help participants join in and engage with the community;
(2) Facilitate reintegration with the community and provide services that may optimize reintegration such as life-skills education, recreational activities, and follow up case management;
(3) Ensure that participants have opportunities and services for re-establishing relationships with family;
(4) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and
(5) Provide opportunities for participants, either directly or through referral, to obtain other services particularly relevant for a chronically mentally ill population, such as vocational development, benefits management, fiduciary or money management services, medication compliance, and medication education.

VA is seeking, through this NOFA, to renew previous grant and per diem Special Need providers and their VA collaborative partners to continue to serve the Special Need veteran populations.

No part of a Special Need grant may be used for any purpose that would change significantly the scope of the specific grant and per diem project for which a capital grant and per diem was awarded. As a part of the review process, VA will review the original project and subsequent renewals as listed in the previous Special Need applications to ensure significant scope changes do not occur displacing other homeless veteran populations. VA may reject for Special Need Funding those applications that significantly alter the original scope (38 CFR Section 61.62).

A separate Special Need application is required for each previously funded grant and per diem project (identified by unique project number (see Application Requirements in this NOFA).

Special Need funding may not be used for capital improvements or to purchase vans or real property. However, the leasing of vans or real property may be acceptable. Questions regarding acceptability should be directed to VA's Grant and Per Diem Field Office (at the number listed above). Applicants may not receive Special Need Assistance to replace funds provided by any Federal, state or local government agency or program to assist homeless persons.

Authority: Funding applied for under this Notice is authorized by the ''Homeless Veterans Comprehensive Assistance Act of 2001,'' Public Law 107–95, § 5, codified as amended at 38 U.S.C. 2011, 2012, 2013, 2061, 2064. The program is implemented by the final rule codified at 38 CFR Part 61.0. The regulations can be found in their entirety in 38 CFR, Sec. 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $10 million is available for current Special Need GPD grant component of this program. Funding will be for a period beginning on October 1, 2009 and ending on September 30, 2011. Applicants should ensure their funding requests are based on this 24 month period. As this NOFA is for renewal funding; applicant funding requests should be in line with prior expenditures. Based on Grant and Per Diem funding availability, approximately, $8 million is expected to be made available over the specified time (internally) for the current VA collaborative partners.

The goal is to the maximum extent possible ensure a continuation of Special Need services to homeless veterans and their VA collaborative partners.

It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor services provided to homeless veterans and outcomes associated with the services provided in grant and per diem-funded programs. Applicants should be aware of the following:

Potential applicants should take into consideration, ''Grant recipients that concurrently receive Special Needs and per diem payments shall not be paid more than 100 percent of the cost for the bed per day, product, operation, personnel, or service provided'' (38 CFR 61.61(h)). Further, VA per diem payment is limited to the applicant's cost of care per eligible veteran minus other sources of payments to the applicant for furnishing services to homeless veterans up to the per day rate VA pays for State Home Domiciliary care. Awardees will be required to support their request for Special Needs and per diem payments with adequate fiscal documentation as to program income and expenses.

All awardees that are conditionally selected in response to this NOFA must meet the requirements of the current edition of the Life Safety Code of the National Fire Protection Association as it relates to their specific facility. Applicants should note that all facilities are to be protected throughout by an approved automatic sprinkler system unless a facility is specifically exempted under the Life Safety Code. Applicants should make consideration of this when submitting their grant applications as no additional funds will be made available for capital improvements under this NOFA. VA will conduct an inspection prior to awardees being able to submit request for payment to ensure this requirement is met.

Each grant awardee will have the VA liaison that was appointed for its corresponding grant and per diem program monitor services to ensure the Special Need grant is being met and will include at least an annual review of each program's progress toward meeting internal goals and objectives in helping the Special Need homeless veterans as identified in each applicant's original Special Need application. Monitoring for all participants will include a review of the agency's income and expenses as they relate to this project to ensure per diem and Special Need payments are accurate.

Monitoring of Homeless Special Need participants and services provided by GPD recipients will be accomplished according to NEPEC procedure. These monitoring procedures will be used to determine successful accomplishment of outcomes for each collaborative partnership.

Funding Priorities: None

Agreement and Funding Actions: Conditionally selected applicants will complete a funding agreement with VA in accordance with 38 CFR Section 61.61 and provide any additional information as required by VA. Upon signature by the Secretary or designated representative final selection will be completed.

Funding for operational grant and per diem applicants that are finally selected will not exceed the period specified in this NOFA. A condition to obtain the Special Need Grant is for the applicant to maintain the original (grant or per diem) program for which the Special Need grant is sought.

Application Requirements: A separate application is needed for each project number, which you are requesting Special Needs Funding. In addition, current Special Need recipients should also list their Special Need Project number. A project number is the last two digits of the year funded, the sequence the application was received, and the state abbreviation for the project location, (i.e., 00–125–MA would have been funded in the year 2000, the 125th application received, and the project is located in Massachusetts). If you do not know your project number call VA's Grant and Per Diem Field Office (toll-free) at 1–877–332–0334.

The grant application requirements are specified in the application package and the following additional information is required by this NOFA.

a. Applicants should include in their submissions documentation of successful past performance.

b. If the previous Special Needs grant was a collaborative the submission must include the appropriate performance data from the VA collaborative partner that the VA met its objectives or provided its duties as outlined in the original MOA.

c. An updated MOA signed by the VAMC Director and the applicant agency Director specifying the collaborative and specific duties of the non-profit provider and those of the VA Medical Center that will be accomplished under this grant.

d. Complete new budgets for the provider and collaborative partner with costs based on past costs incurred and evidence of the same. Providers should take into consideration the 24 month period of award when calculating and submitting their budgets for this NOFA.

Applicants having questions with regard to the funding from previous Special Need awards should contact the Grant and Per Diem Field Office prior to application for this NOFA.

The package includes the applicant's required forms and certifications. Selections will be made based on criteria described in the application and additional information as specified in this NOFA.

Applicants who are selected will be notified of any further additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: January 15, 2009.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E9–1508 Filed 1–22–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Homeless Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Homeless Veterans will be held on February 19–20, 2009, in room 730, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC, from 8 a.m. to 4 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to provide the Secretary of Veterans Affairs with an ongoing assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans. The Committee shall assemble and review information relating to the needs of homeless veterans and provide advice on the most appropriate means of offering assistance to homeless veterans. The Committee will make recommendations to the Secretary regarding such activities.

The agenda will include briefings from VA and other officials regarding services for homeless veterans. The Committee will also begin final preparation of its upcoming annual report and recommendations to the Secretary.

Those wishing to attend the meeting should contact Mr. Pete Dougherty, Department of Veterans Affairs, at (202) 461–7401. No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments from interested parties on issues affecting homeless veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Homeless Veterans, Homeless Veterans Programs Office (075D), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: January 8, 2009.

By direction of the Secretary:

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E9–1373 Filed 1–22–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Health Services Research and Development Service Merit Review Board; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Health Services Research and Development Service Merit Review Board will be held March 2–4, 2009, at the Crowne Plaza San Diego, 2270 Hotel Circle North, San Diego, CA. Various subcommittees of the Board will meet. Each subcommittee meeting of the Merit Review Board will be open to the public the first day for approximately one half-hour from 8 a.m. until 8:30 a.m. to cover administrative matters and to discuss the general status of the program. The remaining portion of the meetings will be closed. The closed portion of each meeting will involve discussion, examination, reference to, and oral review of the research proposals and critiques.

The purpose of the Board is to review research and development applications involving the measurement and evaluation of health care services, the testing of new methods of health care delivery and management, and nursing research. Applications are reviewed for scientific and technical merit. Recommendations regarding funding are submitted to the Chief Research and Development Officer.

On March 2, the subcommittee on Nursing Research Initiative will convene from 8 a.m. to 5 p.m. On March 3–4, five subcommittees on Health Services Research A through E will convene from 8 a.m. to 5 p.m.

After the subcommittees meet, there will be a debriefing provided to members of the Health Services Research & Development Scientific Merit Review Board. The purposes of the debriefing are to discuss the outcomes of the review sessions and to ensure the integrity and consistency of the review process.

During the closed portion of each meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of each meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Those who plan to attend the open session should contact Ms. Rita Lysik, Scientific Merit Review Program Manager (124R), Health Services Research and Development Service, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, at least five days before the meeting. For further information, please call (202) 461–1521.

By Direction of the Secretary.

Dated: January 16, 2009.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E9–1511 Filed 1–22–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFFAIRS

Voluntary Service National Advisory Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the annual meeting of the Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will be held May 20–22, 2009, at the Marriott Westchase, 2900 Briarpark Drive, Houston, Texas. The meeting is open to the public, and the sessions are scheduled as follows:

May 20—2 p.m. until 4 p.m.
May 21—8:30 a.m. until 4 p.m.
May 22—8:30 a.m. until 4 p.m.

The Committee, comprised of sixty-three national voluntary organizations, advises the Secretary, through the Under Secretary for Health, on the coordination and promotion of volunteer activities within VA health care facilities. The primary purposes of this meeting are: To provide for Committee review of volunteer policies and procedures; to accommodate full and open communications between organization representatives and the Voluntary Service Office and field staff; to provide educational opportunities geared towards improving volunteer programs with special emphasis on methods to recruit, retain, motivate and recognize volunteers; and to approve Committee recommendations.

The May 20 session will involve opening ceremonies and remarks by several VA and local officials. The May 21 session will feature the Voluntary Service Report and recognition of the recipients of the VAVS Award for Excellence and NAC Volunteers of the Year. In addition, the James H. Parke Memorial Scholarship Luncheon will be held to honor an outstanding youth

volunteer. Educational workshops will be held in the afternoon.

On May 22, the business session will include subcommittee reports. This session will be followed by a repeat of the educational workshops and closing remarks from the Chairman.

No time will be allocated at this meeting for receiving oral presentations from the public. However, interested persons may either attend or file statements with the Committee. Written statements may be filed either before the meeting or within 10 days after the meeting and addressed to: Ms. Laura B. Balun, Director, Voluntary Service Office (10C2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Individuals interested in attending are encouraged to contact Ms. Balun at (202) 461–7300.

By Direction of the Secretary.

Dated: January 16, 2009.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E9–1506 Filed 1–22–09; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
January 23, 2009

Part II

Department of Education

Compliance Agreement; Notice

DEPARTMENT OF EDUCATION

Compliance Agreement

AGENCY: Department of Education.

ACTION: Notice of written findings and compliance agreement with the New Hampshire Department of Education.

SUMMARY: This notice is being published in the **Federal Register** consistent with section 457(b)(2) of the General Education Provisions Act (GEPA). Section 457 of GEPA authorizes the U.S. Department of Education (the Department) to enter into a compliance agreement with a recipient that is failing to comply substantially with Federal program requirements. In order to enter into a compliance agreement, the Department must determine, in written findings, that the recipient cannot comply with the applicable program requirements until a future date and that a compliance agreement is a viable means of bringing about such compliance.

On September 18, 2008, the Department entered into a compliance agreement with the New Hampshire Department of Education (NHDE). Section 457(b)(2) of GEPA requires the Department to publish written findings leading to a compliance agreement, with a copy of the compliance agreement, in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dr. Sue Rigney, U.S. Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW., Room 3C139, Washington, DC 20202–6132. *Telephone:* (202) 260–0931.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Title I of the Elementary and Secondary Education Act of 1965 (Title I), as amended by the No Child Left Behind Act of 2001, requires each State receiving Title I funds to satisfy certain requirements.

Under Title I, each State was required to adopt academic content and student academic achievement standards in at least mathematics, reading or language arts, and, beginning in the 2005–2006 school year, science. These standards must include the same knowledge and levels of achievement expected of all public school students in the State. Content standards must specify what all students are expected to know and be able to do; contain coherent and rigorous content; and encourage the teaching of advanced skills. Achievement standards must be aligned with the State's academic content standards and must describe at least three levels of proficiency to determine how well students in each grade are mastering the content standards. A State must provide descriptions of the competencies associated with each student's academic achievement level and must determine the assessment scores (''cut scores'') that differentiate among the achievement levels.

Title I also requires each State to implement a student assessment system used to evaluate whether students are mastering the subject material reflected in the State's academic content standards. By the 2005–2006 school year, States were required to administer mathematics and reading or language arts assessments yearly during grades 3–8 and once during grades 10–12. Further, beginning with the 2007–2008 school year, each State was required to administer a science assessment in at least one grade in each of the following grade spans: 3–5, 6–9, and 10–12.

In addition to a general assessment, Title I requires States to develop and administer at least one alternate assessment for students with disabilities who cannot participate in the general assessment, with or without accommodations. An alternate assessment may be based on grade-level academic achievement standards, alternate academic achievement standards, or modified academic achievement standards. Like the general assessment, any alternate assessment must satisfy the requirements for high technical quality, including validity, reliability, accessibility, objectivity, and consistency with nationally recognized professional and technical standards.

In July 2007, NHDE submitted evidence of its standards and assessment system. The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) submitted that evidence to a panel of experts for peer review. Following that review, the Assistant Secretary concluded that NHDE's standards and assessment system did not meet a number of the Title I requirements.

Section 454 of GEPA, 20 U.S.C. 1234c, sets out the remedies available to the Department when it determines that a recipient ''is failing to comply substantially with any requirement of law'' applicable to Federal program funds the Department administers. Specifically, the Department is authorized to—

(1) Withhold funds;

(2) Compel compliance through a cease and desist order;

(3) Enter into a compliance agreement with the recipient; or

(4) Take any other action authorized by law.

20 U.S.C. 1234c(a).

In a letter dated September 28, 2007, to Lyonel B. Tracy, Commissioner of Education for New Hampshire, the Assistant Secretary asked that NHDE enter into a compliance agreement with the Department. The purpose of a compliance agreement is ''to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.'' 20 U.S.C. 1234f(a). In order to enter into a compliance agreement with a recipient, the Department must determine, in written findings, that the recipient cannot comply until a future date with the applicable program requirements and that a compliance agreement is a viable means for bringing about such compliance.

In accordance with the requirements of section 457(b) of GEPA, 20 U.S.C. 1234f(b), on June 4, 2008, Department officials conducted a public hearing in New Hampshire to assess whether a compliance agreement with NHDE might be appropriate. Deborah Wiswell, the Administrator of the NHDE Bureau of Accountability, Gaye Fedorchak, also with the Bureau of Accountability, and one member of the public testified at this hearing. The Department considered the testimony provided at the June 2008 public hearing and all other relevant information and materials and concluded that NHDE would not be able to correct its non-compliance with Title I standards and assessment requirements immediately.

On September 18, 2008, the Assistant Secretary issued written findings, holding that compliance by NHDE with the Title I standards and assessment requirements is genuinely not feasible until a future date. Under Title I, NHDE was required to implement its final assessment system no later than the 2005–2006 school year. The evidence that NHDE submitted in July 2007 indicated that, well after the statutory deadline had passed, its standards and assessment system still did not fully meet Title I requirements. In addition, due to the enormity and complexity of the work needed to bring NHDE's standards and assessment system into full compliance, NHDE cannot immediately comply with all of the Title I requirements.

The Assistant Secretary also determined that a compliance agreement represents a viable means of bringing about compliance because of the steps NHDE has already taken to comply and the plan it has developed for further action. The compliance agreement sets out the action plan that NHDE must implement to come into compliance with Title I requirements. This plan, coupled with specific reporting requirements, will allow the Assistant Secretary to monitor closely NHDE's progress in meeting the terms of the compliance agreement.

The Commissioner of Education for NHDE, Lyonel B. Tracy, signed the compliance agreement on August 14, 2008, and the Assistant Secretary signed the compliance agreement on September 18, 2008.

As required by section 457(b)(2) of GEPA, 20 U.S.C. 1234f(b)(2), the text of the Assistant Secretary's written findings is set forth as Appendix A and the compliance agreement is set forth as Appendix B of this notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF, you must have the Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of a document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Authority: 20 U.S.C. 1234c, 1234f.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

Written Findings of the Assistant Secretary for Elementary and Secondary Education Regarding the Compliance Agreement Between the United States Department of Education and the New Hampshire Department of Education

I. Introduction

The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) of the U.S. Department of Education (Department) has determined, pursuant to 20 U.S.C. 1234c and 1234f, that the New Hampshire Department of Education (NHDE) has failed to comply substantially with certain requirements of Title I, Part A of the Elementary and Secondary Education Act of 1965 (Title I), as amended by the No Child Left Behind Act of 2001, 20 U.S.C. 6301 *et seq.*, and that it is not feasible for NHDE to achieve full compliance immediately. Specifically, the Assistant Secretary has determined that NHDE did not meet, within the statutory timeframe, a number of the Title I requirements concerning the academic achievement standards, technical quality, and alignment for New Hampshire's alternate assessment based on alternate academic achievement standards for students with the most significant cognitive disabilities.

For the following reasons, the Assistant Secretary has concluded that it would be appropriate to enter into a compliance agreement with NHDE to bring it into full compliance as soon as feasible. During the effective period of the compliance agreement, which ends three years from the date of these findings, NHDE will be eligible to receive Title I funds as long as it complies with the terms and conditions of the agreement as well as the provisions of Title I and other applicable Federal statutory and regulatory requirements.

II. Relevant Statutory and Regulatory Provisions

A. Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the No Child Left Behind Act of 2001

Title I of the Elementary and Secondary Education Act of 1965 (Title I), as amended by the No Child Left Behind Act of 2001, 20 U.S.C. 6301 *et seq.*, provides financial assistance, through State educational agencies, to local educational agencies to provide services in high-poverty schools to students who are failing or at risk of failing to meet the State's student academic achievement standards. Under Title I, each State, including the District of Columbia and Puerto Rico, was required to adopt academic content and student academic achievement standards in at least mathematics, reading or language arts, and science. These standards must include the same knowledge and levels of achievement expected of all public school students in the State. Content standards must specify what all students are expected to know and be able to do; contain coherent and rigorous content; and encourage the teaching of advanced skills. Achievement standards must be aligned with the State's academic content standards and must describe at least three levels of proficiency to determine how well students in each grade are mastering the content standards. A State must provide descriptions of the competencies associated with each student's academic achievement level and must determine the assessment scores (''cut scores'') that differentiate among the achievement levels.

Each State was also required to implement a student assessment system used to evaluate whether students are mastering the subject material reflected in the State's academic content standards. By the 2005–2006 school year, States were required to administer mathematics and reading or language arts assessments yearly during grades 3–8 and once during grades 10–12. Further, beginning with the 2007–2008 school year, each State was required to administer a science assessment in at least one grade in each of the following grade spans: 3–5, 6–9, and 10–12. A State's assessment system must:

- Be the same assessment system used to measure the achievement of all public school students in the State;
- Be designed to provide coherent information about student attainment of State academic content standards across grades and subjects;
- Provide for the inclusion of all students in the grades assessed, including students with disabilities and limited English proficient (LEP) students;
- Be aligned with the State's academic content and student academic achievement standards;
- Express student results in terms of the State's student academic achievement standards;
- Be valid, reliable, and of adequate technical quality for the purposes for which they are used and be consistent with nationally recognized professional and technical standards;
- Involve multiple measures of student academic achievement, including measures that assess higher order thinking skills and understanding of challenging content;
- Objectively measure academic achievement, knowledge, and skills without evaluating or assessing personal family beliefs and attitudes;
- Enable results to be disaggregated by gender, each major racial and ethnic group, migrant status, students with disabilities, English proficiency status, and economically disadvantaged students;
- Provide individual student reports; and

• Enable itemized score analyses.

20 U.S.C. 6311(b)(3); 34 CFR 200.2.

In addition to a general assessment, States were required to develop and administer at least one alternate assessment for students with disabilities who cannot participate in the general assessment, with or without accommodations. 34 CFR 200.6(a)(2). An alternate assessment may be based on grade-level academic achievement standards, alternate academic achievement standards, or modified academic achievement standards. Like the general assessment, any alternate assessment must satisfy the requirements for high technical quality, including validity, reliability, accessibility, objectivity, and consistency with nationally recognized professional and technical standards.

B. The General Education Provisions Act

The General Education Provisions Act (GEPA) provides a number of options when the Assistant Secretary determines a recipient of Department funds is ''failing to comply substantially with any requirement of law applicable to such funds.'' 20 U.S.C. 1234c. In such a case, the Assistant Secretary is authorized to:

(1) Withhold funds;

(2) Compel compliance through a cease and desist order;

(3) Enter into a compliance agreement with the recipient; or

(4) Take any other action authorized by law.

20 U.S.C. 1234c(a).

Under section 457 of GEPA, the Assistant Secretary may enter into a compliance agreement with a recipient that is failing to comply substantially with specific program requirements. 20 U.S.C. 1234f. The purpose of a compliance agreement is ''to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.'' 20 U.S.C. 1234f(a). Before entering into a compliance agreement with a recipient, the Assistant Secretary must hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. At that hearing, the recipient has the burden of persuading the Assistant Secretary that full compliance with applicable requirements of law is not feasible until a future date and that a compliance agreement is a viable means for bringing about such compliance. 20 U.S.C. 1234f(b)(1). If, on the basis of all the evidence presented, the Assistant Secretary determines that full compliance is genuinely not feasible until a future date and that a compliance agreement is a viable means for bringing about such compliance, the Assistant Secretary must make written findings to that effect and must publish those findings, together with the substance of any compliance agreement, in the **Federal Register**. 20 U.S.C. 1234f(b)(2).

A compliance agreement must set forth an expiration date, not later than three years from the date of the written findings, by which time the recipient must be in full compliance with all program requirements. 20 U.S.C. 1234f(c)(1). In addition, a compliance agreement must contain the terms and conditions with which the recipient must comply during the period that agreement is in effect. 20 U.S.C. 1234f(c)(2). If the recipient fails to comply with any of the terms and conditions of the compliance agreement, the Assistant Secretary may consider the agreement to be no longer in effect, and may take any of the compliance actions set forth above. 20 U.S.C. 1234f(d).

III. Analysis

A. Overview of Issues To Be Resolved in Determining Whether a Compliance Agreement Is Appropriate

In deciding whether a compliance agreement between the Assistant Secretary and NHDE is appropriate, the Assistant Secretary must first determine whether compliance by NHDE with the Title I standards and assessment requirements is genuinely not feasible until a future date. 20 U.S.C. 1234f(b)(2). Second, the Assistant Secretary must determine whether NHDE will, within a period of up to three years from the date of these written findings, be able to come into compliance with the Title I requirements. Not only must NHDE come into full compliance by the end of the effective period of the compliance agreement, it must also make steady and measurable progress toward that objective while the compliance agreement is in effect. If such an outcome were not possible, then a compliance agreement between the Assistant Secretary and NHDE would not be appropriate.

B. NHDE Has Failed To Comply Substantially With Title I Standards and Assessment Requirements

In July 2007, NHDE submitted evidence of its standards and assessment system. The Assistant Secretary submitted that evidence to a panel of experts for peer review. Following that review, the Assistant Secretary concluded that NHDE's standards and assessment system did not meet a number of the Title I requirements. Specifically, the Assistant Secretary determined that, to demonstrate its compliance, NHDE had to submit the following evidence regarding its alternate assessment based on alternate academic achievement standards:

Academic Achievement Standards

1. Evidence of approved/adopted alternate academic achievement standards for students with the most significant cognitive disabilities in reading/language arts and mathematics for each of grades 3 through 8 and high school.

2. Evidence that the alternate academic achievement standards include the following for each content area:

a. At least three levels of achievement, including two levels of high achievement (*e.g.*, proficient and advanced) that determine how well students are mastering the State's academic content standards, and a third level of achievement (*e.g.*, basic) to provide information about the progress of lower-achieving students toward mastering the two levels of high achievement;

b. Descriptions of the competencies associated with each achievement level; and

c. Assessment scores (''cut scores'') that differentiate among the achievement levels.

3. Evidence that the Board or other authority has adopted all alternate academic achievement standards.

4. Documentation that the State has reported separately the number and percent of those students with disabilities assessed (a) on an alternate assessment against alternate academic achievement standards, (b) on an alternate assessment against grade level standards, and (c) on the regular assessment (including those administered with appropriate accommodations).

5. Documentation that the State has involved diverse stakeholders in the development of its alternate academic achievement standards.

Technical Quality

6. Evidence that the State has documented validity (in addition to the alignment of the alternate assessment with the content standards), as described in the *Standards and Assessments Peer Review Guidance: Information and Examples for Meeting Requirements of the No Child Left Behind Act of 2001*.

7. For the alternate assessment, documentation of the standard setting process, including a description of the selection of judges, the methodology employed, and the final results.

8. For the alternate assessment, evidence that the State has considered the issue of reliability, as described in the *Standards and Assessments Peer Review Guidance: Information and Examples for Meeting Requirements of the No Child Left Behind Act of 2001*.

9. Evidence that the State has ensured that its alternate assessment system is fair and accessible to all eligible students, including LEP students.

10. Evidence that the State has taken steps (such as bias review of items) to ensure fairness in the development of the alternate assessment.

11. If different test forms or formats are used for the alternate assessment, evidence that the State has ensured that the meaning and interpretation of the results are consistent.

12. Evidence that the State has established:

a. Clear criteria for the administration, scoring, analysis, and reporting components of its alternate assessment; and

b. A system for monitoring and improving the ongoing quality of its alternate assessment.

Alignment

13. Evidence that the State has taken steps to ensure alignment between its alternate assessment and the State's academic content and alternate academic achievement standards.

14. Evidence that the State has developed ongoing procedures to maintain and improve alignment between the alternate assessment and standards over time, particularly if gaps have been noted.

Inclusion

15. Evidence that the State has implemented alternate assessments for students with disabilities who are unable to participate in the regular assessment even with accommodations.

16. Evidence of guidelines and training that the State has in place to ensure that all students with disabilities taking the alternate assessment are included appropriately in the State assessment system.

17. Evidence that the State has developed clear guidelines for Individualized Educational Program (IEP) Teams to apply in determining which assessment is most appropriate for a student.

18. Regarding the alternate achievement standards:

a. Evidence that the State has developed clear guidelines for IEP Teams to apply in determining when a child's cognitive disability justifies assessment based on alternate academic achievement standards; and

b. Evidence of the steps the State has taken to instruct regular and special education teachers and appropriate staff on how to properly administer assessments (including making use of accommodations) for students with the most significant cognitive disabilities.

Reporting

19. Evidence that the State's reporting system facilitates appropriate, credible, and defensible interpretation and use of its assessment data.

20. Evidence that the State has provided for the production of individual interpretive, descriptive, and [non-clinical] diagnostic reports that indicate relative strengths and instructional needs and possess the following characteristics:

a. Express results in terms of the State's alternate academic achievement standards rather than numerical values (*e.g.*, scale scores or percentiles);

b. Provide information for parents, teachers, and principals to help them understand and address a student's specific academic needs; and

c. Display the information in a format and language that is understandable to parents, teachers, and principals (*e.g.*, through the use of descriptors that describe what students know and can do at different performance levels) and include interpretative guidance for these audiences.

21. Evidence that the State ensures that these individual student reports will be delivered to parents, teachers, and principals as soon as possible after the alternate assessment has been administered.

C. NHDE Cannot Correct Immediately Its Noncompliance With the Title I Standards and Assessment Requirements

Under Title I, NHDE was required to implement its final assessment system no later than the 2005–2006 school year. 20 U.S.C. 6311(b)(3). The evidence that NHDE submitted in July 2007 indicated that, well after the statutory deadline had passed, its standards and assessment system still did not fully meet Title I requirements. In addition, due to the enormity and complexity of the work that is needed to be done to bring NHDE's standards and assessment system into full compliance, NHDE cannot immediately comply with all of the Title I requirements. As a result, the Assistant Secretary finds that it is not genuinely feasible for NHDE to come into compliance until a future date.

D. NHDE Can Meet the Terms and Conditions of a Compliance Agreement and Come Into Full Compliance With the Requirements of Title I Within Three Years

At the public hearing, which was held on June 4, 2008, NHDE presented evidence of its commitment and capability to come into compliance with the Title I standards and assessment requirements within three years. For example, NHDE has already applied for and obtained a grant from the Department's Office of Special Education Programs, and has begun using those grant funds to develop Grade Level Expectations and alternate assessment links.

NHDE has also developed a comprehensive action plan, incorporated into the compliance agreement, which sets out a very specific schedule that NHDE has agreed to meet during the next three years for attaining compliance with the Title I standards and assessment requirements. As a result, NHDE is committed not only to coming into full compliance within three years but to meeting a stringent, but reasonable, schedule for doing so. The action plan also sets out documentation and reporting requirements with which NHDE must comply. These provisions will allow the Assistant Secretary to ascertain promptly whether NHDE is meeting each of its commitments under the compliance agreement and is on schedule to achieve full compliance within the effective period of the agreement.

The task of developing a standards and assessment system that meets the Title I requirements is not a quick or easy one. However, the Assistant Secretary has determined that, given the commitment of NHDE to comply with the terms and conditions of the compliance agreement, it is possible for NHDE to come into full compliance with the Title I standards and assessment requirements within three years.

IV. Conclusion

For the foregoing reasons, the Assistant Secretary finds the following: (1) That full compliance by NHDE with the standards and assessment requirements of Title I is genuinely not feasible until a future date; and (2) that NHDE can meet the terms and conditions of the attached compliance agreement and come into full compliance with the standards and assessment requirements of Title I within three years of the date of these findings. Therefore, the Assistant

Secretary has determined that it is appropriate to enter into a compliance agreement with NHDE. Under the terms of 20 U.S.C. 1234f, that compliance agreement becomes effective on the date of these findings.

Dated: September 18, 2008.

Kerri L. Briggs, PhD,

Assistant Secretary, Office of Elementary and Secondary Education.

Compliance Agreement Under Title I of the Elementary and Secondary Education Act Between the United States Department of Education and the New Hampshire Department of Education

Title I of the Elementary and Secondary Education Act of 1965 (Title I), as amended by the No Child Left Behind Act of 2001, requires each State receiving Title I funds to satisfy certain requirements.

Each State was required to adopt academic content and achievement standards in at least mathematics, reading/language arts, and, beginning in the 2005–2006 school year, science. These standards must include the same knowledge and levels of achievement expected of all public school students in the State. Content standards must specify what all students are expected to know and be able to do; contain coherent and rigorous content; and encourage the teaching of advanced skills. Achievement standards must be aligned with the State's content standards and must describe at least three levels of proficiency to determine how well students in each grade are mastering the content standards. A State must provide descriptions of the competencies associated with each achievement level and must determine the assessment scores (''cut scores'') that differentiate among the achievement levels.

Each State was also required to implement a student assessment system used to evaluate whether students are mastering the subject material reflected in the State's academic standards. By the 2005–2006 school year, States were required to administer mathematics and reading/language arts assessments yearly during grades 3–8 and once during grades 10–12. Further, beginning with the 2007–2008 school year, each State is required to administer a science assessment in at least one grade in each of the following grade spans: 3–5, 6–9, and 10–12. A State's assessment system must:

- Be the same assessment system used to measure the achievement of all public school students in the State;
- Be designed to provide coherent information about student attainment of State standards across grades and subjects;
- Provide for the inclusion of all students in the grades assessed, including students with disabilities and limited English proficient (LEP) students;
- Be aligned with the State's content and achievement standards;
- Express student results in terms of the State's student achievement standards;
- Be valid, reliable, and of adequate technical quality for the purpose for which they are used and be consistent with nationally recognized professional and technical standards;
- Involve multiple measures of student academic achievement, including measures that assess higher order thinking skills and understanding of challenging content;
- Objectively measure academic achievement, knowledge, and skills without evaluating or assessing personal family beliefs and attitudes;
- Enable results to be disaggregated by gender, each major racial and ethnic group, migrant status, English proficiency status, students with disabilities, and economically disadvantaged students;
- Provide individual student reports; and
- Enable itemized score analyses.

In addition to a general assessment, States were required to develop at least one alternate assessment for students with disabilities who cannot participate in the general assessment, with or without accommodations. An alternate assessment may be based on grade-level achievement standards, alternate achievement standards, or modified achievement standards. Like the general assessment, any alternate assessment must satisfy the requirements for high technical quality, including validity, reliability, accessibility, objectivity, and consistency with nationally recognized professional and technical standards.

The New Hampshire Department of Education (NHDE) was unable to timely meet certain of the requirements for its standards and assessments system. In order to be eligible to continue to receive Title I funds while working to comply with the statutory and regulatory requirements regarding alternate assessments, Lyonel B. Tracy, Commissioner of Education, indicated NHDE's interest in entering into a compliance agreement with the United States Department of Education (Department). On June 4, 2008, the Department conducted a public hearing regarding: (1) Whether NHDE's full compliance with Title I is not feasible until a future date, and (2) whether NHDE is able to come into compliance with the Title I requirements for an alternate assessment system within three years.

Pursuant to this Compliance Agreement under 20 U.S.C. Section 1234f, NHDE must be in full compliance with the outstanding requirements no later than three years from the date of the Assistant Secretary's written findings, a copy of which is attached to, and incorporated by reference into, this Agreement. In order to achieve compliance with the standards and assessment requirements, NHDE must submit the following evidence:

Because New Hampshire is substantially revising its alternate assessment based on alternate academic achievement standards (NH–Alt), NHDE must submit the following evidence:

Academic Achievement Standards

1. Evidence of approved/adopted alternate academic achievement standards for students with the most significant cognitive disabilities in reading/language arts and mathematics for each of grades 3 through 8 and high school.

2. Evidence that the alternate academic achievement standards include the following for each content area:

a. At least three levels of achievement, including two levels of high achievement (*e.g.*, proficient and advanced) that determine how well students are mastering the State's academic content standards, and a third level of achievement (*e.g.*, basic) to provide information about the progress of lower-achieving students toward mastering the two levels of high achievement;

b. Descriptions of the competencies associated with each achievement level; and

c. Assessment scores (''cut scores'') that differentiate among the achievement levels.

3. Evidence that the Board or other authority has adopted all alternate academic achievement standards.

4. Documentation that the State has reported separately the number and percent of those students with disabilities assessed (a) on an alternate assessment against alternate academic achievement standards, (b) on an alternate assessment against grade level standards, and (c) on the regular assessment (including those administered with appropriate accommodations).

5. Documentation that the State has involved diverse stakeholders in the

development of its alternate academic achievement standards.

Technical Quality

6. Evidence that the State has documented validity (in addition to the alignment of the alternate assessment with the content standards), as described in the *Standards and Assessments Peer Review Guidance: Information and Examples for Meeting Requirements of the No Child Left Behind Act of 2001*.

7. For the alternate assessment, documentation of the standard-setting process, including a description of the selection of judges, the methodology employed, and the final results.

8. For the alternate assessment, evidence that the State has considered the issue of reliability, as described in the *Standards and Assessments Peer Review Guidance: Information and Examples for Meeting Requirements of the No Child Left Behind Act of 2001*.

9. Evidence that the State has ensured that its alternate assessment system is fair and accessible to all eligible students, including LEP students.

10. Evidence that the State has taken steps (such as bias review of items) to ensure fairness in the development of the alternate assessment.

11. If different test forms or formats are used for the alternate assessment, evidence that the State has ensured that the meaning and interpretation of the results are consistent.

12. Evidence that the State has established:

a. Clear criteria for the administration, scoring, analysis, and reporting components of its alternate assessment; and

b. A system for monitoring and improving the on-going quality of its alternate assessment.

Alignment

13. Evidence that the State has taken steps to ensure alignment between its alternate assessment and the State's academic content and alternate academic achievement standards.

14. Evidence that the State has developed ongoing procedures to maintain and improve alignment between the alternate assessment and standards over time, particularly if gaps have been noted.

Inclusion

15. Evidence that the State has implemented alternate assessments for students with disabilities who are unable to participate in the regular assessment even with accommodations.

16. Evidence of guidelines and training that the State has in place to ensure that all students with disabilities taking the alternate assessment are included appropriately in the State assessment system.

17. Evidence that the State has developed clear guidelines for Individualized Educational Program (IEP) Teams to apply in determining which assessment is most appropriate for a student.

18. Regarding the alternate achievement standards:

a. Evidence that the State has developed clear guidelines for IEP Teams to apply in determining when a child's cognitive disability justifies assessment based on alternate academic achievement standards; and

b. Evidence of the steps the State has taken to instruct regular and special education teachers and appropriate staff on how to properly administer assessments (including making use of accommodations) for students with the most significant cognitive disabilities.

Reporting

19. Evidence that the State's reporting system facilitates appropriate, credible, and defensible interpretation and use of its assessment data.

20. Evidence that the State has provided for the production of individual interpretive, descriptive, and [non-clinical] diagnostic reports that indicate relative strengths and instructional needs and possess the following characteristics:

a. Express results in terms of the State's alternate academic achievement standards rather than numerical values (*e.g.*, scale scores or percentiles);

b. Provide information for parents, teachers, and principals to help them understand and address a student's specific academic needs; and

c. Display the information in a format and language that is understandable to parents, teachers, and principals (*e.g.*, through the use of descriptors that describe what students know and can do at different performance levels) and include interpretative guidance for these audiences.

21. Evidence that the State ensures that these individual student reports will be delivered to parents, teachers, and principals as soon as possible after the alternate assessment has been administered.

During the duration of this Compliance Agreement, NHDE is eligible to receive Title I, Part A funds if it complies with the terms and conditions of this Agreement, and all other provisions of Title I, Part A and other applicable Federal statutory and regulatory requirements that are not specifically addressed by this Agreement. The attached action steps are a detailed plan and specific timeline for how NHDE will come into compliance with the Title I standards and assessment requirements. These action steps are incorporated into this Agreement and may be amended by joint written agreement of the parties, provided full compliance is still feasible by the expiration of the Agreement.

In addition to all terms and conditions set forth above, NHDE agrees that its continued eligibility to receive Title I, Part A funds is predicated upon its compliance with all statutory and regulatory requirements of that program that are not specifically addressed by this Agreement, including any amendments to the No Child Left Behind Act of 2001.

If NHDE fails to comply with any of the terms and conditions of this Agreement, including the action steps attached hereto, the Department may consider the Agreement no longer in effect and may take any action authorized by law, including the withholding of funds or the issuance of a cease and desist order. 20 U.S.C. 1234f(d).

It is so agreed.

For the New Hampshire Department of Education.

/s/ _____

Lyonel B. Tracy

Commissioner of Education

Date 8–14–08

For the United States Department of Education:

/s/ _____

Kerri L. Briggs, Ph.D

Assistant Secretary, Office of Elementary and Secondary Education

Date 18–Sept–08

Date this Compliance Agreement becomes effective: Sept. 18, 2008

Expiration Date of this Agreement: Sept. 18, 2011

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NH Compliance Agreement Work Plan: August 5, 2008

The following work plan represents the New Hampshire Department of Education's (NH DOE) intent to fulfill our compliance agreement with the United States Department of Education (USED). The NH DOE believes this three year work plan will result in a technically sound alternate assessment system that leads to improved teaching and learning for New Hampshire's students with the most significant cognitive disabilities. The work associated with the compliance agreement coincides with and is complementary to New Hampshire's participation in a General Supervision and Enhancement Grant with the University of New Hampshire.

This work plan is organized around major aspects of test design and development and describes the key tasks in each category. For each key task, the start date and end date are specified and where appropriate the expected deliverables are outlined. Further, NH DOE agrees to provide quarterly updates—starting October 31, 2008—to USED. In addition to brief narratives, these updates will be used to submit the deliverables mentioned throughout the work plan.

I Grade Level Expectation-Alternate Assessment Links

	Major Task / Sub-task (if applicable)	Start	End	Deliverable (if applicable)
1.1.0	Obtain grant funding to develop GLE-Alt Links (expansions of grade-level content standards with access -based descriptions)	Completed		GSEG funding award letter
1.2.0	Collect data on current degree of alignment/link between NH-Alt portfolios from the 2007-2008 school year to serve as a baseline for subsequent alignment and instructional validity studies. These data are being collected largely for training purposes and for NHDOE staff and its partners to gain a better understanding of the current levels of alignment/misalignment.	6/08	10/08	
1.2.1	• Design protocols based on Links for Academic Learning	Completed		Protocols—appendix in report
1.2.2	• Train a subset of 2008 scorers to serve as data collectors	Completed		Training protocol in report
1.2.3	• Collect data associated with 2008 scoring	7/08	8/08	
1.2.4	• Analyze and report findings	9/08	11/08	Summary report
1.3.0	Develop through the *Gaining Access* GSEG with UNH/IOD GLE-Alt Links expanded content standards and GLE plain language expansions for grades 3-8 and 10 in **reading and math**.	6/08	8/09	
1.3.1	• Recruit diverse panels of qualified general and special educators (National experts and NH State Panelists) to develop 'GLE-Alt Links' expanded content standards with associated access-based descriptions of proficient performance at each grade level.	6/08	10/08	List of qualified national and state participants included in quarterly report to USED
1.3.2	• Conduct expert panels meeting	11/08	2/09	Notes and agenda from meetings
1.3.3	• Draft preliminary GLE-ALT-Links.	9/08	3/09	Draft document
1.3.4	• Review/editing of draft links by panels of NH educators	3/09	6/09	Notes from meetings and feedback
1.3.5	• Final Reading and Mathematics GLE-Alt Links document for use in 2009-2010. (See 2.1.0)	6/09	8/09	GSEG grant summary, including completed GLE-ALT Links and resource document for reading and, math.
1.4.0	Develop in partnership with the assessment contractor (Measured Progress) the GLE-Alt Links for **science** grades 4, 8, & 11 **and writing** in grades 4, 7, & 10. This activity cannot start until the next contract period (starting 7/1/09) when funds are available.	7/09	3/10	

1.4.1	• Recruit diverse panels of qualified general and special educators (National and NH State).	7/09	11/09	List of qualified national and state panelists
1.4.2	• Conduct expert panels meeting	11/09	1/10	Notes and agenda from meetings
1.4.3	• Draft preliminary GLE-ALT-Links in writing and science	1/10	2/10	Draft document
1.4.4	• Review/editing by panels of NH educators	2/10	3/10	Notes from meetings and feedback
1.4.5	• Complete final writing and science GLE-Alt Links document for use in 2010-2011 assessment. This completion date coincides with proposed completion of NH-Alt manual for 2010-2011 year so that both can come out at same time.	3/10	3/10	GLE-Alt Links completed product Resource document for science and, writing
1.5.0	Conduct third party **alignment study** among the NH-Alt GLE Links, the GLEs, and the **items/tasks presented to students for reading, math, and science.**	4/10	8/10	
1.5.1	• Hire third party alignment contractor	1/10	3/10	Contract scope of work
1.5.2	• Design protocol, in collaboration with contractor, based on UNCC *Links for Learning* alignment model	3/10	5/10	Study protocol
1.5.3	• Recruit and train raters	5/10	6/10	List of invitees and final participants with associated demographic information
1.5.4	• **Collect data in association with 2010 Summer Scoring Institute**	6/10	7/10	
1.5.5	• Analyze data and write summary report	7/10	8/10	Alignment summary report
1.5.6	• Use alignment results to make any necessary adjustments in final GLE ALT Links or portfolio protocol in consultation with the field. This timing will allow incorporation of adjustments into mid-September statewide training sessions.	8/10	9/10	Notes on any changes to GLE Alt links and/or portfolio protocol
1.6.0	Submit the final NH-Alt GLE Links to the NH Commissioner of Education for approval. In NH, the Commissioner has the authority to determine whether to approve standards on his own or to refer the standards to the NH State Board of Education for approval. Schedule allows time to get onto State Board agenda if deemed necessary.	9/10	12/10	Board minutes or copy of memo from NH Commissioner of Education indicating approval of Alt Links

II Revised Portfolio Design and Implementation

	Task	Sub-task (if applicable)	Start	End	Deliverable (if applicable)
2.1.0	**Using the GLE-Alt Links in reading and mathematics**, provide guidance to NH educators on transitioning to the revised NH-ALT. The 2009-2010 transition portfolio will be more structured by requiring specific content targets—according to the NH-Alt GLE Links—to be assessed instead of the more flexible approach used in the past. The intent of this transition portfolio is to have teachers begin to focus on specific content targets, but it will not be as structured as the final NH-Alt portfolio.		7/09	8/09	
2.1.1	• Draft design document, including transition portfolio protocol, with assistance from NCEIA		3/09	7/09	Draft design document
2.1.2	• Incorporate the draft design decisions into the revised NH-Alt administrator manual and into fall training sessions for teachers.		6/09	9/09	2009-2010 NH-Alt administrators' manual, and training power-point.
2.1.3	• Conduct survey or focus groups with NH teachers to gather feedback regarding the transition portfolio structure and process.		2/10	6/10	Summary of survey results
2.2.0	Using the NH TAC and other stakeholders and selected experts, NH DOE will refine and **finalize the design of the revised structured portfolio assessment** to ensure that students are assessed on academic content linked explicitly to the NH-Alt GLE Links in 2010-2011.		9/08	3/10	

2.2.1	• Convene two meetings of NH TAC to solicit input on portfolio design issues, specifically providing advice to help NH DOE weigh issues of breadth versus depth in determining the required number of tasks each student is expected to complete and for which teachers will be required to submit evidence	9/08	7/09	TAC agendas and summaries
2.2.2	• Produce draft design document for final structured portfolio specifying the required number of tasks and pieces of evidence required for each content area and grade level. This document will incorporate the lessons learned, revisions from the transition portfolio implementation and focus group research.	7/09	11/09	Draft design document for final structured portfolio protocol
2.2.3	• Based on final design decisions, draft the 2010-2011 revised NH-Alt Teacher's Manual.	11/09	4/10	Revised NH-Alt Teacher's Manual for 2010-2011 – as published
2.3.0	Implement the revised NH-Alt Portfolio during the 2010-2011 school year, but on a slightly shortened time schedule (final submission by March 2011) in order to accomplish all required tasks prior to June 30, 2011. The revised NH-Alt Portfolio will require schools to submit student work demonstrating proficiency on a state-specified set of "GLE-Alt Links".	8/10	4/11	Portfolio submissions, 2010-2011 Teacher Manual
2.4.0	NH DOE currently conducts extensive professional development about how to administer the NH-Alt. Significant professional development will be required to ensure that NH educators are able to successfully administer the NH revised structured portfolio.	8/08	9/10	
2.4.1	• Along with GSEG partners, NH TAC, the test contractor, and other advisory groups, plan the additional professional development leading up to the 2009-2010 transition portfolio and especially in advance of the 2010-2011 final portfolio necessary for instructing NH educators on the conceptualization and procedures for both the transition and fully revised portfolio.	8/08	10/08	List of planned professional development experiences
2.4.2	• Implement professional development in support of the 2009-2010 transition portfolio. (see 2.4.1)	6/09	10/09	Lists of professional development workshops, agenda, training materials, and lists of attendees.
2.4.3	• Implement professional development in support of the 2010-2011 fully revised portfolio.	1/10	9/10	

III Academic Achievement Standards

	Task	Sub-task (if applicable)	Start	End	Deliverable (if applicable)
3.1.0	Using a diverse panel of stakeholders, NHDOE staff, and key external experts, we will **create draft achievement level descriptors** (ALD) in **reading, math, science, and writing**. The focus of these draft ALDs will to ensure that specific content references are included in the draft ALDs, based on draft GLE Links.		1/10	5/10	
3.1.1	• Recruit stakeholder panel		1/10	3/10	List of stakeholders with appropriate qualifications
3.1.2	• Draft achievement level descriptors with internal team		3/10	4/10	
3.1.3	• Share internal drafts with stakeholder panel to revise and refine ALDs.		4/10	5/10	Meeting agenda and ALDs
3.2.0	Using a diverse panel of stakeholders and key external experts, hold a standards setting event to establish/validate three cutscores resulting in four levels of achievement for reading, math, science, and writing.		9/09	6/11	

3.2.1	• TAC and other advisory group meetings to first determine the best approach for completing the standard setting process that will occur at the end of the 2010-2011 portfolio administration. These recommendations will occur after reviewing the results of the alignment study (including comparisons with baseline alignment analyses occurring in 2008), comparing the draft ALDs with the current ALDs, and changes in test specifications. **See Sections 4.1.1 – 4.1.4**	9/09	9/10	Meeting agenda and summaries
3.2.2	• Design standard setting process with the input of the test contractor and advisory committees. Given the anticipated revisions to the NH-Alt portfolio, we expect that a full standard setting event—using Body of Work and/or Profile methods—will be required.	9/09	9/10	Meeting agenda, proposed standard setting/validation meeting agendas.
3.2.3	• With our test contractor, implement standard setting process after the May 2011 Scoring Institute.	5/11	6/11	List of panelists, protocols, training materials, and evaluation of the meeting.
3.3.0	Submit the revised/revisited cutscores and ALDs to the NH Commissioner of Education for approval. In NH, the Commissioner has the authority to determine whether to approve standards on his own or to refer the standards to the NH State Board of Education for approval.	5/11	6/11	Board minutes or copy of memo from NH Commissioner of Education indicating approval of standards.

IV Scoring and Reporting

	Task	Sub-task (if applicable)	Start	End	Deliverable (if applicable)
4.1.0	With the advice of the NH TAC, key stakeholders, and experts in severe disabilities and sensory access, NH DOE staff and contractors will create a revised scoring rubric that focuses on performance relative to student learning of academic content and NOT program information for schools. We intend for the revised rubric to include such features as performance accuracy, performance progress, independence, and generalization. NH DOE and its advisors will wrestle with the challenging issue of how to ensure that the tasks included in the portfolio measure student learning of the NH-Alt GLE Links rather than non-academic material. NH DOE is presently discussing with its advisors two general approaches to address this concern. The first would require adding a dimension to the scoring rubric to get at "closeness to the Alt GLE Link" while the second approach would require a minimum degree of linkage in order for the portfolio to be eligible for scoring and then incorporate programmatic feedback to schools as part of NH's state accountability system (*Follow the Child*). Both of these approaches have considerable advantages and disadvantages that will require extensive discussions among key stakeholders, but NH DOE will choose the approach that minimizes potential negative consequences while ensuring that the links to academic content are expected.		6/09	4/11	Revised NH-Alt scoring rubrics for reading, math, science, and writing. Training materials and procedures for scorers.
4.1.1	• Draft scoring dimensions and criteria in advance of September 2008 TAC meeting		7/08	9/08	Proposed list scoring dimensions and criteria (this is NOT a draft rubric)
4.1.2	• Discuss with NH TAC proposed scoring dimensions and criteria in order to gather enough feedback to draft an initial scoring rubric		9/08	9/08	TAC agenda and TAC summary
4.1.3	• Along with its test contractor and advisors, NH DOE will produce a draft scoring rubric.		10/08	3/09	Draft scoring rubric

4.1.4	• The draft rubric will be tested against the transition portfolios. The draft rubric will NOT be used to score the transition portfolios, rather the transition portfolios will be used to refine the draft scoring rubric during the Summer Scoring Institute.	6/10	8/10	Notes from piloting the scoring rubric and revised rubric
4.2.0	Given the changes to the scoring rubric and the revised content requirements for the assessment, the reporting structures will need to be revised. New score reports for students, schools, and districts will be developed as part of our test contract. The new reports—especially those for students/parents—will be designed to highlight the academic nature of the assessment and the students' performance. The NH TAC, the NH-Alt Advisory Committee, and other stakeholders will be involved in the design and development of these score reports. Draft reports will be tested in small focus groups to ensure that the reports yield the intended interpretations.	9/09	5/11	Report shells and results from the focus groups included in the technical manual. Report interpretation guide and other training materials.
4.2.1	• Along with its test contractor and advisors, NH DOE will produce draft report shells.	1/09	8/09	Draft state, district, school, and student report shells
4.2.2	• NH TAC will review draft report shells to provide feedback to NH DOE and its contractor	8/09	10/09	TAC agenda and summary
4.2.3	• NH DOE and its technical contractors will conduct small scale focus groups to ensure, to the extent practicable, that the reports yield the intended interpretations.	2/10	5/10	Summary of focus groups
4.2.4	• Revised report shells will be produced based on feedback from focus group participants and experts and used in reporting the 2010-2011 results.	6/10	10/10	Revised report shells

V Technical Documentation and Validity Evaluation

	Task	Sub-task (if applicable)	Start	End	Deliverable (if applicable)
5.1.0	NH DOE first published its technical manual for the current NH-ALT in 2005 (*Volume I of the NH-Alternate Assessment Technical Manual*) and NH DOE will update this manual to document the technical quality of the revised NH-ALT. In addition to the types of documentation found in Volume I technical manuals (see Marion & Pellegrino, 2006; also called the "nuts & bolts" volume), special attention in the updated manual will be on the: • Characteristics of students participating in the NH-ALT including descriptive information about how the students access academic content (sensory access); • Independent alignment analyses documented the link among the NH-Alt GLE Links, the tasks presented to the students, and the grade level GLEs; and • Results of the standard setting activities, especially the ways in which the achievement level descriptors reflect the academic content described in the NH-ALT GLE Links. This volume, produced in partnership with the assessment contractors, also serves an important role as a basis for the validity studies summarized in the Volume II technical manual. Given the timing of the activities during 2010-2011 test administration, a draft of the Volume I technical manual will be presented at the conclusion of the compliance agreement, yet it will require several months beyond the conclusion of the agreement to finalize the technical manual.		6/09	6/11	NH-Alt Structured Portfolio Technical Manual: Volume I

5.2.0	The set of validity studies conducted as part of this compliance agreement, the UNH/IOD GSEG, and as part of NH DOE's regular practice will be summarized in Volume II of the technical documentation prepared in partnership with the Center for Assessment. While it is too soon to specify the full set of studies, we anticipate conducting studies such as: • Examining teacher perception of alternately assessed students' GLE performance levels before vs. after implementation of newly aligned GLE-Alt links expanded content standards and revised NH-Alt procedures; • Evaluating how the new scoring rubric leads to more accurate inferences regarding students' academic performance; • Evaluating how the change to the structured portfolio affected the assessment of academic content compared to the current NH-ALT.	8/08	6/11	*Volume II: Validity Evaluation of the Revised NH-ALT Structured Portfolio*
5.2.1	• Along with the Center for Assessment and the NH TAC, NH DOE will draft the validity argument and develop validity evaluation plan for the revised NH-ALT	8/08	6/09	Draft validity evaluation plan
5.2.2	• Using the validity argument and draft plan, NH DOE after consulting with the NH TAC, will prioritize potential validity studies— in addition to those conducted as part of the UNH/IOD GSEG—that NH DOE will include in the first version of *Volume II: Validity Evaluation of the Revised NH-ALT Structured Portfolio*. NH will use the outlines generated as part of the NHEAI Grant.	1/09	9/09	Validity evaluation with set of prioritized studies outlined
5.2.3	• Conduct—contingent upon funding—and report the results of the prioritized validity studies as per Peer Review Guidance.	5/09	5/11	Student reports included in *Volume II*.

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Federal Register

Friday,
January 23, 2009

Part III

Department of Labor

Authority and Responsibilities for Implementation of the Chief Financial Officers Act of 1990 and Related Legislation; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 04–2009]

Authority and Responsibilities for Implementation of the Chief Financial Officers Act of 1990 and Related Legislation

1. Purpose

To delegate authority and assign responsibilities for implementation of the Chief Financial Officers Act of 1990 and related legislation.

2. Authorities and Directives Affected

A. Authorities

1. Chief Financial Officers Act of 1990, as amended (Pub. L. 101–576).
2. Federal Managers' Financial Integrity Act of 1982 (Pub. L. 97–255).
3. Government Performance and Results Act of 1993 (Pub. L. 103–62).
4. Government Management Reform Act of 1994 (Pub. L. 103–356).
5. Clinger-Cohen Act of 1996 (Pub. L. 104–106).
6. Federal Financial Management Improvement Act of 1996 (Pub. L. 104–208).
7. Reports Consolidation Act of 2000 (Pub. L. 106–531).
8. Improper Payments Information Act of 2002 (Pub. L. 107–300).
9. Accountability of Tax Dollars Act of 2002 (Pub. L. 107–289).
10. 29 U.S.C. 563, 563a, and 564, authorizing the Working Capital Fund at the Department of Labor.
11. Office of Management and Budget (OMB) Circular No. A–11, Preparation, Submission and Execution of the Budget (June 26, 2008).
12. OMB Circular No. A–123, Management's Responsibility for Internal Control (December 21, 2004).
13. OMB Circular No. A–127, Financial Management Systems (July 23, 1993).
14. OMB Circular No. A–134, Financial Accounting Principles and Standards (May 20, 1993).
15. OMB Circular No. A–136, Financial Reporting Requirements (June 3, 2008).

B. Directives Affected

1. Secretary's Orders 01–1992 and 01–1997 are superseded and canceled.
2. This Order does not affect Secretary's Order 14–2006, Internal Control Program (June 20, 2006).
3. All references to the Office of the Comptroller, Office of the Assistant Secretary for Administration and Management (OASAM), in Secretary's Orders, DLMS Chapters, and other Departmental issuances shall be considered to refer to the Office of the Chief Financial Officer.
4. Directives inconsistent with this Order are rescinded to the extent of the inconsistency.

3. Background and Organization

The Chief Financial Officers Act of 1990, as part of overall Federal financial management reforms, mandated the establishment of a Chief Financial Officer (CFO) and Deputy Chief Financial Officer in all Cabinet-level Federal agencies, including the Department of Labor (DOL). The CFO is appointed by the President and confirmed by the Senate, and by statute reports directly to the Secretary. The Deputy CFO is a career-reserved position in the Senior Executive Service who reports directly to the CFO. The CFO heads the Office of the Chief Financial Officer (OCFO), which has such component organization units, staffing, and funding as are authorized.

4. Delegation of Authority

As specified in the CFO Act, at 31 U.S.C. 902, and as detailed in Paragraph 5 of this Order, the Chief Financial Officer is delegated authority to oversee the financial management functions of the Department.

5. Assignment of Responsibilities to the Chief Financial Officer

A. As required by the CFO Act, the CFO shall—

1. Report directly to the Secretary and Deputy Secretary regarding financial management matters;
2. Oversee all financial management activities relating to the programs and operations of the Department;
3. Develop and maintain an integrated Departmental accounting and financial management system, including financial reporting and internal controls, which—
   a. Complies with applicable accounting principles, standards, and requirements, and internal control standards;
   b. Complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget;
   c. Complies with any other requirements applicable to such systems; and
   d. Provides for—
   (1) Complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of Departmental management;
   (2) The development and reporting of cost information;
   (3) The integration of accounting and budgeting information; and
   (4) The systematic measurement of financial performance;
4. Make recommendations to the Secretary regarding the selection of the Deputy Chief Financial Officer of the Department, who will have the qualifications outlined in the CFO Act at 31 U.S.C. 903;
5. Direct, manage, and provide policy guidance and oversight of Departmental financial management personnel, activities, and operations, including—
   a. The preparation and annual revision of a Departmental plan to—
   (1) Implement the 5-year financial management plan prepared by the Director of the Office of Management and Budget under 31 U.S.C. 3512(a)(3); and
   (2) Comply with the requirements for financial statements and audits established under 31 U.S.C. 3515, 3521(e), and 3521(f);
   b. The development of Departmental financial management budgets;
   c. The recruitment, selection, and training of personnel to carry out Departmental financial management functions;
   d. The approval and management of Departmental financial management systems design or enhancement projects;
   e. The implementation of Departmental asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control;
   f. Prepare and transmit an annual report to the Secretary and the Director of the Office of Management and Budget, consistent with the requirements of OMB Circular No. A–136, which shall include—
   (1) A description and analysis of the status of financial management of the Department;
   (2) The annual financial statements prepared under 31 U.S.C. 3515;
   (3) The audit report transmitted to the Secretary under 31 U.S.C. 3521(f);
   (4) A summary of the reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Pub. L. 97–255); and
   (5) Other information the Secretary considers appropriate to fully inform the President and the Congress concerning the financial management of the Department;
6. Monitor the financial execution of the budget of the Department in relation to actual expenditures in concert with the responsibilities of the Assistant Secretary for Administration and

Management (ASAM) outlined in Paragraph 6(B), and prepare and submit to the Secretary timely financial performance reports; and

7. Review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the Department for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.

B. The CFO will have the following additional responsibilities:

1. *Policy Duties.*

a. Develop and promulgate accounting and financial management policies for DOL and its component agencies, and review and approve component agency financial policies, procedures, and structures for adherence to the policies of DOL and other Federal agencies.

b. Ensure compliance throughout DOL, and its component agencies, with applicable accounting standards and principles, and financial information and system functional standards, including the standards promulgated by the Federal Accounting Systems Advisory Board, the Federal Government's Standard General Ledger, the core requirements for financial systems, and the financial statement form and content guidance issued by OMB.

c. Exercise overall responsibility for the Department's compliance with FMFIA and for the Department's fiscal integrity; serve on the Department's Internal Control Board; report directly to the Secretary on internal control matters; carry out the responsibilities specified in Secretary's Order 14–2006, Internal Control Program, for the CFO and the Internal Control Principal for financial systems and mixed systems that are significantly financial.

d. Ensure adequate controls are in place over asset management, including cash management operations, credit management and debt collection operations, and real property, equipment, and inventories.

e. Participate with Departmental Agency heads and other staff in the policy review of proposed legislative and program initiatives from a financial management perspective.

f. Ensure that component agencies gather timely and accurate financial information to manage and oversee major procurements.

g. Develop policies and procedures for investigating potential violations of the Anti-Deficiency Act; working under policies established by the CFO, and in cooperation with the ASAM and the Solicitor of Labor, notify the Secretary of Anti-Deficiency Act violations, and transmit agency reports of Anti-Deficiency Act violations to the Secretary for transmittal to the President, Congress, OMB, and the Government Accountability Office, as applicable.

2. *Budget Duties.*

a. Monitor the financial execution of the budget of the Department in relation to actual expenditures, and prepare and submit to the Secretary timely financial performance reports.

b. Provide leadership, direction, coordination, and related services concerning budget execution for the Department and its component agencies.

c. Participate with Departmental Agency heads and other staff at a policy and decision-making level in the Departmental budget execution review process.

d. Review the budget requests for all Departmental and component agency financial management functions; recommend to the Secretary their modification as necessary to ensure that appropriate resources are requested to effectively and efficiently perform necessary financial and related functions.

e. Promote the development and reporting of cost information in support of the systematic measurement of performance in appropriate budget documents.

f. Manage and oversee the Department's administrative control of funds from the time funds are allotted to the DOL agencies.

3. *Financial Systems Duties.*

a. Review and approve the design and operation of component agency financial, accounting, and asset systems, specifically including the financial aspects of grant management systems, debt collection systems, and other systems defined by FFMIA.

b. Provide oversight of, and issue core requirements and standards related to, component agency financial systems, activities, and operations, including preparation and revision of agency financial management plans and financial performance reports.

c. In coordination with the ASAM, establish policies, procedures, and other guidelines to prescribe the form, content, and frequency of accounting information to be reported from component agency systems to meet DOL and central Federal agency information requirements.

d. Participate in the review and approval process of information systems that provide, at least in part, financial and/or program performance data.

e. In consultation with the Chief Information Officer (CIO), ensure that the accounting, financial, asset management, and other information systems of the Department are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the Department.

f. Ensure, in consultation with the CIO, that program information systems provide financial, budget, and programmatic data on a reliable, consistent and timely basis to agency financial management systems.

g. Recommend to the Secretary any information resource management and budget decisions affecting financial management processes, systems, and operations.

h. Consult with the CIO to ensure sufficient oversight and security exist to maintain the integrity of information systems that affect the preparation and presentation of the Department's financial statements.

4. *External Reporting Duties.*

a. Prepare the financial management components of the annual Performance and Accountability Report (PAR) for transmittal to the Secretary and the Director of OMB. The PAR will meet the requirements of OMB Circular No. A–136, and shall include, in part—

(1) A description and analysis of the status of financial management of the Department;

(2) The Department's annual financial statements and accounting reports, including, where appropriate, pertinent performance measures;

(3) The audit report transmitted to the Secretary;

(4) The annual report required to be submitted to the President and the Congress under the FMFIA;

(5) The report required by the Improper Payments Information Act;

(6) The Management Assurance Statement required by OMB Circular No. A–123;

(7) The annual financial management report required by the Chief Financial Officers Act; and

(8) Other information the Secretary considers appropriate to fully inform the President and the Congress concerning the financial management of the Department.

b. Prepare the semi-annual audit resolution reports required by the Amendments to the Inspector General Act.

c. Coordinate and manage financial management reporting requirements as may be imposed by OMB, the Department of the Treasury, other central Federal agencies, and Congress.

d. In coordination with the ASAM and Agency heads, develop reporting mechanisms that integrate program performance and financial data, and

facilitate the display of such data in budget documents, financial statements, and other pertinent communications.

e. In consultation with the CIO, ensure financial statements support—

(1) Assessments and revisions of mission-related and administrative processes of the Department; and

(2) Measurement of the performance of investments made by the Department in information systems.

5. *Financial Management Personnel Duties.*

a. Provide oversight of, and issue core requirements and standards related to, component agency financial management personnel.

b. Provide policy advice and assistance to DOL executives, including component agency heads, on all personnel matters affecting financial management personnel throughout the DOL and its component agencies, and on budget and staffing levels for component agency financial functions.

c. Review all proposed personnel selections, skill requirements, performance standards, and position descriptions for financial management personnel at the GS–15 level and above throughout the DOL and its component agencies; discuss any problems with the component agency head and appeal any unresolved issue to the Secretary through the Deputy Secretary.

d. Manage a comprehensive training and development program for budget analysts, accountants, financial managers, and financial technicians; ensure that staff skills are commensurate with requirements; and implement a Continuing Professional Education (or similar) program.

6. *Financial Programmatic Duties.*

a. Manage Departmental programs on audit resolution, travel management, cash management, debt collection, asset management, and financial management activities.

b. Manage centralized Departmental accounting functions for fund and cost accounting, capitalized assets accounting, grant accounting, DOL employee compensation and benefits, and voucher, commercial bill, and other payments.

c. Exercise Departmental approval authority over interagency transactions involving component agency program funds, such as for investment or transfer.

d. Establish and chair a CFO Advisory Council within DOL to provide a forum for component organizations to advise and support the CFO in matters affecting the financial community. The Advisory Council will facilitate the dissemination of financial policies established by the CFO to component agencies.

e. Maintain and operate a Working Capital Fund (WCF) and related accounts offering, as appropriate and advantageous to the Department, a comprehensive program of centralized services funded by customer agency reimbursements in advance that—

(1) Ensures customer agencies access to meaningful information on the full costs of those centralized services, conditions for usage, and the cost allocation formulas employed in the lawful distribution of annual charges against the respective agency appropriation accounts; and

(2) Ensures, through the creation and regular convening of a Working Capital Fund Committee, the opportunities for meaningful and informed customer agency participation or representation in reviewing WCF activities, costs, and charges, and in recommending changes or improvements to the CFO.

(3) Is operated on the basis of agency reimbursement agreements between customers and service providers and timely cost assessments and related adjustments for services provided or offered.

f. Provide technical reviews of finance offices in the DOL and its component agencies, and oversee component agency financial systems as defined in the FFMIA.

g. Appraise centralized and decentralized operations and organizations to determine more effective and cost-efficient methods of performing required financial functions.

h. Serve as the Department's Improper Payment Reduction Coordinator, with responsibilities including, but not limited to:

(1) Coordinating the establishment of policies and procedures for assessing Departmental, component agency, and program risks of improper payments;

(2) Coordinating Departmental, component agency, and program management actions to reduce improper payments. These duties include:

a. Assigning responsibility for specific areas of improper payment-related activities to appropriate component agency, program, or activity officials;

b. Coordinating the development of detailed action plans to determine the nature and extent of possible improper payments for all DOL programs and activities spending Federal funds;

c. Assisting component agency and program management in identifying cost-effective control activities to address identified risk areas;

d. Assisting component agency and program management in establishing improper payment reduction goals or targets and measuring performance against those goals to determine progress made and areas needing additional action;

e. Developing procedures for working with OMB and the Congress to address barriers encountered that inhibit actions to reduce improper payments; and

f. Coordinating periodic reporting, through publicly available documents, to the Secretary, OMB, and the Congress on the progress made in achieving improper payment reduction targets and future action plans for controlling improper payments; and

(3) Providing a quarterly status report to the Deputy Secretary on Departmental activities to identify and reduce improper payments.

C. In addition to the authority otherwise provided in this Order, the CFO—

1. Subject to Paragraph (7)(B), shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which are the property of the Department or which are available to the Department, and which relate to programs and operations with respect to which the CFO has responsibilities;

2. May request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Order from any Federal, State, or local governmental entity; and

3. To the extent and in such amounts as may be provided in advance by appropriations Acts, may—

a. Enter into contracts and other arrangements with public agencies and with private persons for the preparation of financial statements, studies, analyses, and other services; and

b. Make such payments as may be necessary to carry out the provisions of this Order.

6. Assignment of Responsibilities to Other Individuals

A. Unless modified by this Order, the heads of component Agencies retain previously delegated responsibilities and authority. In the context of the Department's financial management program, they are specifically charged with the responsibility to—

1. In consultation with the CFO and the CIO, define program information needs and develop strategies, systems, and capabilities to meet those needs.

2. Perform transaction and operational level financial functions in accordance with policies, requirements, and procedures established by the CFO.

3. Direct financial staffs and functions in their respective component agencies

consistent with those policies and procedures established by the CFO.

4. Facilitate the CFO's oversight responsibilities with respect to financial operations and component agency program financial systems by providing and maintaining system documentation, audit trails, summary or detailed transaction data, and such other information as the CFO may require.

5. Fully solicit, consider, and cooperate with the CFO in the review of proposed appointment, promotion, and other personnel actions affecting financial management staff at the GS–15 level and above.

6. Manage grants, procurement, property, debt management/accounts receivable, and other management systems for their respective component agencies, in a manner consistent with the CFO's responsibilities prescribed in this Order.

B. The ASAM's budget execution responsibilities related to the implementation of the CFO Act are—

1. Submitting requests to OMB for apportionments and reapportionments.

2. Working under policies established by the CFO, administering allotments and interagency transactions, including reprogramming and transfer requests and notifications.

3. Advising the CFO regarding management and oversight of the Department's administrative control of funds, with emphasis on the apportionment and allotment processes.

C. The Inspector General—

1. Retains full responsibility for previously delegated budget and financial management activities pertaining to his or her own office, but will participate with the CFO in integrating such delegated assignments with the overall financial management program of the Department.

2. Will participate, where appropriate, in joint reviews with the CFO of selected financial management functions, operations, and systems.

3. Will participate with the CFO in the resolution of audit issues, findings, and recommendations, including those involved in the annual financial statements, consistent with its statutory responsibilities for managing an audit program.

D. The Solicitor of Labor is responsible for providing legal advice and assistance to the Secretary, Deputy Secretary, CFO, Working Capital Fund Committee established pursuant to paragraph 5 above, and all other Department of Labor officials who are assigned responsibilities for implementation of this Order, except as provided in Secretary's Order 4–2006 with respect to the Office of Inspector General.

7. Communications

In consonance with the assignments of responsibility above, the Office of the Chief Financial Officer shall ensure that the Agency Administrative Officers are apprised of communications to component agency financial staff. Similarly, component agencies shall keep the Chief Financial Officer apprised of directives and other communications affecting their financial staff.

8. Reservations of Authority

A. Unless otherwise stated in this Order, the submission of reports and recommendations to the President and the Congress concerning the administration of statutory or administrative provisions is reserved to the Secretary.

B. Except as provided in Paragraph (5)(D)(1), this Order does not provide to the CFO any access greater than permitted under any other law to records, reports, audits, reviews, documents, papers, recommendations, or other material of the Office of Inspector General.

9. Redelegations and Transfers of Authority

Unless provided otherwise in this or another Secretary's Order, the authority delegated in this Order may be redelegated or transferred, as permitted by law or regulation.

10. Effective Date

This Order is effective immediately.

Dated: January 15, 2009.

Elaine L. Chao,

Secretary of Labor.

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Federal Register

Friday,
January 23, 2009

Part IV

The President

Proclamation 8343—National Day of Renewal and Reconciliation, 2009

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Vol. 74, No. 14
Friday, January 23, 2009

Presidential Documents

Title 3—

The President

Proclamation 8343 of January 20, 2009

National Day of Renewal And Reconciliation, 2009

By the President of the United States of America

A Proclamation

As I take the sacred oath of the highest office in the land, I am humbled by the responsibility placed upon my shoulders, renewed by the courage and decency of the American people, and fortified by my faith in an awesome God.

We are in the midst of a season of trial. Our Nation is being tested, and our people know great uncertainty. Yet the story of America is one of renewal in the face of adversity, reconciliation in a time of discord, and we know that there is a purpose for everything under heaven.

On this Inauguration Day, we are reminded that we are heirs to over two centuries of American democracy, and that this legacy is not simply a birthright—it is a glorious burden. Now it falls to us to come together as a people to carry it forward once more.

So in the words of President Abraham Lincoln, let us remember that: ''The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 20, 2009, a National Day of Renewal and Reconciliation, and call upon all of our citizens to serve one another and the common purpose of remaking this Nation for our new century.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of January, 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.

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S.J. Res. 3/P.L. 111–1

Ensuring that the compensation and other emoluments attached to the office of Secretary of the Interior are those which were in effect on January 1, 2005. (Jan. 16, 2009; 123 Stat. 3)

A cumulative List of Public Laws for the second session of the 110th Congress will be published in the **Federal Register** on January 30, 2009.

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