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WHEN: Tuesday, March 17, 2009
9:00 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release Nos. 33–9009; 34–59449; IA–2845; IC–28635]

Adjustments to Civil Monetary Penalty Amounts

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: This rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The Commission is adopting a rule adjusting for inflation the maximum amount of civil monetary penalties under the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940, and certain penalties under the Sarbanes-Oxley Act of 2002.

DATES: *Effective Date:* March 3, 2009.

FOR FURTHER INFORMATION CONTACT: Richard A. Levine, Assistant General Counsel, at (202) 551–5168, or James A. Cappoli, Office of the General Counsel, at (202) 551–7923.

SUPPLEMENTARY INFORMATION:

I. Background

This rule implements the Debt Collection Improvement Act of 1996 (''DCIA'').[1] The DCIA amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (''FCPIAA'') [2] to require each federal agency to adopt regulations at least once every four years that adjust for inflation the maximum amount of the civil monetary penalties (''CMPs'') under the statutes administered by the agency.[3]

A civil monetary penalty (''CMP'') is defined in relevant part as any penalty, fine, or other sanction that: (1) Is for a specific amount, or has a maximum amount, as provided by federal law; and (2) is assessed or enforced by an agency in an administrative proceeding or by a federal court pursuant to federal law.[4] This definition covers the monetary penalty provisions contained in the statutes administered by the Commission. In addition, this definition encompasses the civil monetary penalties that may be imposed by the Public Company Accounting Oversight Board (the ''PCAOB'') in its disciplinary proceedings pursuant to 15 U.S.C. 7215(c)(4)(D).[5]

The DCIA requires that the penalties be adjusted by the cost-of-living adjustment set forth in Section 5 of the FCPIAA.[6] The cost-of-living adjustment is defined in the FCPIAA as the percentage by which the U.S. Department of Labor's Consumer Price Index for all-urban consumers (''CPI–U'') [7] for the month of June for the year preceding the adjustment exceeds the CPI–U for the month of June for the year in which the amount of the penalty was last set or adjusted pursuant to law.[8] The statute contains specific rules for rounding each increase based on the size of the penalty.[9] Agencies do not have discretion over whether to adjust a maximum CMP, or the method used to determine the adjustment. Although the DCIA imposes a 10 percent maximum increase for each penalty for the first adjustment pursuant thereto, that limitation does not apply to subsequent adjustments.

The Commission administers four statutes that provide for civil monetary penalties: the Securities Act of 1933; the Securities Exchange Act of 1934; the Investment Company Act of 1940; and the Investment Advisers Act of 1940. In addition, the Sarbanes-Oxley Act of 2002 provides the PCAOB (over which the Commission has jurisdiction) authority to levy civil monetary penalties in its disciplinary proceedings.[10] Penalties administered by the Commission were last adjusted by rules effective February 14, 2005.[11] The DCIA requires the civil monetary penalties to be adjusted for inflation at least once every four years. The Commission is therefore obligated by statute to increase the maximum amount of each penalty by the appropriate formulated amount.

Accordingly, the Commission is adopting an amendment to 17 CFR Part 201 to add § 201.1004 and Table IV to Subpart E, increasing the amount of each civil monetary penalty authorized by the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940, and certain penalties under the Sarbanes-Oxley Act of 2002. The adjustments set forth in the amendment apply to violations occurring after the effective date of the amendment.

II. Summary of the Calculation

To explain the inflation adjustment calculation for CMP amounts that were last adjusted in 2005, we will use the following example. Under the current provisions, the Commission may impose a maximum CMP of $1,275,000 for certain insider trading violations by a controlling person. To determine the new CMP amounts under the amendment, first we determine the appropriate CPI–U for June of the calendar year preceding the year of adjustment. Because we are adjusting CMPs in 2009, we use the CPI–U for June of 2008, which was 218.815. We must also determine the CPI–U for June of the year the CMP was last adjusted for inflation. Because the Commission last adjusted this CMP in 2005, we use the CPI–U for June of 2005, which was 194.5.

Second, we calculate the cost-of-living adjustment or inflation factor. To

[1] Public Law 104–134, 110 Stat. 1321–373 (1996) (codified at 28 U.S.C. 2461 note).

[2] 28 U.S.C. 2461 note.

[3] Increased CMPs apply only to violations that occur after the increase takes effect.

[4] 28 U.S.C. 2461 note (3)(2).

[5] The Commission may by order affirm, modify, remand, or set aside sanctions, including civil monetary penalties, imposed by the PCAOB. *See* Section 107(c) of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7217. The Commission may enforce such orders in federal district court pursuant to Section 21(e) of the Securities Exchange Act of 1934. As a result, penalties assessed by the PCAOB in its disciplinary proceedings are penalties ''enforced'' by the Commission for purposes of the Act. *See Adjustments to Civil Monetary Penalty Amounts*, Release No. 33–8530 (Feb. 4, 2005) [70 FR 7606 (Feb. 14, 2005)].

[6] 28 U.S.C. 2461 note (5).

[7] 28 U.S.C. 2461 note (3)(3).

[8] 28 U.S.C. 2461 note (5)(b).

[9] 28 U.S.C. 2461 note (5)(a)(1)–(6).

[10] 15 U.S.C. 7215(c)(4)(D).

[11] *See* 17 CFR 201.1003.

do this we divide the CPI for June of 2008 (218.815) by the CPI for June of 2005 (194.5). Our result is 1.1250.

Third, we calculate the raw inflation adjustment (the inflation adjustment before rounding). To do this, we multiply the maximum penalty amounts by the inflation factor. In our example, $1,275,000 multiplied by the inflation factor of 1.1250 equals $1,434,391.

Fourth, we round the raw inflation amounts according to the rounding rules in Section 5(a) of the FCPIAA. Since we round only the increase amount, we calculate the increased amount by subtracting the current maximum penalty amounts from the raw maximum inflation adjustments. Accordingly, the increase amount for the maximum penalty in our example is $159,391 (*i.e.*, $1,434,391 less $1,275,000). Under the rounding rules, if the *penalty* is greater than $200,000, we round the *increase* to the nearest multiple of $25,000. Therefore, the maximum penalty increase in our example is $150,000.

Fifth, we add the rounded increase to the maximum penalty amount last set or adjusted. In our example, $1,275,000 plus $150,000 yields a maximum inflation adjustment penalty amount of $1,425,000.[12]

III. Related Matters

A. Administrative Procedure Act—Immediate Effectiveness of Final Rule

Under the Administrative Procedure Act (''APA''), a final rule may be issued without public notice and comment if the agency finds good cause that notice and comment are impractical, unnecessary, or contrary to public interest.[13] Because the Commission is required by statute to adjust the civil monetary penalties within its jurisdiction by the cost-of-living adjustment formula set forth in Section 5 of the FCPIAA, the Commission finds that good cause exists to dispense with public notice and comment pursuant to the notice and comment provisions of the APA.[14] Specifically, the Commission finds that because the adjustment is mandated by Congress and does not involve the exercise of Commission discretion or any policy judgments, public notice and comment is unnecessary.[15]

Under the DCIA, agencies must make the required inflation adjustment to civil monetary penalties: (1) According to a very specific formula in the statute; and (2) within four years of the last inflation adjustment. Agencies have no discretion as to the amount of the adjustment and have limited discretion as to the timing of the adjustment, in that agencies are required to make the adjustment at least once every four years. The regulation discussed herein is ministerial, technical, and noncontroversial. Furthermore, because the regulation concerns penalties for conduct that is already illegal under existing law, there is no need for affected parties to have thirty days prior to the effectiveness of the regulation and amendments to adjust their conduct. Accordingly, the Commission believes that there is good cause to make this regulation effective immediately upon publication.[16]

B. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits that result from its rules. This regulation merely adjusts civil monetary penalties in accordance with inflation as required by the DCIA, and has no impact on disclosure or compliance costs. The benefit provided by the inflationary adjustment to the maximum civil monetary penalties is that of maintaining the level of deterrence effectuated by the civil monetary penalties, and not allowing such deterrent effect to be diminished by inflation. Furthermore, Congress, in mandating the inflationary adjustments, has already determined that any possible increase in costs is justified by the overall benefits of such adjustments.

C. Paperwork Reduction Act

This rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995 as amended.[17]

D. Statutory Basis

The Commission is adopting these amendments to 17 CFR Part 201, Subpart E pursuant to the directives and authority of the DCIA, Public Law 104–134, 110 Stat. 1321–373 (1996).

List of Subjects in 17 CFR Part 201

Administrative practice and procedure, Claims, Confidential business information, Lawyers, Securities.

Text of Amendment

■ For the reasons set forth in the preamble, part 201, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 201—RULES OF PRACTICE

Subpart E—Adjustment of Civil Monetary Penalties

■ 1. The authority citation for part 201, Subpart E, is revised to read as follows:

Authority: 28 U.S.C. 2461 note.

■ 2. Section 201.1004 and Table IV to Subpart E are added to read as follows:

§ 201.1004 Adjustment of civil monetary penalties—2009.

As required by the Debt Collection Improvement Act of 1996, the maximum amounts of all civil monetary penalties under the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940, and certain penalties under the Sarbanes-Oxley Act of 2002 are adjusted for inflation in accordance with Table IV to this subpart. The adjustments set forth in Table IV apply to violations occurring after March 3, 2009.

[12] The adjustments in Table IV to Subpart E of Part 201 reflect that the operation of the statutorily mandated computation, together with rounding rules, does not result in any adjustment to one penalty. This particular penalty will be subject to slightly different treatment when calculating the next adjustment. Under the statute, when we next adjust these penalties, we will be required to use the CPI–U for June of the year when this particular penalty was ''last adjusted,'' rather than the CPI–U for 2009.

[13] 5 U.S.C. 553(b)(3)(B).

[14] 5 U.S.C. 553(b)(3)(B).

[15] A regulatory flexibility analysis under the Regulatory Flexibility Act (''RFA'') is required only when an agency must publish a general notice of proposed rulemaking for notice and comment. *See* 5 U.S.C. 603. As noted above, notice and comment are not required for this final rule. Therefore, the RFA does not apply.

[16] Additionally, this finding satisfies the requirements for immediate effectiveness under the Small Business Regulatory Enforcement Fairness Act. *See* 5 U.S.C. 808(2); *see also id.* 801(a)(4).

[17] 44 U.S.C. 3501 *et seq.*

Table IV to Subpart E	Civil monetary penalty inflation adjustments			
U.S. Code citation	Civil monetary penalty description	Year penalty amount was last adjusted	Maximum penalty amount pursuant to last adjustment	Adjusted maximum penalty amount
Securities and Exchange Commission:				
15 U.S.C. 77t(d)	For natural person	2001	$6,500	$7,500
	For any other person	2005	65,000	75,000
	For natural person/fraud	2005	65,000	75,000
	For any other person/fraud	2005	325,000	375,000
	For natural person/substantial losses or risk of losses to others.	2005	130,000	150,000
	For any other person/substantial losses or risk of losses to others.	2005	650,000	725,000
15 U.S.C. 78ff(b)	Exchange Act/failure to file information documents, reports.	1996	110	110
15 U.S.C. 78ff(c)(1)(B)	Foreign Corrupt Practices—any issuer	1996	11,000	16,000
15 U.S.C. 78ff(c)(2)(C)	Foreign Corrupt Practices—any agent or stockholder acting on behalf of issuer.	1996	11,000	16,000
15 U.S.C. 78u–1(a)(3)	Insider Trading—controlling person	2005	1,275,000	1,425,000
15 U.S.C. 78u–2	For natural person	2001	6,500	7,500
	For any other person	2005	65,000	75,000
	For natural person/fraud	2005	65,000	75,000
	For any other person/fraud	2005	325,000	375,000
	For natural person/substantial losses to others/gains to self.	2005	130,000	150,000
	For any other person/substantial losses to others/gain to self.	2005	650,000	725,000
15 U.S.C. 78u(d)(3)	For natural person	2001	6,500	7,500
	For any other person	2005	65,000	75,000
	For natural person/fraud	2005	65,000	75,000
	For any other person/fraud	2005	325,000	375,000
	For natural person/substantial losses or risk of losses to others.	2005	130,000	150,000
	For any other person/substantial losses or risk of losses to others.	2005	650,000	725,000
15 U.S.C. 80a–9(d)	For natural person	2001	6,500	7,500
	For any other person	2005	65,000	75,000
	For natural person/fraud	2005	65,000	75,000
	For any other person/fraud	2005	325,000	375,000
	For natural person/substantial losses to others/gains to self.	2005	130,000	150,000
	For any other person/substantial losses to others/gain to self.	2005	650,000	725,000
15 U.S.C. 80a–41(e)	For natural person	2001	6,500	7,500
	For any other person	2005	65,000	75,000
	For natural person/fraud	2005	65,000	75,000
	For any other person/fraud	2005	325,000	375,000
	For natural person/substantial losses or risk of losses to others.	2005	130,000	150,000
	For any other person/substantial losses or risk of losses to others.	2005	650,000	725,000
15 U.S.C. 80b–3(i)	For natural person	2001	6,500	7,500
	For any other person	2005	65,000	75,000
	For natural person/fraud	2005	65,000	75,000
	For any other person/fraud	2005	325,000	375,000
	For natural person/substantial losses to others/gains to self.	2005	130,000	150,000
	For any other person/substantial losses to others/gain to self.	2005	650,000	725,000
15 U.S.C. 80b–9(e)	For natural person	2001	6,500	7,500
	For any other person	2005	65,000	75,000
	For natural person/fraud	2005	65,000	75,000
	For any other person/fraud	2005	325,000	375,000
	For natural person/substantial losses or risk of losses to others.	2005	130,000	150,000
	For any other person/substantial losses or risk of losses to others.	2005	650,000	725,000
15 U.S.C. 7215(c)(4)(D)(i)	For natural person	2005	110,000	120,000
	For any other person	2005	2,100,000	2,375,000
15 U.S.C. 7215(c)(4)(D)(ii)	For natural person	2005	800,000	900,000
	For any other person	2005	15,825,000	17,800,000

Dated: February 25, 2009.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–4379 Filed 3–2–09; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–029; Order No. 587–T]

Standards for Business Practices for Interstate Natural Gas Pipelines

Issued February 24, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations that establish standards for interstate natural gas pipeline business practices and electronic communications to incorporate by reference into its regulations the most recent version of the standards, Version 1.8, adopted by the Wholesale Gas Quadrant (WGQ) of the North American Energy Standards Board (NAESB) and to make other minor corrections. This rule upgrades the Commission's current business practice and communication standards to reflect the latest version approved by the NAESB WGQ (i.e., the Version 1.8 Standards), and is necessary to increase the efficiency of the pipeline grid, make pipelines' electronic communications more secure, and is consistent with the mandate that agencies provide for electronic disclosure of information.

DATES: This rule will become effective April 2, 2009. Natural gas pipelines are required to implement these standards on the first day of the month three months after the effective date of this rule and file tariff sheets to reflect the changed standards on the first day of the month one month after the effective date of this rule. The Director of the Federal Register has approved the incorporation by reference of the standards addressed in this Final Rule effective April 2, 2009.

FOR FURTHER INFORMATION CONTACT:

William Lohrman (technical issues), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8070.

Kay Morice (technical issues), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6507.

Caroline Daly (technical issues), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8931.

Gary D. Cohen (legal issues), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8321.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Jon Wellinghoff, Acting Chairman; Suedeen G. Kelly, Marc Spitzer, and Philip D. Moeller

1. The Federal Energy Regulatory Commission (Commission) is amending § 284.12 of its regulations (which establishes standards for natural gas pipeline business practices and electronic communications) [1] to incorporate by reference the most recent version (Version 1.8) of the standards promulgated by the Wholesale Gas Quadrant (WGQ) of the North American Energy Standards Board (NAESB). In addition, the Commission is amending § 284.12(b) of its regulations to make minor corrections.

I. Background

2. Since 1996, in the Order No. 587 series,[2] the Commission has adopted regulations to standardize the business practices and communication methodologies of interstate pipelines in order to create a more integrated and efficient pipeline grid. In this series of orders, the Commission incorporated by reference consensus standards developed by the WGQ (formerly the Gas Industry Standards Board or GISB), a private consensus standards developer composed of members from all segments of the natural gas industry. The WGQ is an accredited standards organization under the auspices of the American National Standards Institute (ANSI).

3. On September 14, 2007, NAESB submitted a report to the Commission stating that it had adopted a new version of its standards, Version 1.8, dated September 30, 2006.[3] NAESB reported that the Version 1.8 Standards include a new set of standards for ''Internet Electronic Transport'' that is applicable to the retail gas and electric markets as well as the wholesale gas market,[4] changes to the Electronic Delivery Mechanism (EDM) Related Standards, an additional standard related to reporting on gas quality, and maintenance changes to the Nomination Related Standards and Flowing Gas Related Standards. NAESB also reported that the Version 1.8 standards included several standards already adopted by the Commission, including gas-electric coordination standards to support communications between pipelines and gas-fired generators,[5] gas quality reporting standards to support reporting of gas quality specifications and reporting of the underlying assumptions and methodologies, and business practice standards to support implementation of Order No. 2004 on Standards of Conduct.[6]

4. On September 18, 2008, the Commission issued a Notice of Proposed Rulemaking (NOPR) [7] that proposed to incorporate by reference the WGQ's Version 1.8 Standards and to make minor corrections to § 284.12(b) of the Commission's regulations. The sole comment was filed by American Gas Association (AGA), which supported the adoption of Version 1.8 of the standards, but requested modifications to the Commission's relationship with NAESB.

II. Discussion

5. The Commission's NOPR proposal to amend part 284 of its regulations to incorporate by reference Version 1.8 of the NAESB WGQ's consensus standards,[8] with the two exceptions

[1] 18 CFR 284.12.

[2] *Standards for Business Practices of Interstate Natural Gas Pipelines,* Order No. 587, 61 FR 39053 (July 26, 1996), FERC Stats. & Regs., ¶ 31,038 (1996).

[3] Some of the standards subsequently were corrected and these minor corrections were applied to the Version 1.8 Capacity Release Related Standards on Dec. 13, 2006.

[4] In this Final Rule, the Commission is requiring interstate natural gas pipelines to comply with these standards. We are not making these standards mandatory for retail transactions.

[5] *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities,* Order No. 698, 72 FR 38757 (July 16, 2007), FERC Stats, & Regs ¶ 31,251 (2007); *order granting clarification and denying reh'g,* Order No. 698–A, 121 FERC ¶ 61,264 (2007).

[6] *Standards of Conduct for Transmission Providers,* Order No. 2004, 68 FR 69134 (Dec. 11, 2003), FERC Stats. & Regs., ¶ 31,155 (2003); *order on reh'g,* Order No. 2004–B, 69 FR 23562 (Apr. 29, 2004), FERC Stats. & Regs., ¶ 31,161 (2004); *order on reh'g,* Order No. 2004–B, 69 FR 48371 (Aug. 10, 2004), FERC Stats. & Regs., ¶ 31,166 (2004); *order on reh'g,* Order No. 2004–C, 70 FR 284 (Jan. 4, 2005), FERC Stats. & Regs., ¶ 31,172 (2004); *order on clarification and reh'g,* Order No. 2004–D, 110 FERC ¶ 61,320 (2005).

[7] *Standards for Business Practices for Interstate Natural Gas Pipelines,* Notice of Proposed Rulemaking, 73 FR 55460 (Sep. 18, 2008), FERC Stats. & Regs. ¶ 32,636 (2008).

[8] In its Version 1.8 Standards, the WGQ made the following changes to its Version 1.7 standards:

It revised Principles 1.1.9, 4.1.2, 4.1.6, and 4.1.7, Definitions 2.2.4, 4.2.1, 4.2.11, 4.2.12, 4.2.13, and 4.2.20, Standards 1.3.54, 1.3.60, 1.3.61, 1.3.63,

noted in the NOPR,[9] was not opposed by any commenter. Adoption of Version 1.8 will continue the process of updating and improving NAESB's business practice standards for the wholesale gas market. The new Internet Electronic Transport Related Standards will help create a more seamless electronic marketplace by providing consistent electronic protocols across the wholesale gas, as well as the retail gas and retail electric markets. The standards also include a new standard for gas quality reporting (Standard 4.3.93) that will provide the industry with important information about how pipelines determine gas quality. Standard 4.3.93 requires that the pipelines post on their Web sites specific information on how the pipelines determine gas quality, including the industry standard (or other methodology, as applicable) that the pipeline uses for the following: procedures used for obtaining natural gas samples, analytical test method(s), and calculation method(s), in conjunction with any physical constant(s) and underlying assumption(s). The revisions to the Nomination Related Standards and Flowing Gas Related Standards are designed to ensure that these standards reflect current market practices.[10]

6. The NAESB WGQ approved the Version 1.8 Standards under NAESB's consensus procedures.[11] As the Commission found in Order No. 587, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of industry participants representing all segments of the industry. Moreover, since the industry itself has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support. In section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTT&AA), Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as means to carry out policy objectives or activities determined by the agencies unless use of such standards would be inconsistent with applicable law or otherwise impractical.[12]

7. One of the Version 1.8 standards, WGQ Standard 4.3.23, provides guidelines for how pipelines post transmission provider Standards of Conduct-related information on their Web sites. However, the Commission issued revised Standards of Conduct requirements in Order No. 717[13] subsequent to the Version 1.8 standards adopted by NAESB. As a result, some of the data templates in the NAESB WGQ 4.3.23 standard are unnecessary. We will incorporate Standard 4.3.23, because it contains requirements for posting that are applicable under Order No. 717. However, pipelines will not be required to continue to post affiliate information that is no longer required to be maintained under the Commission's regulations as amended by Order No. 717.

8. In addition to comments in support of the proposed rule, AGA requested that the Commission take a more active role in shepherding the development of wholesale gas standards. In brief, AGA is concerned that the standards process takes too long to complete.

9. We appreciate AGA's desire that standard development proceed quickly. We note that NAESB has taken a continuing interest in improving its standards-setting process, and has, for example, recently adopted policies to allow standards setting decisions to be made more quickly for important efforts.[14]

III. Implementation Dates and Procedures

10. Based on past practice, we are adopting an implementation schedule designed to provide natural gas pipelines adequate time to prepare for these changes. Pipelines are required to implement the standards we are incorporating by reference in this Final Rule by the first day of the month three months after the effective date of this Final Rule. In addition, pipelines are required to file tariff sheets to reflect the changed standards on the first day of the month one month after the effective date of this Final Rule to be effective as of the implementation date. Pipelines incorporating the Version 1.8 standards into their tariffs must include the standard number and Version 1.8.

IV. Notice of Use of Voluntary Consensus Standards

11. In section 12(d) of NTT&AA, Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as the means to carry out policy objectives or activities determined by the agencies unless use of such standards would be inconsistent with applicable law or otherwise impractical.[15] NAESB approved the standards under its consensus procedures. Office of Management and Budget Circular A–119 (§ 11) (February 10, 1998) provides that federal agencies should publish a request for comment in a NOPR when the agency is seeking to issue or revise a regulation proposing to adopt a voluntary consensus standard or a government-unique standard. On September 18, 2008, the Commission issued a NOPR that proposed to incorporate by reference NAESB's Version 1.8 Standards. The Commission took comments on the NOPR into account in fashioning this Final Rule.

V. Information Collection Statement

12. The Office of Management and Budget's (OMB) regulations in 5 CFR 1320.11 require that it approve certain reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of

2.3.21, 2.3.35, 2.3.51, 4.3.1, 4.3.2, 4.3.5, 4.3.16, 4.3.18, 4.3.22, 4.3.23, and 4.3.25, and Datasets 1.4.1 through 1.4.7, 2.4.1 through 2.4.4, 2.4.7, 2.4.8, 3.4.1, 5.4.1 through 5.4.3, 5.4.5, 5.4.7 through 5.4.11, 5.4.13, 5.4.14, 5.4.15, and 5.4.18 through 5.4.22.

It added Principles 0.1.3, 4.1.40, and 10.1.1 through 10.1.9, Definitions 0.2.1, 0.2.2, 0.2.3, and 10.2.1 through 10.2.38, Standards 0.3.11 through 0.3.15, 2.3.65, 4.3.89 through 4.3.93, and 10.3.1 through 10.3.25, and Data Sets 0.4.1, 2.4.17, 2.4.18, and 5.4.23.

It deleted Principles 4.1.9 and 4.1.25, and Standards 4.3.6, 4.3.19, 4.3.21, and 4.3.63.

It deleted the following standards from the EDM Related Standards and moved them to the Internet Electronic Transport Related Standards: Standards 4.3.7 through 4.3.15, 4.3.37, 4.3.64, 4.3.70, 4.3.71, and 4.3.88.

It renamed the EDM Related Standards, which are now entitled the Quadrant Electronic Delivery Mechanism Related Standards.

[9] As proposed in the NOPR, the Commission is continuing its past practice and is not incorporating by reference Standards 4.3.4 and 10.3.2, because they are inconsistent with the Commission's record retention requirement in 18 CFR 284.12(b)(3)(v).

[10] In addition, the Commission is amending § 284.12(b) to make two minor corrections. First, we correct the reference to the ''Gas Industry Standards Board'' to refer to the ''North American Energy Standards Board Wholesale Gas Quadrant.'' Second, we correct the reference to the paragraph incorporating the NAESB standards by reference from paragraph (b)(1) to paragraph (a)(1).

[11] This process first requires a super-majority vote of 17 out of 25 members of the WGQ's Executive Committee with support from at least two members from each of the five industry segments—Distributors, End Users, Pipelines, Producers, and Services (including marketers and computer service providers). For final approval, 67 percent of the WGQ's general membership voting must ratify the standards.

[12] Public Law 104–113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

[13] *Standards of Conduct for Transmission Providers,* Order No. 717, 73 FR 63796 (Oct. 27, 2008), FERC Stats. & Regs ¶ 31,280 (2008), *reh'g pending.*

[14] *NAESB Policy on Efficient Standards Development,* adopted by NAESB Board of Directors, Sep. 25, 2008, *http://www.naesb.org/pdf3/bd092508a2.doc.*

[15] Public Law 104–113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Final Rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

13. This Final Rule upgrades the Commission's current business practice and communication standards to the latest edition approved by the NAESB WGQ (*i.e.*, the Version 1.8 Standards).

14. The implementation of these standards is necessary to increase the efficiency of the pipeline grid, make pipelines' electronic communications more secure, and is consistent with the mandate that agencies provide for electronic disclosure of information. Requiring such information ensures a common means of communication and ensures common business practices that provide participants engaged in transactions with interstate pipelines with timely information and uniform business procedures across multiple pipelines.

15. The following burden estimates include the costs to implement the WGQ's revised business practice standards and communication protocols for interstate natural gas pipelines. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act of promoting the efficiency and reliability of the natural gas industry's operations. In addition, the Commission's Office of Energy Market Regulation will use the data for general industry oversight.

16. The Commission sought comments on the Commission's estimate provided in the NOPR of the burden associated with adoption of the NOPR proposals. In response to the NOPR, no comments were filed that addressed the reporting burden imposed by these requirements. Therefore the Commission will use these same estimates in this Final Rule. The substantive issue raised by the sole commenter on the NOPR is addressed in this preamble.

Data collection	No. of respondents	No. of responses per respondent	Hours per response	Total No. of hours
FERC–545 [16]	168	1	10	1,680
FERC–549C [17]	126	1	1,181	148,806

Total Annual Hours for Collection (Reporting and Recordkeeping, (if appropriate)) = 150,486.

17. *Information Collection Costs:* The Commission sought comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be the following:

	FERC–545	FERC–549C
Annualized Capital/Startup Costs	$211,680	$12,743,010
Annualized Costs (Operations & Maintenance)	0	0
Total Annualized Costs	211,680	12,743,010

Total Cost for all Respondents = $12,954,690.

18. OMB regulations [18] require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this Final Rule to OMB.

Title: FERC–545, Gas Pipeline Rates: Rates Change (Non-Formal); FERC–549C, Standards for Business Practices of Interstate Natural Gas Pipelines.

Action: Information collections.

OMB Control Nos.: 1902–0154, 1902–0174.

Respondents: Business or other for profit, (Interstate natural gas pipelines (Not applicable to small business)).

Frequency of Responses: One-time implementation (business procedures, capital/start-up).

Necessity of Information: The Commission's regulations adopted in this rule are necessary to increase the efficiency of the pipeline grid, make pipelines' electronic communications more secure, and is consistent with the mandate that agencies provide for electronic disclosure of information.[19] Requiring such information ensures both a common means of communication and common business practices that provide participants engaged in transactions with interstate pipelines with timely information and uniform business procedures across multiple pipelines.

19. The information collection requirements of this Final Rule will be reported directly to the industry users. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act to monitor activities of the natural gas industry to ensure its competitiveness and to assure the improved efficiency of the industry's operations. The Commission's Office of Energy Market Regulation will use the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

20. *Internal Review:* The Commission has reviewed the requirements pertaining to business practices and electronic communication with interstate natural gas pipelines and has made a determination that these revisions are necessary to establish a more efficient and integrated pipeline grid. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

21. Interested persons may obtain information on the reporting requirements by contacting the following:

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

[16] Data collection FERC–545 covers rate change filings made by natural gas pipelines, including tariff changes. (OMB control No. 1902–0154)

[17] Data collection FERC–549C covers Standards for Business Practices of Interstate Natural Gas Pipelines. (OMB Control No. 1902–0174)

[18] 5 CFR 1320.11.

[19] 44 U.S.C. 3504 note, Public Law 105–277, 1701, 112 Stat. 2681–749 (1998).

20426; [Attention: Michael Miller, Office of the Executive Director, Phone: (202) 502–8415, fax: (202) 273–0873, e-mail: *michael.miller@ferc.gov;] or by contacting:*

Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503; [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–7345, fax: (202) 395–7285].

VI. Environmental Analysis

22. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[20] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[21] The actions adopted here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering analysis, and dissemination, and for sales, exchange, and transportation of natural gas and electric power that requires no construction of facilities. Therefore, an environmental assessment is unnecessary and has not been prepared in this Final Rule.

VII. Regulatory Flexibility Act

23. The Regulatory Flexibility Act of 1980 (RFA)[22] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. In drafting a rule an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment.[23]

24. The regulations we are adopting in this Final Rule impose requirements only on interstate pipelines, the majority of which are not small businesses. In this regard, we note that, under the industry standards used for the RFA, a natural gas pipeline company qualifies as a ''small entity'' if it had annual receipts of $ 6.5 million or less.[24] Most companies regulated by the Commission do not fall within the RFA's definition of a small entity. Approximately 168 entities would be potential respondents subject to data collection FERC–545 reporting requirements; of those, about 126 natural gas companies (including storage) would also be subject to data collection FERC–549C reporting requirements. Nearly all of these entities are large entities. For the year 2007 (the most recent year for which information is available), only four companies not affiliated with larger companies had annual revenues of less than $ 6.5 million, which is about three percent of the total universe of potential respondents. Moreover, these requirements are designed to benefit all customers, including small businesses. As noted above, adoption of consensus standards helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of industry participants representing all segments of the industry. Because of that representation and the fact that industry conducts business under these standards, the Commission's regulations should reflect those standards that have the widest possible support.

25. Accordingly, pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations adopted herein will not have a significant adverse impact on a substantial number of small entities.

VIII. Document Availability

26. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington DC 20426.

27. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll-free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov*, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-Mail the Public Reference Room at *public.refererenceroom@ferc.gov*.

IX. Effective Date and Congressional Notification

28. These regulations are effective April 2, 2009. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 284

Continental shelf, Incorporation by reference, Natural gas, Reporting and recordkeeping requirements.

By the Commission. Commissioner Kelliher is not participating. Commissioner Moeller concurring with a separate statement attached.

Kimberly D. Bose,

Secretary.

■ In consideration of the foregoing, the Commission amends Part 284 of Chapter I, Title 18, *Code of Federal Regulations*, as follows.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

■ 1. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

■ 2. Section 284.12 is amended by revising paragraphs (a)(1)(i) through (vi), adding paragraph (a)(1)(vii), and revising the introductory text of paragraph (b) to read as follows:

§ 284.12 Standards for pipeline business operations and communications.

(a) * * *

(1) * * *

(i) Additional Standards (General Standards, Creditworthiness Standards, and Gas/Electric Operational Communications Standards) (Version 1.8, September 30, 2006);

(ii) Nominations Related Standards (Version 1.8, September 30, 2006);

(iii) Flowing Gas Related Standards (Version 1.8, September 30, 2006);

[20] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[21] 18 CFR 380.4

[22] 5 U.S.C. 601–612.

[23] 5 U.S.C. 601–604.

[24] 5 U.S.C. 601(3), *citing* section 3 of the Small Business Act, 15 U.S.C. 623. Section 3 of the SBA defines a ''small business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System defines a small natural gas pipeline company as one that transports natural gas and whose annual receipts (total income plus cost of goods sold) did not exceed $6.5 million for the previous year.

(iv) Invoicing Related Standards (Version 1.8, September 30, 2006);

(v) Quadrant Electronic Delivery Mechanism Related Standards (Version 1.8, September 30, 2006) with the exception of Standard 4.3.4;

(vi) Capacity Release Related Standards (Version 1.8, September 30, 2006 (with minor corrections applied December 13, 2006); and

(vii) Internet Electronic Transport Related Standards (Version 1.8, September 30, 2006) with the exception of Standard 10.3.2.

* * * * *

(b) *Business practices and electronic communication requirements.* An interstate pipeline that transports gas under subparts B or G of this part must comply with the following requirements. The regulations in this paragraph adopt the abbreviations and definitions contained in the North American Energy Standards Board Wholesale Gas Quadrant standards incorporated by reference in paragraph (a)(1) of this section.

* * * * *

Note: The following text will not appear in the Code of Federal Regulations.

United States of America

Federal Energy Regulatory Commission

Docket No. RM96–1–029.

Standards for Business Practices for Interstate Natural Gas Pipelines

(Issued February 24, 2009.)

MOELLER, Commissioner, *concurring:*

The American Gas Association (AGA), in its comments, contends that the NAESB process takes too long to complete. Because of that, AGA urges the Commission to review its procedures and relationship with NAESB with the goal of streamlining the process by which business practices standards are developed, approved and incorporated into the Commission's regulations. In particular, AGA identifies delays that have occurred in NAESB's technical implementation as well as in development and publication of standards.

I recognize that some of the delay may be attributable to the Commission's own processes and priorities; however, AGA has identified areas, such as technical development, in which NAESB can improve its procedures. I appreciate the Wholesale Gas Quadrant's current efforts as referenced in the final rule (as well as the dedication of NAESB staff) to improve its procedures, and I urge NAESB and its volunteers to continue its work to find and identify areas in which its processes can become more efficient and timely.

Philip D. Moeller,
Commissioner.

[FR Doc. E9–4295 Filed 3–2–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R04–OAR–2008–0681; FRL–8769–6]

Outer Continental Shelf Air Regulations Consistency Update for North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule—consistency update.

SUMMARY: EPA is finalizing the update of the Outer Continental Shelf (OCS) Air Regulations proposed in the **Federal Register** on November 5, 2008. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by the Clean Air Act (''CAA'' or ''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the State of North Carolina has been designated COA. The effect of approving the OCS requirements for the State of North Carolina is to regulate emissions from OCS sources in accordance with the requirements onshore. The change to the existing requirements discussed below will be incorporated by reference into the Code of Federal Regulations (CFR) and is listed in the appendix to the OCS air regulations. This action is an annual update of the North Carolina's OCS Air Regulations. These rules include revisions to existing rules that already apply to OCS sources. No comments were received on the November 5, 2008, proposal.

DATES: *Effective Date:* This rule is effective on April 2, 2009. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of April 2, 2009.

ADDRESSES: EPA has established docket number EPA–R04–OAR–2008–0681 for this action. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Permits Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Permits Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

On November 5, 2008, EPA promulgated 40 CFR part 55, which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the states except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) of the Act requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This process is distinct from the State Implementation Plan (SIP) process and

incorporation of a rule into part 55 as part of the OCS consistency update process does not ensure such a rule would be appropriate for inclusion into the SIP. EPA proposed approval of North Carolina's rules for OCS consistency update on November 5, 2008 (73 FR 65804), and received no comments.

II. EPA Action

In this document, EPA takes final action to incorporate the proposed changes into 40 CFR part 55. No changes were made to the proposed action. EPA is approving the proposed action under section 328(a)(1) of the Act. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore air control requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the CAA. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy discretion by EPA. For that reason, this action:

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

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

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

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

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

(6) Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

(7) Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

(8) Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, nor does it impose substantial direct compliance costs on tribal governments, nor preempt tribal law.

Under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB has approved the information collection requirements contained in 40 CFR part 55 and, by extension, this update to the rules, and has assigned OMB control number 2060–0249. Notice of OMB's approval of EPA Information Collection Request (''ICR'') No. 1601.06 was published in the **Federal Register** on March 1, 2006 (71 FR 10499–10500). The approval expires January 31, 2009. As EPA previously indicated (70 FR 65897–65898 (November 1, 2005)), the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 549 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; 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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable. In addition, the table in 40 CFR part 9 of currently approved OMB control numbers for various regulations lists the regulatory citations for the information requirements contained in 40 CFR part 55.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 4, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedure, Air pollution control, Continental Shelf, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 20, 2009.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Accordingly, 40 CFR part 55 is amended as follows:

PART 55—[AMENDED]

■ 1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by revising paragraph (e)(17)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(17) * * *

(i) * * *

(A) State of North Carolina Air Pollution Control Requirements Applicable to OCS Sources, January 2, 2008.

* * * * *

■ 3. Appendix A to part 55 is amended by revising paragraph (a)(1) under the heading ''North Carolina'' to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, By State

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North Carolina

(a) State requirements.

(1) The following requirements are contained in *State of North Carolina Air Pollution Control Requirements Applicable to OCS Sources,* January 2, 2008: The following sections of subchapter 2D, 2H and 2Q.

15A NCAC SUBCHAPTER 2D—AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0100—DEFINITIONS AND REFERENCES

2D.0101 Definitions (Effective 12/01/2005)
2D.0104 Incorporation by reference (Effective 07/01/1998)

SECTION .0200—AIR POLLUTION SOURCES

2D.0201 Classification of air pollution sources (Effective 07/01/1984)
2D.0202 Registration of air pollution sources (Effective 07/01/1998)

SECTION .0300—AIR POLLUTION EMERGENCIES

2D.0301 Purpose (Effective 02/01/1976)
2D.0302 Episode criteria (Effective 07/01/1998)
2D.0303 Emission reduction plans (Effective 07/01/1984)
2D.0304 Preplanned abatement program (Effective 07/01/1998)
2D.0305 Emission reduction plan: Alert Level (Effective 07/01/1984)
2D.0306 Emission reduction plan: Warning Level (Effective 07/01/1984)
2D.0307 Emission reduction plan: Emergency Level (Effective 07/01/1984)

SECTION .0400—AMBIENT AIR QUALITY STANDARDS

2D.0401 Purpose (Effective 12/01/1992)
2D.0402 Sulfur oxides (Effective 07/01/1984)
2D.0403 Total suspended particulates (Effective 07/01/1988)
2D.0404 Carbon monoxide (Effective 10/01/1989)
2D.0405 Ozone (Effective 04/01/1999)
2D.0407 Nitrogen dioxide (Effective 10/01/1989)
2D.0408 Lead (Effective 07/01/1984)
2D.0409 PM10 particulate matter (Effective 04/01/1999)
2D.0410 PM2.5 particulate matter (Effective 04/01/1999)

SECTION .0500—EMISSION CONTROL STANDARDS

2D.0501 Compliance with emission control standards (Effective 06/01/2008)
2D.0502 Purpose (Effective 06/01/1981)
2D.0503 Particulates from fuel burning indirect heat exchangers (Effective 04/01/1999)
2D.0504 Particulates from wood burning indirect heat exchangers (Effective 08/01/2002)
2D.0506 Particulates from hot mix asphalt plants (Effective 08/01/2004)
2D.0507 Particulates from chemical fertilizer manufacturing plants (Effective 04/01/2003)
2D.0508 Particulates from pulp and paper mills (Effective 07/10/1998)
2D.0509 Particulates from MICA or FELDSPAR processing plants (Effective 04/01/2003)
2D.0510 Particulates from sand, gravel, or crushed stone operations (Effective 07/01/1998)
2D.0511 Particulates from lightweight aggregate processes (Effective 07/01/1998)
2D.0512 Particulates from wood products finishing plants (Effective 01/01/1985)
2D.0513 Particulates from portland cement plants (Effective 07/01/1998)
2D.0514 Particulates from ferrous jobbing foundries (Effective 07/01/1998)
2D.0515 Particulates from miscellaneous industrial processes (Effective 04/01/2003)
2D.0516 Sulfur dioxide emissions from combustion sources (Effective 07/01/2007)
2D.0517 Emissions from plants producing sulfuric acid (Effective 01/01/1985)
2D.0519 Control of nitrogen dioxide and nitrogen oxides emissions (Effective 07/01/2007)
2D.0521 Control of visible emissions (Effective 07/01/2007)
2D.0524 New Source Performance Standards (Effective 07/01/2007)
2D.0527 Emissions from spodumene ore roasting (Effective 01/01/1985)
2D.0528 Total reduced sulfur from kraft pulp mills (Effective 07/01/1988)
2D.0529 Fluoride emissions from primary aluminum reduction plants (Effective 06/01/2008)
2D.0530 Prevention of significant deterioration (Effective 05/01/2008)
2D.0531 Sources in nonattainment areas (Effective 05/01/2008)
2D.0532 Sources contributing to an ambient violation (Effective (07/01/1994)
2D.0533 Stack height (Effective 07/01/1994)
2D.0534 Fluoride emissions from phosphate fertilizer industry (Effective 11/01/1982)
2D.0535 Excess emissions reporting and malfunctions (Effective 06/01/2008)
2D.0536 Particulate emissions from electric utility boilers (Effective 06/10/2008)
2D.0537 Control of mercury emissions (Effective 07/01/1996)
2D.0538 Control of ethylene oxide emissions (Effective 06/01/2004)
2D.0539 Odor control of feed ingredient manufacturing plants (Effective 04/01/2001)
2D.0540 Particulates from fugitive dust emission sources (Effective 08/01/2007)
2D.0541 Control of emissions from abrasive blasting (Effective 07/01/2000)
2D.0542 Control of particulate emissions from cotton ginning operations (Effective 06/01/2008)
2D.0543 Best Available Retrofit Technology (Effective 05/01/2007)

SECTION .0600—MONITORING: RECORDKEEPING: REPORTING

2D.0601 Purpose and scope (Effective 04/01/1999)
2D.0602 Definitions (Effective 04/01/1999)
2D.0604 Exceptions to monitoring and reporting requirements (Effective 04/01/1999)
2D.0605 General recordkeeping and reporting requirements (Effective 01/01/2007)
2D.0606 Sources covered by appendix P of 40 CFR part 51 (Effective 06/01/2008)
2D.0607 Large wood and wood-fossil fuel combination units (Effective 07/01/1999)
2D.0608 Other large coal or residual oil burners (Effective 06/01/2008)
2D.0610 Federal monitoring requirements (Effective 04/01/1999)
2D.0611 Monitoring emissions from other sources (Effective 04/01/1999)
2D.0612 Alternative monitoring and reporting procedures (Effective 04/01/1999)
2D.0613 Quality assurance program (Effective 04/01/1999)
2D.0614 Compliance assurance monitoring (Effective 04/01/1999)
2D.0615 Delegation (Effective 04/01/1999)

SECTION .0900—VOLATILE ORGANIC COMPOUNDS

2D.0901 Definitions (Effective 06/01/2008)
2D.0902 Applicability (Effective 07/01/2007)
2D.0903 Recordkeeping: reporting: monitoring (Effective 04/01/1999)
2D.0906 Circumvention (Effective 01/01/1985)
2D.0909 Compliance schedules for sources in nonattainment areas (Effective 07/01/2007)
2D.0912 General provisions on test methods and procedures (Effective 06/01/2008)
2D.0917 Automobile and light-duty truck manufacturing (Effective 07/01/1996)
2D.0918 Can coating (Effective 07/01/1996)

2D.0919 Coil coating (Effective 07/01/1996)
2D.0920 Paper coating (Effective 07/01/1996)
2D.0921 Fabric and vinyl coating (Effective 07/01/1996)
2D.0922 Metal furniture coating (Effective 07/01/1996)
2D.0923 Surface coating of large appliances (Effective 07/01/1996)
2D.0924 Magnet wire coating (Effective 07/01/1996)
2D.0925 Petroleum liquid storage in fixed roof tanks (03/01/1991)
2D.0926 Bulk gasoline plants (Effective 07/01/1996)
2D.0927 Bulk gasoline terminals (Effective 01/01/2007)
2D.0928 Gasoline service stations stage I (Effective 07/01/1996)
2D.0930 Solvent metal cleaning (Effective 03/01/1991)
2D.0931 Cutback asphalt (Effective 12/01/1989)
2D.0932 Gasoline truck tanks and vapor collection systems (Effective 08/01/2008)
2D.0933 Petroleum liquid storage in external floating roof tanks (Effective 06/01/2004)
2D.0934 Coating of miscellaneous metal parts and products (Effective 07/01/1996)
2D.0935 Factory surface coating of flat wood paneling (Effective 07/01/1996)
2D.0936 Graphic arts (Effective 12/01/1993)
2D.0937 Manufacture of pneumatic rubber tires (Effective 07/01/1996)
2D.0943 Synthetic organic chemical and polymer manufacturing (Effective 06/01/2008)
2D.0944 Manufacture of polyethylene: polypropylene and polystyrene (Effective 05/01/1985)
2D.0945 Petroleum dry cleaning (Effective 06/01/2008)
2D.0947 Manufacture of synthesized pharmaceutical products (Effective 07/01/1994)
2D.0948 VOC emissions from transfer operations (Effective 07/01/2000)
2D.0949 Storage of miscellaneous volatile organic compounds (Effective 07/01/2000)
2D.0951 Miscellaneous volatile organic compound emissions (Effective 07/01/2000)
2D.0952 Petition for alternative controls for RACT (Effective 04/01/2003)
2D.0953 Vapor return piping for stage II vapor recovery (Effective 07/01/1998)
2D.0954 Stage II vapor recovery (Effective 04/01/2003)
2D.0955 Thread bonding manufacturing (Effective 05/01/1995)
2D.0956 Glass Christmas ornament manufacturing (Effective 05/01/1995)
2D.0957 Commercial bakeries (Effective 05/01/1995)
2D.0958 Work practices for sources of volatile organic compounds (Effective 07/01/2000)
2D.0959 Petition for superior alternative controls (Effective 04/01/2003)
2D.0960 Certification of leak tightness tester (Effective 07/01/2007)

SECTION .1100—CONTROL OF TOXIC AIR POLLUTANTS

2D.1101 Purpose (Effective 05/01/1990)
2D.1102 Applicability (Effective 07/01/1998)
2D.1103 Definition (Effective 04/01/2001)
2D.1104 Toxic air pollutant guidelines (Effective 06/01/2008)
2D.1105 Facility reporting, recordkeeping (Effective 04/01/1999)
2D.1106 Determination of ambient air concentration (Effective 07/01/1998)
2D.1107 Multiple facilities (Effective 07/01/1998)
2D.1108 Multiple pollutants (Effective 05/01/1990)
2D.1109 112(j) case-by-case maximum achievable control technology (Effective 02/01/2004)
2D.1110 National Emission Standards for Hazardous Air Pollutants (Effective 06/01/2008)
2D.1111 Maximum Achievable Control Technology (Effective 01/01/2007)
2D.1112 112(g) case by case maximum achievable control technology (Effective 07/01/1998)

SECTION .1200—CONTROL OF EMISSIONS FROM INCINERATORS

2D.1201 Purpose and scope (Effective 07/01/2007)
2D.1202 Definitions (Effective 07/01/2007)
2D.1203 Hazardous waste incinerators (Effective 06/01/2008)
2D.1204 Sewage sludge and sludge incinerators (Effective 06/01/2008)
2D.1205 Municipal waste combustors (Effective 04/01/2004)
2D.1206 Hospital, medical, and infectious waste incinerators (Effective 06/01/2008)
2D.1207 Conical incinerators (Effective 07/01/2000)
2D.1208 Other incinerators (Effective 08/01/2008)
2D.1210 Commercial and industrial solid waste incineration units (Effective 06/01/2008)
2D.1211 Other solid waste incineration units (Effective 07/01/2007)

SECTION .1300—OXYGENATED GASOLINE STANDARD

2D.1301 Purpose (Effective 09/01/1996)
2D.1302 Applicability (Effective 09/01/1996)
2D.1303 Definitions (Effective 09/01/1992)
2D.1304 Oxygen content standard (Effective 09/01/1996)
2D.1305 Measurement and enforcement (Effective 07/01/1998)

SECTION .1400—NITROGEN OXIDES

2D.1401 Definitions (Effective 07/18/2002)
2D.1402 Applicability (Effective 06/01/2008)
2D.1403 Compliance schedules (Effective 07/01/2007)
2D.1404 Recordkeeping: Reporting: Monitoring: (Effective 12/01/2005)
2D.1405 Circumvention (Effective 04/01/1995)
2D.1407 Boilers and indirect-fired process heaters (Effective 06/01/2008)
2D.1408 Stationary combustion turbines (Effective 06/01/2008)
2D.1409 Stationary internal combustion engines (Effective 06/01/2008)
2D.1410 Emissions averaging (Effective 07/18/2002)
2D.1411 Seasonal fuel switching (Effective 06/01/2008)
2D.1412 Petition for alternative limitations (Effective 06/01/2008)
2D.1413 Sources not otherwise listed in this section (Effective 07/18/2002)
2D.1414 Tune-up requirements (Effective 07/18/2002)
2D.1415 Test methods and procedures (Effective 07/18/2002)
2D.1416 Emission allocations for utility companies (Effective 06/01/2004)
2D.1417 Emission allocations for large combustion sources (Effective 06/01/2004)
2D.1418 New electric generating units, large boilers, and large I/C engines (Effective 06/01/2004)
2D.1419 Nitrogen oxide budget trading program (Effective 06/01/2004)
2D.1420 Periodic review and reallocations (Effective 07/18/2002)
2D.1421 Allocations for new growth of major point sources (Effective 07/18/2002)
2D.1422 Compliance supplement pool credits (Effective 06/01/2004)
2D.1423 Large internal combustion engines (Effective 07/18/2002)

SECTION .1600—GENERAL CONFORMITY

2D.1601 Purpose, scope and applicability (Effective 04/01/1999)
2D.1602 Definitions (Effective 04/01/1995)
2D.1603 General conformity determination (Effective 07/01/1998)

SECTION .1900—OPEN BURNING

2D.1901 Open burning: Purpose: Scope (Effective 07/01/2007)
2D.1902 Definitions (Effective 07/01/2007)
2D.1903 Open burning without an air quality permit (Effective 07/01/2007)
2D.1904 Air curtain burners (Effective 07/01/2007)
2D.1905 Regional office locations (Effective 12/01/2005)
2D.1906 Delegation to county governments (Effective 12/01/2005)
2D.1907 Multiple violations arising from a single episode (Effective 07/01/2007)

SECTION .2000—TRANSPORTATION CONFORMITY

2D.2001 Purpose, scope and applicability (Effective 12/01/2005)
2D.2002 Definitions (Effective 04/01/1999)
2D.2003 Transportation conformity determination (Effective 04/01/1999)
2D.2004 Determining transportation-related emissions (Effective 04/01/1999)
2D.2005 Memorandum of agreement (Effective 04/01/1999)

SECTION .2100—RISK MANAGEMENT PROGRAM

2D.2101 Applicability (Effective 07/01/2000)
2D.2102 Definitions (Effective 07/01/2000)
2D.2103 Requirements (Effective 07/01/2000)
2D.2104 Implementation (Effective 07/01/2000)

SECTION .2200—SPECIAL ORDERS

2D.2201 Purpose (Effective 04/01/2004)
2D.2202 Definitions (Effective 04/01/2004)
2D.2203 Public notice (Effective 04/01/2004)

2D.2204 Final action on consent orders (Effective 04/01/2004)
2D.2205 Notification of right to contest special orders issued without (Effective 04/01/2004)

SECTION .2300—BANKING EMISSION REDUCTION CREDITS

2D.2301 Purpose (Effective 12/01/2005)
2D.2302 Definitions (Effective 12/01/2005)
2D.2303 Applicability and eligibility (Effective 07/01/2007)
2D.2304 Qualification of emission reduction credits (Effective 12/01/2005)
2D.2305 Creating and banking emission reduction credits (Effective 12/01/2005)
2D.2306 Duration of emission reduction credits (Effective 12/01/2005)
2D.2307 Use of emission reduction credits (Effective 12/01/2005)
2D.2308 Certificates and registry (Effective 12/01/2005)
2D.2309 Transferring emission reduction credits (Effective 12/01/2005)
2D.2310 Revocation and changes of emission reduction credits (Effective 12/01/2005)
2D.2311 Monitoring (Effective 12/01/2005)

SECTION .2400—CLEAN AIR INTERSTATE RULES

2D.2401 Purpose and applicability (Effective 05/01/2008)
2D.2402 Definitions (Effective 05/01/2008)
2D.2403 Nitrogen oxide emissions (Effective 05/01/2008)
2D.2404 Sulfur dioxide (Effective 05/01/2008)
2D.2405 Nitrogen oxide emissions during ozone season (Effective 05/01/2008)
2D.2406 Permitting (Effective 07/01/2006)
2D.2407 Monitoring, reporting, and recordkeeping (Effective 05/01/2008)
2D.2408 Trading program and banking (Effective 07/01/2006)
2D.2409 Designated representative (Effective 05/01/2008)
2D.2410 Computation of time (Effective 07/01/2006)
2D.2411 Opt-in provisions (Effective 07/01/2006)
2D.2412 New unit growth (Effective 05/01/2008)
2D.2413 Periodic review and reallocations (Effective 07/01/2006)

SECTION .2500—MERCURY RULES FOR ELECTRIC GENERATORS

2D.2501 Purpose and applicability (Effective 01/01/2007)
2D.2502 Definitions (Effective 01/01/2007)
2D.2503 Mercury emission (Effective 01/01/2007)
2D.2504 Permitting (Effective 01/01/2007)
2D.2505 Monitoring, Reporting, and Recordkeeping (Effective 01/01/2007)
2D.2506 Designated representative (Effective 01/01/2007)
2D.2507 Computation of time time periods shall be determined as described in 40 CFR 60.4107 (Effective 01/01/2007)
2D.2508 New source growth (Effective 01/01/2007)
2D.2509 Periodic review and reallocations (Effective 01/01/2007)
2D.2510 Trading program and banking (Effective 01/01/2007)
2D.2511 Mercury emission limits (Effective 01/01/2007)

SECTION .2600—SOURCE TESTING

2D.2601 Purpose and scope (Effective 06/01/2008)
2D.2602 General provisions on test methods and procedures (Effective 07/01/2008)
2D.2603 Testing protocol (Effective 07/01/2008)
2D.2604 Number of test points (Effective 06/01/2008)
2D.2605 Velocity and volume flow rate (Effective 06/01/2008)
2D.2606 Molecular weight (Effective 06/01/2008)
2D.2607 Determination of moisture content (Effective 06/01/2008)
2D.2608 Number of runs and compliance determination (Effective 06/01/2008)
2D.2609 Particulate testing methods (Effective 06/01/2008)
2D.2610 Opacity (Effective 06/01/2008)
2D.2611 Sulfur dioxide testing methods (Effective 06/01/2008)
2D.2612 Nitrogen oxide testing methods (Effective 06/01/2008)
2D.2613 Volatile organic compound testing methods (Effective 06/01/2008)
2D.2614 Determination of voc emission control system efficiency (Effective 06/01/2008)
2D.2615 Determination of leak tightness and vapor leaks (Effective 06/01/2008)
2D.2616 Fluorides (Effective 06/01/2008)
2D.2617 Total reduced sulfur (Effective 06/01/2008)
2D.2618 Mercury (Effective 06/01/2008)
2D.2619 Arsenic, beryllium, cadmium, hexavalent chromium (Effective 06/01/2008)
2D.2620 Dioxins and furans (Effective 06/01/2008)
2D.2621 Determination of fuel heat content using f-factor (Effective 06/01/2008)

SUBCHAPTER 02Q—AIR QUALITY PERMITS PROCEDURES

SECTION .0100—GENERAL PROVISIONS

2Q.0101 Required air quality permits (Effective 12/01/2005)
2Q.0102 Activities exempted from permit requirements (Effective 07/01/2007)
2Q.0103 Definitions (Effective 12/01/2005)
2Q.0104 Where to obtain and file permit applications (Effective 08/01/2002)
2Q.0105 Copies of referenced documents (Effective 12/01/2005)
2Q.0106 Incorporation by reference (Effective 07/01/1994)
2Q.0107 Confidential information (Effective 04/01/1999)
2Q.0108 Delegation of authority (Effective 07/01/1998)
2Q.0109 Compliance schedule for previously exempted activities (Effective 04/01/2001)
2Q.0110 Retention of permit at permitted facility (Effective 07/01/1994)
2Q.0111 Applicability determinations (Effective 07/01/1994)
2Q.0112 Applications requiring professional engineer seal (Effective 02/01/1995)
2Q.0113 Notification in areas without zoning (Effective 04/01/2004)

SECTION .0200—PERMIT FEES

2Q.0201 Applicability (Effective 07/01/1998)
2Q.0202 Definitions (Effective 04/01/2004)
2Q.0203 Permit and application fees (Effective 03/01/2008)
2Q.0204 Inflation adjustment (Effective 03/01/2008)
2Q.0205 Other adjustments (Effective 07/01/1994)
2Q.0206 Payment of fees (Effective 07/01/1994)
2Q.0207 Annual emissions reporting (Effective 07/01/2007)

SECTION .0300—CONSTRUCTION AND OPERATION PERMITS

2Q.0301 Applicability (Effective 12/01/2005)
2Q.0302 Facilities not likely to contravene demonstration (Effective 07/01/1998)
2Q.0303 Definitions (Effective 07/01/1994)
2Q.0304 Applications (Effective 12/01/2005)
2Q.0305 Application submittal content (Effective 12/01/2005)
2Q.0306 Permits requiring public participation (Effective 07/01/2007)
2Q.0307 Public participation procedures (Effective 07/01/1998)
2Q.0308 Final action on permit applications (Effective 07/01/1994)
2Q.0309 Termination, modification and revocation of permits (Effective 07/01/1999)
2Q.0310 Permitting of numerous similar facilities (Effective 07/01/1994)
2Q.0311 Permitting of facilities at multiple temporary sites (Effective 07/01/1996)
2Q.0312 Application processing schedule (Effective 07/01/1998)
2Q.0313 Expedited application processing schedule (Effective 07/01/1998)
2Q.0314 General permit requirements (Effective 07/01/1999)
2Q.0315 Synthetic minor facilities (Effective 07/01/1999)
2Q.0316 Administrative permit amendments (Effective 04/01/2001)
2Q.0317 Avoidance conditions (Effective 04/01/2001)
2Q.0401 Purpose and applicability (Effective 04/01/2001)
2Q.0402 Acid rain permitting procedures (Effective 04/01/1999)

SECTION .0500—TITLE V PROCEDURES

2Q.0501 Purpose of section and requirement for a permit (Effective 07/01/1998)
2Q.0502 Applicability (Effective 07/01/2000)
2Q.0503 Definitions (Effective 01/01/2007)
2Q.0504 Option for obtaining construction and operation permit (Effective 07/01/1994)
2Q.0505 Application submittal content (Effective 04/01/2004)
2Q.0507 Application (Effective 04/01/2004)
2Q.0508 Permit content (Effective 08/01/2008)
2Q.0509 Permitting of numerous similar facilities (Effective 07/01/1994)
2Q.0510 Permitting of facilities at multiple temporary sites (Effective 07/01/1994)
2Q.0512 Permit shield and application shield (Effective 07/01/1997)

2Q.0513 Permit renewal and expiration (Effective 07/01/1994)
2Q.0514 Administrative permit amendments (Effective 01/01/2007)
2Q.0515 Minor permit modifications (Effective 07/01/1997)
2Q.0516 Significant permit modification (Effective 07/01/1994)
2Q.0517 Reopening for cause (Effective 07/01/1997)
2Q.0518 Final action (Effective 02/01/1995)
2Q.0519 Termination, modification, revocation of permits (Effective 07/01/1994)
2Q.0520 Certification by responsible official (Effective 07/01/1994)
2Q.0521 Public participation (Effective 07/01/1998)
2Q.0522 Review by EPA and affected states (Effective 07/01/1994)
2Q.0523 Changes not requiring permit revisions (Effective 06/01/2008)
2Q.0524 Ownership change (Effective 07/01/1994)
2Q.0525 Application processing schedule (Effective 07/01/1998)
2Q.0526 112(j) case-by-case MACT procedures (Effective 02/01/2004)
2Q.0527 Expedited application processing schedule (Effective 07/01/1998)
2Q.0528 112(g) case-by-case MACTt procedures (Effective 07/01/1998)

SECTION .0600—TRANSPORTATION FACILITY PROCEDURES

2Q.0601 Purpose of section and requirement for a permit (Effective 07/01/1994)
2Q.0602 Definitions (Effective 07/01/1994)
2Q.0603 Applications (Effective 02/01/2005)
2Q.0604 Public participation (Effective 07/01/1994)
2Q.0605 Final action on permit applications (Effective 02/01/2005)
2Q.0606 Termination, modification and revocation of permits (Effective 07/01/1994)
2Q.0607 Application processing schedule (Effective 07/01/1998)

SECTION .0700—TOXIC AIR POLLUTANT PROCEDURES

2Q.0701 Applicability (Effective 02/01/2005)
2Q.0702 Exemptions (Effective 04/01/2005)
2Q.0703 Definitions (Effective 04/01/2001)
2Q.0704 New facilities (Effective 07/01/1998)
2Q.0705 Existing facilities and sic calls (Effective 07/01/1998)
2Q.0706 Modifications (Effective 12/01/2005)
2Q.0707 Previously permitted facilities (Effective 07/01/1998)
2Q.0708 Compliance schedule for previously unknown toxic air pollutant emissions (Effective 07/01/1998)
2Q.0709 Demonstrations (Effective 02/01/2005)
2Q.0710 Public notice and opportunity for public hearing (Effective 07/01/1998)
2Q.0711 Emission rates requiring a permit (Effective 06/01/2008)
2Q.0712 Calls by the director (Effective 07/01/1998)
2Q.0713 Pollutants with otherwise applicable federal standards or requirements (Effective 07/01/1998)

SECTION .0800—EXCLUSIONARY RULES

2Q.0801 Purpose and scope (Effective 04/01/1999)
2Q.0802 Gasoline service stations and dispensing facilities (Effective 08/01/1995)
2Q.0803 Coating, solvent cleaning, graphic arts operations (Effective 04/01/2001)
2Q.0804 Dry cleaning facilities (Effective 08/01/1995)
2Q.0805 Grain elevators (Effective 04/01/2001)
2Q.0806 Cotton gins (Effective 06/01/2004)
2Q.0807 Emergency generators (Effective 04/01/2001)
2Q.0808 Peak shaving generators (Effective 12/01/2005)
2Q.0809 Concrete batch plants (Effective 06/01/2004)
2Q.0810 Air curtain burners (Effective 12/01/2005)

SECTION .0900—PERMIT EXEMPTIONS

2Q.0901 Purpose and scope (Effective 01/01/2005)
2Q.0902 Portable crushers (Effective 01/01/2005)
2Q.0903 Emergency generators (Effective 06/01/2008)

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[FR Doc. E9–4131 Filed 3–2–09; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 302, 303 and 307

RIN 0970–AC01

State Parent Locator Service; Safeguarding Child Support Information: Proposed Delay of Effective Date

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), Department of Heath and Human Services

ACTION: Proposed delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review,'' published in the **Federal Register** on January 26, 2009, the Department is seeking public comment on a contemplated delay of 60 days in the effective date of the rule entitled ''State Parent Locator Service; Safeguarding Child Support Information,'' published in the **Federal Register** on September 26, 2008 [73 FR 56422]. That rule addresses requirements for State Parent Locator Service responses to authorized location requests, State IV–D program safeguarding of confidential information, authorized disclosures of this information, and restrictions on the use of confidential data and information for child support purposes with exceptions for certain disclosures permitted by statute. The Department is considering a temporary 60-day delay in effective date to allow Department officials the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff's memorandum of January 20, 2009.

The Department solicits comments specifically on the contemplated delay in effective date.

DATES: Comments must be received on or before March 12, 2009.

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

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Interested persons are invited to submit written comments via regular postal mail to: Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 4th floor, Washington, DC 20447, Attention: Division of Policy; Mail Stop: ACF/OCSE/DP.

FOR FURTHER INFORMATION CONTACT: Yvette Riddick, Office of Child Support Enforcement, Division of Policy, (202) 401–4885.

Dated: February 26, 2009.

Charles E. Johnson,

Acting Secretary.

[FR Doc. E9–4527 Filed 2–27–09; 4:15 pm]
BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–411; MB Docket No. 08–122; RM–11440]

Television Broadcasting Services; Indianapolis, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by LeSEA Broadcasting of Indianapolis, Inc., the licensee of station WHMB–DT, to substitute DTV channel 20 for its assigned post-transition DTV channel 16 at Indianapolis, Indiana.

DATES: This rule is effective April 2, 2009.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 08–122, adopted February 19, 2009, and released February 20, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com*. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

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

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Indiana, is amended by adding DTV channel 20 and removing DTV channel 16 at Indianapolis.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–4490 Filed 3–2–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 356, 365, and 374

[Docket No. FMCSA–2008–0235]

RIN 2126–AB16

Elimination of Route Designation Requirement for Motor Carriers Transporting Passengers Over Regular Routes: Proposed Delay in Effective Date

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Proposed delay in effective date.

SUMMARY: In accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review,'' published in the **Federal Register** on January 26, 2009, FMCSA is seeking public comment on a contemplated delay of 90 days in the effective date of its January 16, 2009, final rule entitled ''Elimination of Route Designation Requirement for Motor Carriers Transporting Passengers over Regular Routes.'' The final rule announced the discontinuation of the administrative requirement that applicants seeking for-hire authority to transport passengers over regular routes submit a detailed description and a map of the route(s) over which they propose to operate. The effective date of the rule is March 17, 2009, with a compliance date of July 15, 2009. The FMCSA is considering a temporary 90-day extension in the effective date to June 15, 2009, to allow the Agency the opportunity for further review and consideration of the final rule. FMCSA acknowledges that the January 20, 2009, memorandum only recommends 60 days, but is allowing for 90 days to give us enough time to consider and respond to comments.

DATES: Comments must be received on or before March 9, 2009.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Number in the heading of this document by any of the following methods. Do not submit the same comments by more than one method. The Federal eRulemaking portal is the preferred method for submitting comments, and we urge you to use it.

Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments. In the *Comment or Submission* section, type Docket ID Number ''FMCSA–2008–0235'', select ''Go'', and then click on ''Send a Comment or Submission.'' You will receive a tracking number when you submit a comment.

Telefax: 1–202–493–2251.

Mail, Courier, or Hand-Deliver: Docket Management Facility; U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: Regardless of the method used for submitting comments, all comments will be posted without change to the Federal Docket Management System (FDMS) at *http://www.regulations.gov*. Anyone can search the electronic form of all our dockets in FDMS, by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19476), and can be viewed at the URL *http://docketsinfo.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. David Miller, Regulatory Development Division, (202) 366–5370 or by e-mail at: *FMCSAregs@dot.gov*.

SUPPLEMENTARY INFORMATION:

On January 16, 2009, FMCSA published a final rule announcing the discontinuation of the administrative requirement that applicants seeking for-hire authority to transport passengers over regular routes submit a detailed description and a map of the route(s) over which they propose to operate (74 FR 2895). The Agency indicated that it will register such carriers as regular-route carriers without requiring the designation of specific regular routes and fixed end-points. Once motor carriers have obtained regular-route, for-hire operating authority from FMCSA, they will no longer need to seek additional FMCSA approval in order to change or add routes. The rule amended certain provisions of 49 CFR Parts 356, 365 and 374 to make them consistent with the Agency's discontinuation of the route designation requirement. Each

registered regular-route motor carrier of passengers will continue to be subject to the full safety oversight and enforcement programs of FMCSA and its State and local partners.

The effective date of the rule is March 17, 2009, with a compliance date of July 15, 2009.

Contemplated Extension of the Effective Date

In accordance with January 20, 2009 (74 FR 4435) memorandum from the Assistant to the President and Chief of Staff, FMCSA is contemplating an extension of the effective date of its January 16, 2009, final rule from March 17, 2009, to June 15, 2009. This will provide us sufficient time to address issues that have been raised about whether the new rule will make it more difficult for us to enforce our requirements concerning safety and access for individuals with disabilities. Although we believe the final rule fully addressed these issues, in light of the Assistant to the President and Chief of Staff's memorandum, we are proposing to delay the effective date of the final rule to allow the Agency the opportunity for further review and consideration of these issues.

The Agency solicits comments specifically on the contemplated delay in the effective date.

List of Subjects

49 CFR Part 356

Administrative practice and procedure, Routing, Motor carriers.

49 CFR Part 365

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

49 CFR Part 374

Aged, Blind, Buses, Civil rights, Freight, Individuals with disabilities, Motor carriers, Smoking.

Issued on: February 25, 2009.

Rose A. McMurray,

Acting Deputy Administrator.

[FR Doc. E9–4454 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2009–0038]

RIN 2127–AK44

Federal Motor Vehicle Safety Standard; Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Interim final rule, request for comments.

SUMMARY: This document extends for six months a requirement that trailers with antilock brake systems be equipped with an external antilock malfunction indicator lamp. This requirement, which is included in the Federal motor vehicle safety standard that governs vehicles equipped with air brakes, is currently scheduled to sunset on March 1, 2009. As a result of this interim final rule, the sunset date is September 1, 2009. We are taking this action in connection with our consideration of a petition for rulemaking from the Commercial Vehicle Safety Alliance (CVSA) requesting that the requirement be made permanent. In a separate document, we are proposing a further extension of the requirement, to March 1, 2011. This interim final rule prevents the occurrence of a potential time gap for the vehicles that are subject to the requirement, should the agency ultimately decide to further extend the time period.

DATES: *Effective Date:* The amendment made in this rule is effective February 28, 2009.

Comment Period: You should submit your comments early enough to ensure that the Docket receives them not later than April 2, 2009. Comments may be combined with ones on the accompanying notice of proposed rulemaking, which is being published today using the same docket number.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*, or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. George Soodoo, Office of Crash Avoidance Standards (Phone: 202–366–4931; FAX: 202–366–7002). For legal issues, you may call Mr. Ari Scott, Office of the Chief Counsel (Phone: 202–366–2992; FAX: 202–366–3820). You may send mail to these officials at: National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

The final rule requiring antilock brake systems (ABS) on truck tractors, other air-braked heavy vehicles including trailers, and hydraulic-braked trucks was published in the **Federal Register** (60 FR 13216) on March 10, 1995. As amended by that final rule, FMVSS No. 121, *Air Brake Systems*, required two separate in-cab ABS malfunction indicator lamps for each truck tractor, one for the tractor's ABS (effective

March 1, 1997) and the other for the trailer's ABS (effective March 1, 2001). The final rule also required air-braked trailers to be equipped with an externally mounted ABS malfunction lamp (effective March 1, 1998) so that the driver of a non-ABS equipped tractor or a pre-2001 ABS-equipped tractor towing an ABS-equipped trailer would be alerted in the event of a malfunction in the trailer ABS.

The requirement for the trailer-mounted ABS malfunction indicator lamp is currently scheduled to expire on March 1, 2009. The agency established this sunset date in light of the fact that, after this eight-year period, many of the pre-2001 tractors without the dedicated trailer ABS malfunction indicator lamp would no longer be in long-haul service. The agency based its decision on the belief that the typical tractor life was five to seven years, and therefore decided on an eight-year period for the external ABS malfunction indicator lamp requirement. We further stated our belief that there would be no need for a redundant ABS malfunction lamp mounted on the trailer after the vast majority of tractors were equipped with an in-cab ABS malfunction indicator lamp for the trailer.

As we have moved closer to the March 1, 2009 sunset date, the agency has received two petitions requesting that the requirement for the ABS malfunction indicator lamp be extended or made permanent. These petitions both came from the Commercial Vehicle Safety Alliance (CVSA), an international not-for-profit organization comprised of local, state, provincial, territorial and federal motor carrier safety officials and industry representatives from the United States, Canada, and Mexico. The petitioner raised two main issues in requesting a permanent extension. The first relates to ensuring that a driver or inspector can determine the operational status of a trailer ABS, if the trailer is not equipped with an external ABS lamp or the tractor is a pre-2001 tractor without the trailer in-cab ABS warning lamp. The second relates to the use of the external trailer ABS warning lamp for diagnostic purposes.

II. Agency Analysis

In a separate notice of proposed rulemaking (NPRM) published in today's **Federal Register**, we are proposing to extend the trailer indicator lamp requirement to March 1, 2011. Such an extension would enable the agency to fully analyze CVSA's request that the requirement be made permanent.

Given the imminence of the March 1, 2009 sunset date, our decision on the accompanying NPRM will not be made until after that date. To prevent the requirement from expiring in the meantime, potentially creating a confusing time gap in the trailer regulations should the agency ultimately decide to extend it, we decided to issue this interim final rule providing a six-month extension.

Accordingly, NHTSA is extending the sunset date by six months, from March 1, 2009 to September 1, 2009.

III. Interim Final Rule and Shortened Comment Period

Given the imminence of the March 1, 2009 sunset date for the requirement that trailers with antilock brake systems be equipped with an external antilock malfunction indicator lamp, we find good cause for this interim final rule providing a six-month extension. Without this interim final rule, a confusing time gap in the vehicles subject to the requirement could potentially occur, should the agency ultimately decide to extend the requirement. Further, we find good cause to make it effective on February 28, 2009. We are accepting comments on this interim final rule.

Furthermore, given the short timeframe of this interim final rule, we are providing only a 30-day comment period. Because the full duration of the extension is only six months, and due to the fact that NHTSA will be considering the policy issues addressed in the outstanding petitions during this period in the context of the accompanying NPRM, we believe it is appropriate to provide a short comment period.

IV. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging onto the Docket Management System Web site at *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html*. DOT's guidelines may be accessed at *http://dms.dot.gov*.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, go to *http://www.regulations.gov*. Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

V. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This action was not reviewed by the Office of Management and Budget under E.O. 12866. The agency has considered the impact of this action under the Department of Transportation's regulatory policies and procedures (44 FR 11034; February 26, 1979), and has determined that it is not ''significant'' under them.

This document delays the sunset date of the antilock malfunction indicator lamp requirement from March 1, 2009 to September 1, 2009. Since trailers manufactured after March 1, 1998 have already been complying with the requirement and the agency is merely extending the requirement for an additional six months, the impact on costs is not significant. Not supplying a lamp could result in a trailer that could be made for a few dollars less. We estimate the costs to be so minimal that preparation of a full regulatory evaluation is not required.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NHTSA has evaluated the effects of this action on small entities. I hereby certify that this interim final rule will not have a significant impact on a substantial number of small entities. This interim final rule merely extends for six months a sunset provision in FMVSS No. 121. No other changes are made in this document. Small organizations and small government units are not significantly affected since this action does not affect the price of new motor vehicles. Trailer manufacturers are not required to install new systems but rather continue to install the systems they are already installing for an additional six months.

Executive Order 13132 (Federalism)

NHTSA has examined today's interim final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rule does not have federalism implications because it does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Further, no consultation is needed to discuss the preemptive effect of today's rule. NHTSA's safety standards can have preemptive effect in at least two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: ''When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.'' 49 U.S.C. 30103(b)(1). It is this statutory command that unavoidably preempts State legislative and administrative law, not today's rulemaking, so consultation would be unnecessary.

Second, the Supreme Court has recognized the possibility of implied preemption: State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and execution of a NHTSA safety standard. When such a conflict is discerned, the Supremacy Clause of the Constitution makes the State requirements unenforceable. *See Geier* v. *American Honda Motor Co.*, 529 U.S. 861 (2000). NHTSA has considered today's interim final rule and does not currently foresee any potential State requirements that might conflict with it. Without any conflict, there could not be any implied preemption.

Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19855, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental, health, or safety risk that the agency has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

This document is not expected to affect children and it is not an economically significant regulatory action under Executive Order 12866. Consequently, no further analysis is required under Executive Order 13045.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There is not any information collection requirement associated with this interim final rule.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, (15 U.S.C. 272) directs the agency to evaluate and use voluntary consensus standards in its regulatory activities

unless doing so would be inconsistent with applicable law or is otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers. The NTTAA directs us to provide Congress (through OMB) with explanations when we decide not to use available and applicable voluntary consensus standards. There are no voluntary consensus standards developed by voluntary consensus standards bodies pertaining to this interim final rule.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This interim final rule would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. *Application of the principles of plain language includes consideration of the following questions:*

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.regulations.gov*.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

■ In consideration of the foregoing, NHTSA is amending 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.121 is amended by revising S5.2.3.3(a) to read as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S5.2.3.3 *Antilock malfunction indicator.*

(a) In addition to the requirements of S5.2.3.2, each trailer and trailer converter dolly manufactured on or after March 1, 1998, and before September 1, 2009, shall be equipped with an external antilock malfunction indicator lamp that meets the requirements of S5.2.3.3(b) through (d).

* * * * *

Issued: February 26, 2009.

Ronald L. Medford,

Acting Deputy Administrator.

[FR Doc. E9–4492 Filed 2–27–09; 11:15 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351—9087—02]

RIN 0648–XN54

Fisheries of the Exclusive Economic Zone Off Alaska; Opening Directed Fishing for Pacific Cod by Catcher Vessels Greater Than or Equal to 60 feet (18.3 m) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands management area

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

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 m) length overall (LOA) using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully use the A season allowance of the 2009 total allowable catch (TAC) of Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 1, 2009, through 1200 hrs, A.l.t., June 10, 2009. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 13, 2009.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-XN54, by any one of the following methods:

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

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

• Fax: (907) 586–7557.

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

All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Enter ''N/A'' in the required fields, if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI under § 679.20(d)(1)(iii) on February 1, 2009 (74 FR 6554, February 10, 2009).

NMFS has determined that approximately 1,019 mt of Pacific cod remain in the directed fishing allowance for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2009 TAC of Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI, NMFS is terminating the previous closure and is reopening directed fishing for Pacific cod.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay opening directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 23, 2009. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the TAC of Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 13, 2009.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 25, 2009.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–4474 Filed 2–26–09; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 40
Tuesday, March 3, 2009

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[Docket No. PRM–72–6]; [NRC–2008–0649]

C–10 Research and Education Foundation, Inc.; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking dated November 24, 2008, filed by the C–10 Research and Education Foundation, Inc. (petitioner). The petition was docketed by the NRC and has been assigned Docket No. PRM–72–6. The petitioner is requesting that the NRC amend the regulations that govern licensing requirements for the independent storage of spent nuclear fuel, high-level radioactive waste, and reactor-related greater than class C waste. The petitioner believes that the current regulations do not provide sufficient requirements for safe storage of spent nuclear fuel in dry cask storage or in independent spent fuel storage installations (ISFSIs). The petitioner states that the NRC does not adequately enforce the current regulations that govern dry cask storage by allowing manufacturers, vendors, and licensees to use alternatives to the American Society of Mechanical Engineers (ASME) Code. The petitioner also states that the NRC has not specified license requirements for multiple cask designs under different expiration dates at the same ISFSI, has not adequately considered age-related degradation of dry cask systems, and has no requirements in place to address sabotage and adverse environmental effects on ISFSIs and current and future dry cask storage systems.

DATES: Submit comments by May 18, 2009. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: You may submit comments on this petition by any one of the following methods. Please include PRM–72–6 in the subject line of your comments. Comments on petitions submitted in writing or in electronic form will be made available for public inspection. Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission.

Federal eRulemaking Portal: Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2008–0649]. Address questions about NRC dockets to Carol Gallagher, 301–492–3668; e-mail *Carol.Gallagher@nrc.gov*.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff. E-mail comments to: *rulemaking.comments@nrc.gov*. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1677.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays, telephone number 301–415–1677.

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

Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the Federal eRulemaking Portal *http://www.regulations.gov*.

Publicly available documents created or received at the NRC, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into the NRC's Agencywide Documents Access and Management System (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 NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov*.

For a copy of the petition, write to Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The petition is also available electronically in ADAMS at ML083470148.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–492–3663 or Toll-Free: 1–800–368–5642 or E-mail: *Michael.Lesar@NRC.Gov*.

SUPPLEMENTARY INFORMATION:

Background

The NRC has received a petition for rulemaking dated November 24, 2008, submitted by Sandra Gavutis on behalf of the C–10 Research and Education Foundation, Inc. (petitioner). The petitioner requests that the NRC amend 10 CFR Part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste.'' The petitioner requests that Part 72 be amended to require licensees to strictly adhere to ASME code requirements for design and use of spent fuel storage casks. The petitioner also requests that 10 CFR 72.42 be amended to clarify requirements for ''renewal'' and ''reapproval'' of certificates of compliance (CoCs) of spent fuel storage casks and to address license requirements for multiple cask designs under different expiration dates at the same ISFSI. The petitioner is also concerned that NRC requirements allow 20-year CoCs for spent fuel storage casks to be arbitrarily extended up to 60 years without adequate evaluation for protection of public health and safety. The petitioner also states that the NRC does not require control systems for dry cask storage systems at ISFSIs and that the NRC allows licensees numerous exemptions from design and construction requirements for dry cask storage systems that result in unresolved

fabrication and performance issues. The petitioner is also concerned that the requirements for spent fuel storage casks do not adequately consider or address long term degradation of casks. Lastly, the petitioner states that NRC regulations do not adequately specify requirements for protection of ISFSIs and dry storage casks systems from terrorist attacks or environmental elements.

The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition was docketed by the NRC as PRM–72–6 on December 11, 2008. The NRC is soliciting public comment on the petition for rulemaking.

Discussion of the Petition

The petitioner states that because the Federal Government for over 50 years has not resolved the long-term need to protect the public from exposure to irradiated nuclear fuel by creating a permanent high-level waste repository, the States will inherit the responsibility to store spent nuclear fuel indefinitely. The petitioner believes that the NRC is proposing to change the Nuclear Waste Confidence rule so there is no deadline for storage of spent nuclear fuel and that current NRC regulations are inadequate and not properly enforced. The petitioner states that the NRC allows licensees of dry cask storage systems to use alternatives to ASME Code requirements and grants numerous exemptions to cask designs instead of requiring strict compliance with current ASME Code requirements. The petitioner states that required design specifications have not been updated because no current complete studies exist.

The petitioner also states that the renewal process for spent fuel cask designs in 10 CFR Part 72 is unclear. Specifically, the petitioner states that § 72.42(a) clearly specifies that the initial term for a site-specific ISFSI must be for a fixed term not to exceed 20 years from the date of issuance. The petitioner states that an application for reapproval of a spent fuel storage cask design implies that the NRC would reevaluate the design basis of the original cask design with current standards and code requirements for the 20-year CoC storage cask license. The petitioner believes that current NRC practice under § 72.42 uses the term ''renewal'' which implies that the design requirements remain the same as in the original CoC and ''simply replaces the original license.'' The petitioner states that the NRC has no clear requirements that distinguish between ''renewal'' versus ''reapproval'' and has not addressed what the license requirements are for multiple cask designs under different expiration dates at the same ISFSI.

The petitioner is also concerned that the NRC arbitrarily extends CoCs for spent fuel casks beyond the 20-year term up to 60 years without evaluating technical data or regulatory implications to adequately protect public health and safety. The petitioner's chief concerns are that NRC requirements have not been updated; manufacture of spent fuel storage casks is not consistent with ASME Code requirements; ISFSIs are not required to be built to withstand a terrorist attack; and that spent fuel storage casks are not safeguarded against accidents, adverse weather-related events, and leakage caused by age-related degradation.

The petitioner states that although the NRC has determined that spent fuel storage casks design and construction is as important as that of a reactor vessel, the NRC makes distinctions between wet and dry storage requirements. The petitioner cites § 72.122(i) as an example that requires instrumentation and control systems be provided to specifically monitor and control heat removal, but states that the NRC does not require control systems for dry cask storage systems at ISFSIs. The petitioner also notes that § 72.124(b) requires specific methods for criticality control but that the NRC has concluded that the potentially corrosive environment in wet storage conditions does not apply to dry storage systems. The petitioner notes that in 1998 the NRC determined that because air and moisture are removed from dry storage casks and replaced with helium, the spent nuclear fuel is then inert and there is no reasonable basis to assume degradation will occur. ''Miscellaneous Changes to Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste'' (63 FR 31364, 31365; June 9, 1998). However, the petitioner states that this determination is refuted by the May 1996 incident at Point Beach, evidence from the reactor vessel inner seal failures at the Surry facility, and NRC reports of corrosion resulting from salt water air at other reactor sites.

The petitioner also states that vital adequate technical radiation and heat monitoring data is not included in the regulations that govern dry storage casks and that this data is needed to protect nuclear workers and the public, and for future dry cask design and fabrication. The petitioner is also concerned that a lack of vendor compliance with ASME Code design requirements exists and that the NRC has allowed exemptions to vendors. The petitioner states that the NRC's remedy for this situation has been to simultaneously cite vendors and manufacturers with numerous violations and later approve repeated corrective actions. The petitioner believes that dry cask design, fabrication, and performance issues remain unresolved by this practice.

The petitioner states that limited data exists to determine the extent of the long-term degradation of dry storage casks and the fuel cladding of the fuel in some dry cask designs. The petitioner notes that the NRC did support a research program, ''The Dry Cask Storage Characterization Project'' conducted at the Idaho National Engineering and Environmental Laboratory; but that this study was never completed because it was cancelled 15 years into the planned 20-year study timeframe. According to the petitioner, this study revealed that degradation of stored fuel was present when a dry cask at the Surry facility was opened, but the NRC reported that the condition of the stored fuel was acceptable. The petitioner believes that the study's inconsistencies did not provide conclusive data for either the cask integrity or condition of the stored spent fuel.

The petitioner also cites a videotape provided by the Union of Concerned Scientists of an incident at the Point Beach facility; a copy of the videotape was included with the petition. The petitioner states that the video shows that the adverse effects of chemical reactions in a cask could cause heat build up within the cask. The petitioner suggests that a sampling of dry casks certified by the NRC should be opened periodically and studied for at least 60 years because the NRC has permitted extension of 20-year dry cask licenses up to 60 years.

The petitioner lists the following technical concerns regarding dry storage casks: failure of cask materials over long periods of time; inadequate ability to observe and detect those failures because there is no active maintenance in place; difficulty assessing some construction materials for long-term integrity; lack of a formal aging management program; lack of dose rate and heat monitoring for increased heat and radiation levels on ISFSIs and individual casks; and vulnerability to weather-related deterioration and sabotage; and ISFSIs and dry casks are outdoors in plain sight (unlike reactor vessels and spent fuel pools) and are not designed to withstand various terrorist attack scenarios. The casks are the only barrier between radioactive nuclear fuel

and the public and the environment while reactor vessels are in a containment building in a controlled environment with a trained team of operators, inspectors, and maintenance staff.

The petitioner suggests that the NRC regulations be amended as follows:

(1) Prohibit dry storage cask systems that do not meet NRC certification requirements from being produced under what the petitioner states is industry pressure to ''accept-as-is.''

(2) Base certification of casks on code requirements to include design criteria and technical specifications on a 100-year timeframe instead of the current 20-year design specification that the petitioner views as inadequate. The petitioner also suggests that the NRC conduct a regulatory review of an in-depth technical evaluation for public comment at the 20 year CoC reapproval interval to address cask deterioration issues.

(3) Approve a method for dry cask transfer capacity as part of the original ISFSI certification process and construction license that will allow for immediate and safe maintenance on a faulty or failing cask. The petitioner states that stored irradiated fuel in dry casks approaches approximately 400 degrees Fahrenheit while the irradiated waste storage pool water is kept at 100 degrees Fahrenheit. The petitioner subsequently asserts that the re-submersion of dry casks and resultant steam flash threaten workers, and may thermally shock the irradiated nuclear fuel rods. The petitioner also states that the ability to perform maintenance safely should be a regulatory priority and that procedures to act promptly in an emergency situation and safely transfer spent fuel must be outlined in NRC regulations.

(4) Ensure that dry casks are qualified for transport at the time of onsite storage approval certification. The petitioner states that transport capacity of shipment offsite must be required if an environmental emergency occurs or for security purposes to an alternative storage location or repository as part of the approval criteria. The petitioner suggests that Chapter 1 of the NRC's Standard Review Plan (NUREG 1567) should clearly define the transport requirements in §§ 72.122(i), 72.236(h), and 72.236(m).

(5) Specify that the most current ASME codes and standards be adopted for all spent fuel storage containers with no exceptions. The petitioner states that the NRC should no longer issue ''justifications and compensatory measures'' for ASME codes or allow the industry to design or manufacture casks that conform to safety regulations to ''the maximum extent practical'' instead of actual ASME Code requirements. The petitioner also states that ASME Code requirements should be enforced unconditionally, with no exceptions or exemptions.

(6) Require ASME code stamping for fabrication, which would specify that an ASME-certified nuclear inspector, who is independent from the manufacturer and vendor, must be onsite at the fabrication plant. The petitioner also suggests that code stamping activities be subject to unannounced NRC inspections.

(7) Require that all fabrication materials be supplied by ASME-approved material suppliers who are certificate holders. The petitioner is concerned that if a supplier who is not certified is used, material certification under the NG/NF–2130 ASME standard is not possible and means that material traceability is not achieved.

(8) Require that the current ASME Codes and standards for conservative heat treatment and light tightness are adopted and enforced.

(9) Require a safe and secure hot cell transfer station coupled with an auxiliary pool to be built as part of an upgraded ISFSI certification and licensing process. The petitioner states that the licensee must have a dry cask transfer capability for maintenance and during emergency situations after decommissioning for as long as the spent fuel remains on site.

(10) Require real-time heat and radiation monitoring at ISFSIs at all nuclear power plant sites and storage facilities that are not located at reactor sites maintained by the utilities and that the monitoring data be transmitted in real-time to affected State health, safety, and environmental regulators.

(11) Require what the petitioner describes as ''Hardened Onsite Storage'' to fortify ISFSIs and dry casks from terrorist attacks. The petitioner cites a study by the National Academy of Sciences entitled, ''Safety and Security of Commercial Nuclear Fuel Storage,'' supported by the NRC (Grant No. NRC–04–04–067). According to the petitioner, this study states that the NRC should upgrade the requirements in 10 CFR Part 72 for dry casks, specifically to improve resistance to terrorist attacks. The petitioner also quotes from a paper describing the potential of terrorist attacks on dry casks by Gordon Thompson, the Director of the Institute for Resource and Security, entitled, ''Assessing Risks of Potential Malicious Actions at Commercial Nuclear Facilities: A Case of a Proposed ISFSI at Diablo Canyon Site'' (June 27, 2007): ''the dry cask storage modules used at ISFSIs are not designed to resist attack. At all recently established ISFSIs in the USA, spent fuel is contained in metal canisters with a wall thickness of about 1.6 cm. Each canister is surrounded by a concrete over pack, but the over pack is penetrated by channels that allow cooling of the canister by convective flow of air. Attackers gaining access to an ISFSI could employ readily available skills and explosives to penetrate a canister in a manner that allows free flow to the spent fuel, and could use incendiary devices to initiate burning of fuel cladding, leading to a release of radioactive material to the atmosphere.''

(12) Establish funding to conduct ongoing studies to evaluate the effects of age-related material degradation on dry casks and to assess the structural integrity of the casks and fuel cladding. The petitioner has stated that these studies would gather the data necessary for the management of future damage and to determine design specifications for future irradiated nuclear waste storage.

Dated at Rockville, Maryland, this 25th day of February 2009.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E9–4444 Filed 3–2–09; 8:45 am]

BILLING CODE 7590–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R10–OAR–2009–0111; FRL–8777–6]

Outer Continental Shelf Air Regulations Consistency Update for Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule-consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by the Clean Air Act (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the State of Alaska. The intended effect of approving the OCS requirements for the State of Alaska is to regulate emissions from OCS sources

in accordance with the requirements onshore. The change to the existing requirements discussed below is proposed to be incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before April 2, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R10–OAR–2009–0111, by one of the following methods:

A. *Federal eRulemaking Portal: http://www.regulations.gov:* Follow the on-line instructions for submitting comments;

B. *E-Mail: greaves.natasha@epa.gov;*

C. *Mail:* Natasha Greaves, Federal and Delegated Air Programs Unit, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop: AWT–107, Seattle, WA 98101;

D. *Hand Delivery:* U.S. Environmental Protection Agency Region 10, Attn: Natasha Greaves (AWT–107), 1200 Sixth Avenue, Seattle, Washington 98101, 9th Floor. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2009–0111. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (''CBI'') or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Natasha Greaves, Federal and Delegated Air Programs Unit, Office of Air, Waste, and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop: AWT–107, Seattle, WA 98101; telephone number: (206) 553–7079; e-mail address: *greaves.natasha@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background Information

Why Is EPA Taking This Action?

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of a Notice of Intent on January 9, 2009 by Shell Offshore, Inc. of Houston, Texas. Public comments received in writing within 30 days of publication of this proposed rule will be considered by EPA before publishing a final rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (''SIP'') guidance or certain requirements of the Act.

Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

II. EPA's Evaluation

What Criteria Were Used To Evaluate Rules Submitted To Update 40 CFR Part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded administrative or procedural rules,[2] and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (''OMB'') review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB Review. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

B. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in 40 CFR part 55, and by extension this update to the rules, under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0249. The OMB Notice of Action is dated January 15, 2009. The approval expires January 31, 2012.

OMB's Notice of Action dated January 15, 2007 indicated that the, the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 112 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; 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.

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

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant economic impact on a substantial number of small entities. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have had a significant economic impact on a substantial number of small entities. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA''), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million of more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments,

[2] Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, as in Alaska, EPA will use its own administrative and procedural requirements to implement the substantive requirements. See 40 CFR 55.14 (c)(4).

enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any one year. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

E. Executive Order 13132: Federalism

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

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. This rule does not amend the existing provisions within 40 CFR part 55 enabling delegation of OCS regulations to a COA, and this rule does not require the COA to implement the OCS rules. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comments on this proposed rule from State and local officials.

F. Executive Order 13175: Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249 (November 9, 2000)), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes and thus does not have ''tribal implications,'' within the meaning of Executive Order 13175. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In addition, this rule does not impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Consultation with Indian tribes is therefore not required under Executive Order 13175. Nonetheless, in the spirit of Executive Order 13175 and consistent with EPA policy to promote communications between EPA and tribes, EPA specifically solicits comments on this proposed rule from tribal officials.

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

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885 (April 23, 1997)), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. In addition, the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportional risk to children.

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

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' [66 FR 28355 (May 22, 2001)] because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

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

As discussed above, this rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In the absence of a prior existing requirement for the state to use voluntary consensus standards and in light of the fact that EPA is required to make the OCS rules consistent with current COA requirements, it would be inconsistent with applicable law for EPA to use voluntary consensus standards in this action. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes

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

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 20, 2009.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

Title 40, chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is amended by revising paragraph (e)(2)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(A) State of Alaska Requirements Applicable to OCS Sources, November 9, 2008.

* * * * *

3. Appendix A to CFR part 55 is amended by revising paragraph (a)(1) under the heading ''Alaska'' to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

Alaska

(a) * * *

(1) The following State of Alaska requirements are applicable to OCS Sources, December 3, 2005, Alaska Administrative Code—Department of Environmental Conservation. The following sections of Title 18, Chapter 50:

Article 1. Ambient Air Quality Management

18 AAC 50.005. Purpose and Applicability of Chapter (effective 1/18/97)
18 AAC 50.010. Ambient Air Quality Standards (effective 1/18/97)
18 AAC 50.015. Air Quality Designations, Classification, and Control Regions (effective 1/18/97) except (d)(2)
Table 1. Air Quality Classifications
18 AAC 50.020. Baseline Dates and Maximum Allowable Increases (effective 1/18/97)
Table 2. Baseline Dates
Table 3. Maximum Allowable Increases
18 AAC 50.025. Visibility and Other Special Protection Areas (effective 1/18/97)
18 AAC 50.030. State Air Quality Control Plan (effective 1/18/97)
18 AAC 50.035. Documents, Procedures, and Methods Adopted by Reference (effective 1/18/97)
18 AAC 50.040. Federal Standards Adopted by Reference (effective 1/18/97) except (a)(H), (a)(I). (a)(N) through (a)(P), (a)(R) through (a)(U), (a)(W), (a)(Y), (a)(AA), (a)(CC) through (a)(EE), (a)(II)(a)(KK), (c)(4), (c)(5), (c)(12), (c)(14) through (c)(16), (c)(18), (c)(20), (c)(25), (c)(26) through (c)(29), (c)(30), (c)(31) and (g)
18 AAC 50.045. Prohibitions (effective 1/18/97)
18 AAC 50.050. Incinerator Emissions Standards (effective 1/18/97)
Table 4. Particulate Matter Standards for Incinerators
18 AAC 50.055. Industrial Processes and Fuel-Burning Equipment (effective 1/18/97) except (a)(3) through (a)(9), (b)(2)(A), (b)(4) through (b)(6), (e) and (f)
18 AAC 50.065. Open Burning (effective 1/18/97)
18 AAC 50.070. Marine Vessel Visible Emission Standards (effective 1/18/97)
18 AAC 50.075. Wood-Fired Heating Device Visible Emission Standards (effective 1/18/97)
18 AAC 50.080. Ice Fog Standards (effective 1/18/97)
18 AAC 50.085. Volatile Liquid Storage Tank Emission Standards (effective 1/18/97)
18 AAC 50.090. Volatile Liquid Loading Racks and Delivery Tank Emission Standards (effective 1/18/97)
18 AAC 50.100. Nonroad Engines (effective 10/1/04)
18 AAC 50.110. Air Pollution Prohibited (effective 5/26/72)

Article 2. Program Administration

18 AAC 50.200. Information Requests (effective 1/18/97)
18 AAC 50.201. Ambient Air Quality Investigation (effective 1/18/97)
18 AAC 50.205. Certification (effective 1/18/97)
18 AAC 50.215. Ambient Air Quality Analysis Methods (effective 1/18/97)
Table 5. Significant Impact Levels (SILs)
18 AAC 50.220. Enforceable Test Methods (effective 1/18/97)
18 AAC 50.225. Owner-Requested Limits (effective 1/18/97) except (c) through (g)
18 AAC 50.230. Preapproved Emission Limits (effective 1/18/97) except (d)
18 AAC 50.235. Unavoidable Emergencies and Malfunctions (effective 1/18/97)
18 AAC 50.240. Excess Emissions (effective 1/18/97)
18 AAC 50.245. Air Episodes and Advisories (effective 1/18/97)
Table 6. Concentrations Triggering an Air Episode
18 AAC 50.260. Guidance for Best Available Retrofit Technology under the Regional Haze Rule (effective 12/30/07)

Article 3. Major Stationary Source Permits

18 AAC 50.301. Permit Continuity (effective 10/1/04) except (b)
18 AAC 50.302. Construction Permits (effective 10/01/04)
18 AAC 50.306. Prevention of Significant Deterioration (PSD) Permits (effective 10/01/04) except (c)(2) and (e)
18 AAC 50.311. Nonattainment Area Major Stationary Source Permits (effective 10/01/04) except (c)
18 AAC 50.316. Preconstruction Review for Construction or Reconstruction of a Major Source of Hazardous Air Pollutants (effective 10/01/04) except (c)
18 AAC 50.321. Case-By-Case Maximum Achievable Control Technology (effective 12/01/04)
18 AAC 50.326. Title V Operating Permits (effective 10/01/04) except (c)(1), (h), (i)(3), (j)(5), (j)(6), (k)(1)(k)(3), (k)(5), and (k)(6)
18 AAC 50.345. Construction, Minor and Operating Permits: Standard Permit Conditions (effective 1/18/97)
18 AAC 50.346. Construction and Operating Permits: Other Permit Conditions (effective 10/01/04)
Table 7. Standard Operating Permit Condition

Article 4. User Fees

18 AAC 50.400. Permit Administration Fees (effective 1/18/97) except (c)(1) through (c)(3), (c)(6), (k)(3) and (m)(3)
18 AAC 50.403. Negotiated Service Agreements (effective 1/29/05)
18 AAC 50.405. Transition Process for Permit Fees (effective 1/29/05)
18 AAC 50.410. Emission Fees (effective 1/18/97)
18 AAC 50.499. Definition for User Fee Requirements (effective 1/29/05)

Article 5. Minor Permits

18 AAC 50.502. Minor Permits for Air Quality Protection (effective 10/1/04) except (b)(1) through (b)(3), (b)(5), (d)(1) and (d)(2)
18 AAC 50.508. Minor Permits Requested by the Owner or Operator (effective 10/1/04)
18 AAC 50.509. Construction of a Pollution Control Project without a Permit (effective 10/1/04)
18 AAC 50.540. Minor Permit: Application (effective 10/1/04)
18 AAC 50.542. Minor Permit: Review and Issuance (effective 10/1/04) except (a), (b)(1), (b)(2), (b)(4), (b)(5), and (d)
18 AAC 50.544. Minor Permits: Content (effective 10/1/04)
18 AAC 50.546. Minor Permits: Revisions (effective 10/1/04)
18 AAC 50.560. General Minor Permits (effective 10/1/04) except (b)

Article 9. General Provisions

18 AAC 50.990. Definitions (effective 1/18/97)

* * * * *

[FR Doc. E9–4465 Filed 3–2–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–2088; MB Docket No. 08–149; RM–11475]

Television Broadcasting Services; Columbus, GA

AGENCY: Federal Communications Commission.

ACTION: Dismissal.

SUMMARY: The Commission, at the request of petitioner Georgia Public Telecommunications Commission (''GPTC''), permittee of noncommercial educational station WJSP–DT, DTV channel *23, Columbus, Georgia, dismisses GPTC's pending petition for rulemaking to substitute DTV channel *11 for post-transition DTV channel *23 at Columbus.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order,* MB Docket No. 08–149, adopted September 10, 2008, and released September 10, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this *Order* to the Government Accountability Office, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) since this proposed rule is dismissed, herein.)

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–4486 Filed 3–2–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–409; MB Docket No. 08–233; RM–11505]

Television Broadcasting Services; Waco, TX

AGENCY: Federal Communications Commission.

ACTION: Dismissal.

SUMMARY: The Commission, at the request of petitioner Comcorp of Texas License Corp. (''Comcorp''), the permittee of post-transition DTV channel 44, Waco, Texas, dismisses Comcorp's pending petition for rulemaking to substitute DTV channel 25 for post-transition DTV channel 44 at Waco.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order,* MB Docket No. 08–233, adopted February 19, 2009, and released February 20, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this *Order* to the Government Accountability Office, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) since this proposed rule is dismissed, herein.)

Federal Communications Commission.

Clay C. Pendarvis

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–4484 Filed 3–2–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 531 and 533

[Docket No. NHTSA–2009–0042]

Passenger Car Average Fuel Economy Standards—Model Years 2008–2020; Light Truck Average Fuel Economy Standards—Model Years 2008–2020; Request for Product Plan Information

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for comments.

SUMMARY: The purpose of this request for comments is to acquire new and updated information regarding vehicle manufacturers' future product plans to assist the agency in assessing what corporate average fuel economy (CAFE) standards should be established for model years 2012 through 2016

passenger cars and light trucks. The establishment of those standards is required by the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act (EISA) of 2007, Public Law 110–140.

DATES: Comments must be received on or before May 4, 2009.

ADDRESSES: You may submit comments [identified by Docket No. NHTSA–2009–0042] by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Telephone: 1–800–647–5527.

• *Fax:* 202–493–2251

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and follow the online instructions, or visit the Docket Management Facility at the street address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Feather, Fuel Economy Division Chief, Office of International Policy, Fuel economy and Consumer Programs, at (202) 366–0846, facsimile (202) 493–2290, electronic mail *peter.feather@dot.gov.* For legal issues, call Ms. Rebecca Yoon, Office of the Chief Counsel, at (202) 366–2992.

SUPPLEMENTARY INFORMATION:

I. Introduction

NHTSA has been issuing Corporate Average Fuel Economy (CAFE) standards since the late 1970's under the Energy Policy and Conservation Act (EPCA). The CAFE program conserves petroleum, a non-renewable energy source, saves consumers money, and promotes energy independence and security by reducing dependence on foreign oil. It also reduces carbon dioxide (CO_2) emissions from the tailpipes of new motor vehicles and thus climate change.

The Energy Independence and Security Act (EISA) amended EPCA by mandating that model year (MY) 2011–2020 standards be set to ensure that the industry-wide average of all new passenger cars and light trucks, combined, is at least 35 miles per gallon (mpg) by MY 2020. This is a minimum requirement, as NHTSA must set standards at the maximum feasible level in each model year. NHTSA will determine, based on all of the relevant circumstances, whether that calls for establishing standards that reach the 35 mpg goal earlier than MY 2020.

EISA also mandated that the CAFE standards be based on one or more vehicle attribute. For example, size-based (*i.e.*, size-indexed) standards assign higher fuel economy targets to smaller vehicles and lower ones to larger vehicles. The fleet wide average fuel economy that a particular manufacturer must achieve depends on the size mix of its fleet. This approach ensures that all manufacturers will be required to incorporate fuel-saving technologies across a broad range of their passenger car and light truck fleets.

NHTSA proposed in April 2008 to begin implementing EISA by establishing CAFE standards for MYs 2011–2015. In a January 26, 2009 memorandum, the President requested NHTSA to divide its rulemaking into two parts. First, he requested that the agency issue a final rule adopting CAFE standards for MY 2011 only, and do so by March 30, 2009 in order to comply with EPCA, which requires that a final rule establishing fuel economy standards for a model year be adopted at least 18 months before the beginning of the model year (49 U.S.C. 32902(a)). The agency is working to issue a final rule for MY 2011 in accordance with that schedule.

Second, the President requested that NHTSA establish standards for MY 2012 and later after considering the appropriate legal factors, the comments filed in response to the May 2008 proposal, the relevant technological and scientific considerations, and, to the extent feasible, a forthcoming report by the National Academy of Sciences, mandated under section 107 of EISA, assessing the costs and effectiveness of existing and potential automotive technologies that can practicably used to improve fuel economy.[1]

To assist the agency in analyzing potential CAFE standards for MYs 2012 through 2016, NHTSA is requesting updated future product plans from vehicle manufacturers, as well as production data through the recent past, including data about engines and transmissions for MY 2008 through MY 2020 passenger cars and light trucks and the assumptions underlying those plans. NHTSA requests information for MYs 2008–2020 to aid NHTSA in developing a realistic forecast of the MY 2012–2016 vehicle market. Information regarding earlier model years may help the agency to better account for cumulative effects such as volume- and time-based reductions in costs, and also may help to reveal product mix and technology application trends during model years for which the agency is currently receiving actual CAFE compliance data. Information regarding later model years helps the agency gain a better understanding of how manufacturers' plans through MY 2016 relate to their longer-term expectations regarding EISA requirements, market trends, and prospects for more advanced technologies (such as HCCI engines, and plug-in hybrid, electric, and fuel cell vehicles, among others). NHTSA will also consider information from model years before and after MYs 2012–2016 when reviewing manufacturers' planned schedules for redesigning and freshening their products, in order to examine how manufacturers anticipate tying technology introduction to product design schedules. In addition, the agency is requesting information regarding manufacturers' estimates of the future vehicle population, and fuel economy improvements and incremental costs attributed to technologies reflected in those plans. The request for information is detailed in appendices to this notice. NHTSA has also included a number of questions directed primarily toward vehicle manufacturers. They can be found in Appendix A to this notice. Answers to those questions will assist the agency in its analysis.

Given the importance that responses to this request for comment may have in NHTSA's upcoming CAFE rulemaking,

[1] A copy of the President's memorandum is available at *http://www.whitehouse.gov/the_press_office/The_Energy_Independence_and_Security_Act_of_2007/* (last accessed Feb. 13, 2009).

either as part of the basis for the proposed standards or as an independent check on them, NHTSA intends to review carefully and critically all data provided by commenters. It is crucial that commenters fully respond to each question, particularly by providing information regarding the basis for technology costs and effectiveness estimates. Additionally, the agency notes that, in connection with recent deliberations regarding federal assistance to the industry, some manufacturers submitted short business plans to Congress in December 2008 [2] and restructuring plans to the Treasury Department in February 2009,[3] and that some statements in these plans suggest that manufacturers' product plans may have changed considerably since NHTSA last received detailed confidential product plans in July 2008. In light of these statements, and in light of the current uncertainty surrounding the auto industry, NHTSA will closely review the product plans submitted in response to today's request. We will carefully assess any significant apparent discrepancies between submitted product plans and manufacturers' public statements.

To facilitate the submission of comments and to help ensure the conformity of data received regarding manufacturers' product plans from MY 2008 through MY 2020, NHTSA has developed spreadsheet templates for manufacturers' use. The uniformity provided by these spreadsheets is intended to aid and expedite our review, integration, and analysis of the information provided. These templates are the agency's strongly preferred format for data submittal, and can be found on the Volpe National Transportation Systems Center (Volpe Center) Web site at *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/* or can be requested from Mr. Peter Feather at *peter.feather@dot.gov.* The templates include an automated tool (*i.e.*, a macro) that performs some auditing to identify missing or potentially erroneous entries. The appendices to this document also include sample tables that manufacturers may refer to when submitting their data to the agency.

In addition, NHTSA would like to note that we will share the information submitted in response to this notice with the Environmental Protection Agency (EPA). This sharing will facilitate our consideration of the appropriate factors to be used in establishing fuel economy standards for MY 2012 and beyond. We will ensure that confidential information that is shared is protected from disclosure in accordance with NHTSA's practices in this area.

II. Submission of Comments

How Do I Prepare and Submit Comments?

Comments should be submitted using the spreadsheet template described above. Please include the docket number of this document in your comments. Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**. Comments may also be submitted to the docket electronically by logging onto *http://www.regulations.gov.* Click on ''How to Use This Site'' and then ''User Tips'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy from which you have deleted the claimed confidential business information to the docket. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. Due to the time frame of the upcoming rulemaking, we will be very limited in our ability to consider comments filed after the comment closing date. If a comment is received too late for us to consider it in developing a final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to *http://www.regulations.gov.*

(2) On that page, in the field marked ''search,'' type in the docket number provided at the top of this document.

(3) The next page will contain results for that docket number; it may help you to sort by ''Date Posted: Oldest to Recent.''

(4) On the results page, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments may not be word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Accordingly, we recommend that you periodically check the Docket for new material.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

Authority: 49 U.S.C. 32902; delegation of authority at 49 CFR 1.50.

[2] Links to these business plans may be found at *http://financialservices.house.gov/autostabilization.html* (last accessed February 13, 2008).

[3] Chrysler's submission to the Treasury Department is available at *http://www.treasury.gov/initiatives/eesa/agreements/auto-reports/ChryslerRestructuringPlan.pdf* (last accessed Feb. 19, 2009), and GM's submission to the Treasury Department is available at *http://www.treasury.gov/initiatives/eesa/agreements/auto-reports/GMRestructuringPlan.pdf* (last accessed Feb. 19, 2009).

Issued on: February 26, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

Appendix A

I. Definitions

As used in these appendices—

1. ''Automobile,'' ''fuel economy,'' ''manufacturer,'' and ''model year (MY),'' have the meaning given them in Section 32901 of Chapter 329 of Title 49 of the United States Code, 49 U.S.C. 32901.

2. ''Basic engine'' has the meaning given in 40 CFR 600.002–93(a)(21).

3. ''Cargo-carrying volume,'' ''gross vehicle weight rating'' (GVWR), and ''passenger-carrying volume'' are used as defined in 49 CFR 523.2.

4. ''CARB'' means California Air Resource Board.

5. ''Domestically manufactured'' is used as defined in Section 32904(b)(2) of Chapter 329, 49 U.S.C. 32904(b)(2).

6. ''Footprint'' means the product of average track width (measured in inches and rounded to the nearest tenth of an inch) times wheelbase (measured in inches and rounded to the nearest tenth of an inch) divided by 144 and then rounded to the nearest tenth of a square foot as described in 49 CFR Part 523.2.

7. ''Light truck'' means an automobile of the type described in 49 CFR Part 523.3 and 523.5.

8. A ''model'' of passenger car is a line, such as the Chevrolet Impala, Ford Fusion, Honda Accord, etc., which exists within a manufacturer's fleet.

9. ''Model Type'' is used as defined in 40 CFR 600.002–93(a)(19).

10. ''MY'' means model year.

11. ''Passenger car'' means an automobile of the type described in 49 CFR Part 523.3 and 523.4.

12. ''Percent fuel economy improvements'' means that percentage which corresponds to the amount by which respondent could improve the fuel economy of vehicles in a given model or class through the application of a specified technology, averaged over all vehicles of that model or in that class which feasibly could use the technology. Projections of percent fuel economy improvement should be based on the assumption of maximum efforts by respondent to achieve the highest possible fuel economy increase through the application of the technology. The baseline for determination of percent fuel economy improvement is the level of technology and vehicle performance with respect to acceleration and gradeability for respondent's 2008 model year passenger cars or light trucks in the equivalent class.

13. ''Percent production implementation rate'' means that percentage which corresponds to the maximum number of passenger cars or light trucks of a specified class, which could feasibly employ a given type of technology if respondent made maximum efforts to apply the technology by a specified model year.

14. ''Production percentage'' means the percent of respondent's passenger cars or light trucks of a specified model projected to be manufactured in a specified model year.

15. ''Project'' or ''projection'' refers to the best estimates made by respondent, whether or not based on less than certain information.

16. ''Redesign'' means any change, or combination of changes, to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or the implementation of new engine or transmission.

17. ''Refresh'' means any change, or combination of changes, to a vehicle that would change its weight by less than 50 pounds and would not change its frontal area or aerodynamic drag coefficient.

18. ''Relating to'' means constituting, defining, containing, explaining, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

19. ''Respondent'' means each manufacturer (including all its divisions) providing answers to the questions set forth in this appendix, and its officers, employees, agents or servants.

20. ''RPE'' means retail price equivalent.

21. ''Test Weight'' is used as defined in 40 CFR 86.082–2.

22. ''Track Width'' means the lateral distance between the centerlines of the base tires at ground, including the camber angle.

23. ''Truckline'' means the name assigned by the Environmental Protection Agency to a different group of vehicles within a make or car division in accordance with that agency's 2001 model year pickup, van (cargo vans and passenger vans are considered separate truck lines), and special purpose vehicle criteria.

24. ''Variants of existing engines'' means versions of an existing basic engine that differ from that engine in terms of displacement, method of aspiration, induction system or that weigh at least 25 pounds more or less than that engine.

25. ''Wheelbase'' means the longitudinal distance between front and rear wheel centerlines.

II. Assumptions

All assumptions concerning emission standards, damageability regulations, safety standards, etc., should be listed and described in detail by the respondent.

III. Specifications—Passenger Car and Light Truck Data

Go to *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/* for spreadsheet templates.

1. Identify all passenger car and light truck models offered for sale in MY 2008 whose production respondent projects discontinuing before MY 2011 and identify the last model year in which each will be offered.

2. Identify all basic engines offered by respondent in MY 2008 passenger cars and light trucks which respondent projects it will cease to offer for sale in passenger cars before MY 2011, and identify the last model year in which each will be offered.

3. For each model year 2008–2020, list all known or projected car and truck lines and provide the information specified below for each model type. Model types that are essentially identical except for their nameplates (*e.g.*, Ford Fusion/Mercury Milan) may be combined into one item. Engines having the same displacement but belonging to different engine families are to be grouped separately. Within the fleet, the vehicles are to be sorted first by car or truck line, second by basic engine, and third by transmission type. For each model type, a specific indexed engine and transmission are to be identified. As applicable, an indexed predecessor model type is also to be identified. Spreadsheet templates can be found at *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/*. These templates include codes and definitions for the data that the agency is seeking, including, but not limited to the following:

A. General Information

1. Vehicle Number—a unique number assigned to each model.

2. Manufacturer—manufacturer's name (*e.g.*, Toyota).

3. Model—name of model (*e.g.*, Camry).

4. Nameplate—vehicle nameplate (*e.g.*, Camry Solara).

5. Primary Fuel—classified as CNG = compressed natural gas; D = diesel; E = electricity; E–85 = ethanol; E100 = neat ethanol; G = gasoline; H = hydrogen; LNG = liquefied natural gas; LPG = propane; M85 = methanol; M100 = neat methanol

6. Fuel Economy on Primary Fuel—measured in miles per gallon; laboratory fuel economy (weighted FTP+highway GEG, exclusive of any calculation under 49 U.S.C. 32905).

7. Secondary Fuel—classified as CNG = compressed natural gas; D = diesel; E = electricity; E–85 = ethanol; E100 = neat ethanol; G = gasoline; H = hydrogen; LNG = liquefied natural gas; LPG = propane; M85 = methanol; M100 = neat methanol.

8. Fuel Economy on Secondary Fuel—measured in miles per gallon; laboratory fuel economy (weighted FTP+highway GEG, exclusive of any calculation under 49 U.S.C. 32905).

9. Tertiary Fuel—classified as CNG = compressed natural gas; D = diesel; E = electricity; E–85 = ethanol; E100 = neat ethanol; G = gasoline; H = hydrogen; LNG = liquefied natural gas; LPG = propane; M85 = methanol; M100 = neat methanol

10. Fuel Economy on Tertiary Fuel—measured in miles per gallon; laboratory fuel economy (weighted FTP+highway GEG, exclusive of any calculation under 49 U.S.C. 32905).

11. CAFE Fuel Economy—measured in miles per gallon; laboratory fuel economy (weighted FTP+highway GEG, inclusive of any calculation under 49 U.S.C. 32905)

12. Engine Code—unique number assigned to each engine.

A. Manufacturer—manufacturer's name (*e.g.*, General Motors, Ford, Toyota, Honda).

B. Name—name of engine.

C. Configuration—classified as V = V-shaped; I = inline; R = rotary, H = horizontally opposed (boxer).

D. Primary Fuel—classified as CNG = compressed natural gas, D = diesel, E85 = ethanol, E100 = neat ethanol, G = gasoline, H = hydrogen, LNG = liquefied natural gas, LPG = propane, M85 = methanol, M100 = neat methanol.

E. Secondary Fuel—classified as CNG = compressed natural gas, D = diesel, E85 =

ethanol, E100 = neat ethanol, G = gasoline, H = hydrogen, LNG = liquefied natural gas, LPG = propane, M85 = methanol, M100 = neat methanol.

F. Country of Origin—name of country where engine is manufactured.

G. Engine Oil Viscosity—typical values as text include 0W20, 5W20, etc.; ratio between the applied shear stress and the rate of shear, which measures the resistance of flow of the engine oil (as per SAE Glossary of Automotive Terms).

H. Cycle—combustion cycle of engine: classified as A = Atkinson, AM = Atkinson/Miller, D = Diesel, M = Miller, O = Otto, OA = Otto/Atkinson.

I. Air/Fuel Ratio—the weighted (FTP + highway) air/fuel ratio (mass); a number generally around 14.7.

J. Fuel Delivery System—mechanism that delivers fuel to engine: classified as SGDI = stoichiometric gasoline direct injection; LBGDI = lean-burn gasoline direct injection; SFI = sequential fuel injection; MPFI = multipoint fuel injection; TBI = throttle body fuel injection; CRDI = common rail direct injection (diesel); UDI = unit injector direct injection (diesel).

K. Aspiration—breathing or induction process of engine (as per SAE Automotive Dictionary); classified as NA = naturally aspirated, S = supercharged, T = turbocharged, T2 = twin turbocharged, T4 = quad-turbocharged, ST = supercharged and turbocharged.

L. Valvetrain Design—design of the total mechanism from camshaft to valve of an engine that actuates the lifting and closing of a valve (as per SAE Glossary of Automotive Terms): classified as CVA = camless valve actuation, DOHC = dual overhead cam, OHV = overhead valve, SOHC = single overhead cam.

M. Valve Actuation/Timing—valve opening and closing points in the operating cycle (as per SAE J604): classified as F = fixed, ICP = intake cam phasing, CCP = coupled cam phasing, DCP = dual cam phasing.

N. Valve Lift—describes the manner in which the valve is raised during combustion (as per SAE Automotive Dictionary): classified as F = fixed, DVVL = discrete variable valve lift, CVVL = continuously variable valve lift.

O. Cylinders—the number of engine cylinders: an integer equaling 3, 4, 5, 6, 8, 10 or 12.

P. Valves/Cylinder—the number of valves per cylinder: an integer from 2 through 5.

Q. Deactivation—presence of cylinder deactivation mechanism: classified as Y = cylinder deactivation applied; N = cylinder deactivation not applied.

R. Displacement—total volume displaced by a piston in a single stroke multiplied by the number of cylinders; measured in liters.

S. Compression Ratio (min)—typically a number between 8 and 11 (for fixed CR engines, should be identical to maximum CR).

T. Compression Ratio (max)—typically a number between 8 and 20 (for fixed CR engines, should be identical to minimum CR).

U. Max. Horsepower—the maximum power of the engine, measured as horsepower.

V. Max. Horsepower RPM—rpm at which maximum horsepower is achieved.

W. Max. Torque—the maximum torque of the engine, measured as lb-ft.

X. Max Torque RPM—rpm at which maximum torque is achieved.

13. Transmission Code—unique number assigned to each transmission.

A. Manufacturer—manufacturer's name (*e.g.*, General Motors, Ford, Toyota, Honda).

B. Name—name of transmission.

C. Country of origin—where the transmission is manufactured.

D. Type—type of transmission: classified as M = manual, A = automatic (torque converter), AMT = automated manual transmission (single clutch w/ torque interrupt), DCT = dual clutch transmission, CVT1 = belt or chain CVT, CVT2 = other CVT (*e.g.*, toroidal), HEVT = hybrid/electric vehicle transmission (for a BISG or CISG type hybrid please define the actual transmission used, not HEVT).

E. Clutch Type—type of clutch used in AMT or DCT type transmission: D = dry, W = wet.

F. Number of Forward Gears—classified as an integer indicating the number of forward gears; ''CVT'' for a CVT type transmission; or ''n/a'' for an electric vehicle.

G. Logic—indicates aggressivity of automatic shifting: classified as A = aggressive, C = conventional U.S. Provide rationale for selection in the transmission notes column.

14. Origin—classification (under CAFE program) as domestic or import: D = domestic, I = import.

B. Production

1. Production—actual and projected U.S. production for MY 2008 to MY 2020 inclusive, measured in number of vehicles.

2. Percent of Production Regulated by CARB Standards—percent of production volume that will be regulated under CARB's AB 1493 for MY 2008 to MY 2020 inclusive.

C. MSRP—measured in dollars (2009); actual and projected average MSRP (sales-weighted, including options) for MY 2008 to MY 2020 inclusive.

D. Vehicle Information

1. Subclass—for technology application purposes only and should not be confused with vehicle classification for regulatory purposes: classified as Subcompact, Subcompact Performance, Compact, Compact Performance, Midsize, Midsize Performance, Large, Large Performance, Minivan, Small LT, Midsize LT, Large LT; where LT = SUV/Pickup/Van; use tables below, with example vehicles, to place vehicles into most appropriate subclass.

Subclass	Example vehicles
Subcompact	Chevy Aveo, Honda Civic.
Subcompact Performance.	Mazda Miata, Saturn Sky.
Compact	Chevy Cobalt, Nissan Sentra and Altima.
Compact Performance.	Audi S4 Quattro, Mazda RX8.
Midsize	Chevy Camaro (V6), Toyota Camry, Honda Accord, Hyundai Azera.
Midsize Performance.	Chevy Corvette, Ford Mustang (V8), Nissan G37 Coupe.
Large	Audi A8, Cadillac CTS and DTS.
Large Performance.	Bentley Arnage, Daimler CL600.
Minivans	Dodge Caravan, Toyota Sienna.
Small SUV/Pickup/Van.	Ford Escape & Ranger, Nissan Rogue.
Midsize SUV/Pickup/Van.	Chevy Colorado, Jeep Wrangler 4-door, Volvo XC70, Toyota Tacoma.
Large SUV/Pickup/Van.	Chevy Silverado, Ford Econoline, Toyota Sequoia.

2. Style—classified as Convertible, Coupe, Hatchback, Sedan, Minivan, Pickup, Sport Utility, Van, Wagon.

3. Light Truck Indicator—an integer; a unique number(s) assigned to each vehicle which represents the design feature(s) that classify it as a light truck. classified as: (0) The vehicle neither has off-road design features (defined under 49 CFR 523.5(b) and described by numbers 1 and 2 below) nor has functional characteristics (defined under 49 CFR 523.5(a) and described by numbers 3 through 7 below) that would allow it to be properly classified as a light truck, thus the vehicle is properly classified as a passenger car.

> An automobile capable of off-highway operation, as indicated by the fact that it:

(1)(i) Has 4-wheel drive; or

(ii) Is rated at more than 6,000 pounds gross vehicle weight; and

(2) Has at least four of the following characteristics calculated when the automobile is at curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure—

(i) Approach angle of not less than 28 degrees.

(ii) Breakover angle of not less than 14 degrees.

(iii) Departure angle of not less than 20 degrees.

(iv) Running clearance of not less than 20 centimeters.

(v) Front and rear axle clearances of not less than 18 centimeters each.

> An automobile designed to perform at least one of the following functions:

(3) Transport more than 10 persons;

(4) Provide temporary living quarters;

(5) Transport property on an open bed;

(6) Provide, as sold to the first retail purchaser, greater cargo-carrying than passenger-carrying volume, such as in a cargo van; if a vehicle is sold with a second-row seat, its cargo-carrying volume is determined with that seat installed, regardless of whether the manufacturer has described that seat as optional; or

(7) Permit expanded use of the automobile for cargo-carrying purposes or other nonpassenger-carrying purposes through:

(i) For non-passenger automobiles manufactured prior to model year 2012, the

removal of seats by means installed for that purpose by the automobile's manufacturer or with simple tools, such as screwdrivers and wrenches, so as to create a flat, floor level, surface extending from the forwardmost point of installation of those seats to the rear of the automobile's interior; or

(ii) For non-passenger automobiles manufactured in model year 2008 and beyond, for vehicles equipped with at least 3 rows of designated seating positions as standard equipment, permit expanded use of the automobile for cargo-carrying purposes or other nonpassenger-carrying purposes through the removal or stowing of foldable or pivoting seats so as to create a flat, leveled cargo surface extending from the forwardmost point of installation of those seats to the rear of the automobile's interior.

4. Structure—classified as either L = Ladder or U = Unibody.

5. Drive—classified as A = all-wheel drive; F = front-wheel drive; R = rear-wheel-drive; 4 = 4-wheel drive [4].

6. Axle Ratio—ratio of the speed in revolutions per minute of the drive shaft to that of the drive wheels.

7. Length—measured in inches; defined per SAE J1100, L103 (Sept. 2005).

8. Width—measured in inches; defined per SAE J1100, W116 (Sept. 2005).

9. Wheelbase—measured to the nearest tenth of an inch; defined per SAE J1100, L101 (Sept. 2005), and clarified above.

10. Track Width (front)—measured to the nearest tenth of an inch; defined per SAE J1100, W101–1 (Sept. 2005), and clarified above.

11. Track Width (rear)—measured to the nearest tenth of an inch; defined per SAE J1100, W101–2 (Sept. 2005), and clarified above.

12. Footprint—the product of average track width (measured in inches and rounded to the nearest tenth of an inch) times wheelbase (measured in inches and rounded to the nearest tenth of an inch) divided by 144 and then rounded to the nearest tenth of a square foot; defined per 49 CFR 523.2.

13. Base Tire—the tire specified as standard equipment by a manufacturer on each vehicle configuration of a model type (*e.g.*, 275/40R17).

14. Running Clearance—measured in centimeters, defined per 49 CFR 523.2.

15. Front Axle Clearance—measured in centimeters, defined per 49 CFR 523.2.

16. Rear Axle Clearance—measured in centimeters, defined per 49 CFR 523.2.

17. Approach Angle—measured in degrees, defined per 49 CFR 523.2.

18. Breakover Angle—measured in degrees, defined per 49 CFR 523.2.

19. Departure Angle—measured in degrees, defined per 49 CFR 523.2.

20. Curb Weight—total weight of vehicle including batteries, lubricants, and other expendable supplies but excluding the driver, passengers, and other payloads, measured in pounds; per SAE J1100 (Sept. 2005).

21. Test Weight—weight of vehicle as tested, including the driver, operator (if necessary), and all instrumentation (as per SAE J1263), measured in pounds.

22. GVWR—Gross Vehicle Weight Rating, as defined per 49 CFR 523.2 measured in pounds.

23. Towing Capacity (Maximum)—measured in pounds.

24. Payload—measured in pounds.

25. Cargo volume behind the front row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005).

26. Cargo volume behind the second row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005).

27. Cargo volume behind the third row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005).

28. Enclosed Volume—measured in cubic feet.

29. Passenger Volume—measured in cubic feet; the volume measured using SAE J1100 as per EPA Fuel Economy regulations (40 CFR 600.315–82, ''Classes of Comparable Automobiles''). This is the number that manufacturers calculate and submit to EPA.

30. Cargo Volume Index—defined per Table 28 of SAE J1100 (Sept. 2005).

31. Luggage Capacity—measured in cubic feet, defined per SAE J1100, V1 (Sept. 2005).

32. Seating (max)—number of usable seat belts before folding and removal of seats (where accomplished without special tools), provided in integer form.

33. Number of Standard Rows of Seating—number of rows of seats that each vehicle comes with as standard equipment provided in integer form (*e.g.*, 1, 2 ,3, 4, or 5).

34. Frontal Area—a measure of the wind profile of the vehicle, typically calculated as the height times width of a vehicle body, *e.g.*, 25 square feet.

35. Aerodynamic Drag Coefficient, C_d—a dimensionless coefficient that relates the motion resistance force created by the air drag over the entire surface of a moving vehicle to the force of dynamic air pressure acting only over the vehicle's frontal area, *e.g.*, 0.25.

36. Tire Rolling Resistance, C_{rr}—a dimensionless coefficient that relates the motion resistance force due to tire energy losses (*e.g.*, deflection, scrubbing, slip, and air drag) to a vehicle's weight, *e.g.*, 0.0012.

37. Fuel Capacity—measured in gallons of diesel fuel or gasoline; MJ (LHV) of other fuels (or chemical battery energy).

38. Electrical System Voltage—measured in volts, *e.g.*, 12 volt, 42 volts 2005).

39. Power Steering—H = hydraulic; E = electric; EH = electro-hydraulic.

40. Percent of Production Volume Equipped with A/C.

41. A/C Refrigerant Type—*e.g.*, HFC–134a, HFC–152a, CO_2.

42. A/C Compressor Displacement—measured in cubic centimeters.

43. A/C CARB credit—measured in grams per mile, g/mile CO_2 equivalent as reportable under California ARB's AB 1493 Regulation.

44. N_2O Emission Rate—measured in grams per mile, as reportable under California ARB's AB 1493 Regulation.

45. CH_4 Emission Rate—measured in grams per mile, as reportable under California ARB's AB 1493 Regulation.

46. Estimated Total CARB Credits—measured in grams per mile, g/mile CO_2 equivalent as reportable under California ARB's AB 1493 Regulation.

E. Hybridization/Electrification

1. Type of Hybrid/Electric vehicle—classified as MHEV = 12V micro hybrid, BISG = belt mounted integrated starter generator, CISG = crank mounted integrated starter generator, PSHEV = power-split hybrid, 2MHEV = 2-mode hybrid, PHEV = plug-in hybrid, EV = electric vehicle, H = hydraulic hybrid, P = pneumatic hybrid.

2. Voltage (volts) or, for hydraulic hybrids, pressure (psi).

3. Energy storage capacity—measured in MJ.

4. Electric Motor Power Rating—measured in hp or kW.

5. Battery type—classified as NiMH = Nickel Metal Hydride; Li-ion = Lithium Ion.

6. Battery Only Range (charge depleting PHEV)—measured in miles.

7. Maximum Battery Only Speed—measured in miles per hour; maximum speed at which a HEV can still operate solely on battery power measured on a flat road using the vehicle's FTP weight and coefficients.

8. Percentage of braking energy recovered and stored over weighted FTP + highway drive cycle.

9. Percentage of maximum motive power provided by stored energy system.

10. Electrified Accessories—list of electrified accessories: classified as WP = water (coolant) pump, OP = oil pump, AC = air conditioner compressor.

F. Energy Consumption [5]—of total fuel energy (higher heating value) consumed over FTP and highway tests (each weighted as for items 5 and 6 above), shares attributable to the following loss mechanisms, such that the sum of the shares equals one.

1. System irreversibility governed by the Second Law of Thermodynamics.

2. Heat lost to the exhaust and coolant streams.

3. Engine friction (*i.e.*, the part of mechanical efficiency lost to friction in such engine components as bearings and rods, as could be estimated from engine dynamometer test results).

4. Pumping losses (*i.e.*, the part of mechanical efficiency lost to work done on gases inside the cylinder, as could be estimated from engine dynamometer test results).

5. Accessory losses (*i.e.*, the part of fuel efficiency lost to work done by engine-driven accessories, as could be estimated from bench test results for the individual components).

6. Transmission losses (*i.e.*, the part of driveline efficiency lost to friction in such transmission components as gears, bearings, and hydraulics, as could be estimated from chassis dynamometer test results).

7. Aerodynamic drag of the body, as could be estimated from coast-down test results.

[4] NHTSA considers ''4-wheel drive'' to refer only to vehicles that have selectable 2- and 4-wheel drive options, as opposed to all-wheel drive, which is not driver-selectable.

[5] This information is sought in order to account for a given vehicle model's fuel economy as partitioned into nine energy loss mechanisms. The agency may use this information to estimate the extent to which a given technology reduces losses in each mechanism.

8. Rolling resistance in the tires, as could be estimated from coast-down test results.

9. Work done on the vehicle itself, as could be estimated from the vehicle's inertia mass and the fuel economy driving cycles.

G. Planning and Assembly

1. U.S. Content—overall percentage, by value, that originated in the U.S.

2. Canadian Content—overall percentage, by value, that originated in Canada.

3. Mexican Content—overall percentage, by value, that originated in Mexico.

4. Domestic Content—overall percentage, by value, that originated in the U.S, Canada and Mexico.

5. Final Assembly City.

6. Final Assembly State/Province (if applicable).

7. Final Assembly Country.

8. Predecessor—number (or name) of model upon which current model is based, if any.

9. Refresh Years—model years of most recent and future refreshes through the 2020 time period, *e.g.*, 2010, 2015, 2020.

10. Redesign Years—model years of most recent and future redesigns through the 2020 time period, *e.g.*, 2007, 2012, 2017; where redesign means any change or combination of changes to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or more.

11. Employment Hours Per Vehicle—number of hours of U.S. labor applied per vehicle produced.

H. The agency also requests that each manufacturer provide an estimate of its overall passenger car CAFE and light truck CAFE for each model year. This estimate should be included as an entry in the spreadsheets that are submitted to the agency.

4. As applicable, please explain in detail the relationship between the business plans submitted to Congress in December 2008, the restructuring plans submitted to the Treasury Department in February 2009, and the product plans being submitted in response to this request.

5. Relative to MY 2008 levels, for MYs 2008–2020 please provide information, by carline and as an average effect on a manufacturer's entire passenger car fleet, and by truckline and as an average effect on a manufacturer's entire light truck fleet, on the weight and/or fuel economy impacts of the following standards or equipment:

A. Federal Motor Vehicle Safety Standard (FMVSS No. 208) Automatic Restraints.

B. FMVSS No. 201 Occupant Protection in Interior Impact.

C. Voluntary installation of safety equipment (*e.g.*, antilock brakes).

D. Environmental Protection Agency regulations.

E. California Air Resources Board requirements.

F. Other applicable motor vehicle regulations affecting fuel economy.

6. For each specific model year and model of respondent's passenger car and light truck fleets projected to implement one or more of the following and/or any other weight reduction methods:

A. Substitution of materials.

B. ''Downsizing'' of existing vehicle design, systems or components.

C. Use of new vehicle, structural, system or component designs.

Please provide the following information:

(i) Description of the method (*e.g.*, substituting an composite body panel for a steel panel);

(ii) The weight reduction, in pounds, averaged over the model;

(iii) The percent fuel economy improvement averaged over the model;

(iv) The basis for your answer to (iii) (*e.g.*, data from dynamometer tests conducted by respondent, engineering analysis, computer simulation, reports of test by others);

(v) The incremental RPE cost (in 2009 dollars), averaged over the model, associated with the method;

(vi) The percent production implementation rate and the reasons limiting the implementation rate.

7. For each specific model year and model of respondent's passenger car and light truck fleets projected to implement one or more of the following and/or any other aerodynamic drag reduction methods:

A. Revised exterior components (*e.g.*, front fascia or side view mirrors).

B. Addition of underbody panels.

C. Vehicle design changes (*e.g.*, change in ride height or optimized cooling flow path).

Please provide the following information:

(i) Description of the method/aerodynamic change;

(ii) The percent reduction of the aerodynamic drag coefficient (C_d) and the C_d prior to the reduction, averaged over the model;

(iii) The percent fuel economy improvement, averaged over the model;

(iv) The basis for your answer to (iii) (*e.g.*, data from dynamometer tests conducted by respondent, wind tunnel testing, engineering analysis, computer simulation, reports of test by others);

(v) The incremental RPE cost (in 2009 dollars), averaged over the model, associated with the method/change;

(vi) The percent production implementation rate and the reasons limiting the implementation rate.

8. Indicate any MY 2008–2020 passenger car and light truck model types that have higher average test weights than comparable MY 2007 model types. Describe the reasons for any weight increases (*e.g.*, increased option content, less use of premium materials) and provide supporting justification.

9. Please provide your estimates of projected *total industry* U.S. passenger car sales and light truck sales, separately, for each model year from 2008 through 2020, inclusive.

10. Please provide your company's assumptions for U.S. gasoline and diesel fuel prices during 2008 through 2020.

11. Please provide projected production capacity available for the North American market (at standard production rates) for each of your company's passenger carline and light truckline designations during MYs 2008–2020.

12. Please provide your estimate of production lead-time for new models, your expected model life in years, and the number of years over which tooling costs are amortized. Additionally, the agency is requesting that manufactures provide vehicle or design changes that characterize a freshening and those changes that characterize a redesign.

IV. Technologies, Cost and Potential Fuel Economy Improvements

Spreadsheet templates for the tables mentioned in the following section can be found at *ftp://ftpserver.volpe.dot.gov/pub/cafe/templates/.*

1. The agency requests that manufacturers, for each passenger car and light truck model projected to be manufactured by respondent between MY 2008–2020, provide the following information on new technology applications:

(i) Description of the nature of the technological improvement; including the vehicle's baseline technology that the technology replaces (*e.g.*, 6-speed automatic transmission replacing a 4-speed automatic transmission);

(ii) The percent fuel economy improvement averaged over the model;

(iii) The basis for your answer to (ii) (*e.g.*, data from dynamometer tests conducted by respondent, engineering analysis, computer simulation, reports of test by others);

(iv) The incremental RPE cost (in 2009 dollars), averaged over the model, associated with implementing the new technology;

(v) The percent production implementation rate and the reasons limiting the implementation rate.

In regards to costs, the agency is requesting information on cost reductions available through learning effects that are anticipated, so information should be provided regarding what the learning effects are, when and at what production volumes they occur, and to what degrees such learning is expected to be available.[6] The agency is also asking that the RPE markup factor (used to determine the RPE cost estimates) is stated in the response.

2. Additionally, the agency requests that manufactures and other interested parties provide the same information, as requested above, for the technologies listed in the following tables and any other potential technologies that may be implemented to improve fuel economy. These potential technologies can be inserted into additional rows at the end of each table. Examples of other potential technologies could include, but are not limited to: Homogenous Charge Compression Ignition (HCCI), Electric

[6] ''Learning effects'' describes the reduction in unit production costs as a function of accumulated production volume and small redesigns that reduce costs. Applying learning effects, or ''learning curves,'' requires estimates of three parameters: (1) The initial production volume that must be reached before cost reductions begin to be realized (referred to as ''threshold volume''); (2) the percent reduction in average unit cost that results from each successive doubling of cumulative production volume (usually referred to as the ''learning rate''); and (3) the initial cost of the technology. The method applies this effect for up to two doublings of production volume. For example, a 20 percent learning rate discount applied with a 300,000 unit threshold would reduce the applicable technology's incremental cost by up to 36 percent.

Vehicle (EV), Fuel Cell Vehicle, Belt Mounted Integrated Starter Generator (BISG), and Crank Mounted Integrated Starter Generator (CISG) specific technologies. In an effort to standardize the information received the agency requests that if possible respondents fill in the following tables:

Table IV–1 with estimates of the model year of availability for each technology listed and any other identified technology.

Table IV–2 with estimated phase-in rates [7] by year for each technology listed and any other additional technologies. Engineering, planning and financial constraints can prohibit many technologies from being applied across an entire fleet of vehicles within a single model year, so the agency requests information on possible constraints on the rates at which each technology can penetrate a manufacturer's fleet.

Tables IV–3a, b and IV–4a, b with estimates for incremental RPE costs (in 2009 dollars) and incremental fuel consumption reductions for each technology listed and any other additional technologies. These estimates, for the technologies already listed, should assume that the preceding technologies, as defined by the decision trees in Appendix B, have already been applied and/or will be superseded. The agency is requesting that respondents fill in incremental RPE costs and fuel consumption reductions estimates for all vehicle subclasses listed. If a respondent feels that the incremental RPE cost and fuel consumption reduction estimates are similar for different subclasses they may combine subclasses.

Table IV–5 with estimates for the percentage by which each technology reduces energy losses attributable to each of nine energy loss mechanisms.

Tables IV–6a, b with estimates for synergies [8] that can occur when multiple technologies are applied.

3. The agency also asks that manufacturers or other interested parties provide information on appropriate sequencing of technologies, so that accumulated cost and fuel consumption effects may be evaluated incrementally. As examples of possible technology sequences, ''decision trees'' are shown in Appendix B below.

4. For each new or redesigned vehicle identified in response to Question III–3 and each new engine or fuel economy improvement identified in your response to Questions IV–1 and IV–2 provide your best estimate of the following, in terms of constant 2009 dollars:

A. Total capital costs required to implement the new/redesigned model or improvement according to the implementation schedules specified in your response. Subdivide the capital costs into tooling, facilities, launch, and engineering costs.

B. The maximum production capacity, expressed in units of capacity per year, associated with the capital expenditure in (A) above. Specify the number of production shifts on which your response is based and define ''maximum capacity'' as used in your answer.

C. The actual capacity that is planned to be used each year for each new/redesigned model or fuel economy improvement.

D. The increase in variable costs per affected unit, based on the production volume specified in (B) above.

E. The equivalent retail price increase per affected vehicle for each new/redesigned model or improvement. Provide an example describing methodology used to determine the equivalent retail price increase.

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[7] In NHTSA's 2006 rulemaking establishing CAFE standards for MY 2008–2011 light trucks, the agency considered phase-in caps by ceasing to add a given technology to a manufacturer's fleet in a specific model year once it has increased the corresponding penetration rate by at least the amount of the cap. Having done so, it applied other technologies in lieu of the ''capped'' technology.

[8] When two or more technologies are added to a particular vehicle model to improve its fuel efficiency, the resultant fuel consumption reduction may sometimes be higher or lower than the product of the individual effectiveness values for those items. This may occur because one or more technologies applied to the same vehicle partially address the same source or sources of engine or vehicle losses. Alternately, this effect may be seen when one technology shifts the engine operating points, and therefore increases or reduces the fuel consumption reduction achieved by another technology or set of technologies. The difference between the observed fuel consumption reduction associated with a set of technologies and the product of the individual effectiveness values in that set is sometimes referred to as a ''synergy.'' Synergies may be positive (increased fuel consumption reduction compared to the product of the individual effects) or negative (decreased fuel consumption reduction).

Table IV-1: List of Technologies and Year of Availability

TECHNOLOGY	Abrev.	Year of Availability
Low Friction Lubricants	LUB	
Engine Friction Reduction	EFR	
VVT - Coupled Cam Phasing (CCP) on SOHC	CCPS	
Discrete Variable Valve Lift (DVVL) on SOHC	DVVLS	
Cylinder Deactivation on SOHC	DEACS	
VVT - Intake Cam Phasing (ICP)	ICP	
VVT - Dual Cam Phasing (DCP)	DCP	
Discrete Variable Valve Lift (DVVL) on DOHC	DVVLD	
Continuously Variable Valve Lift (CVVL)	CVVL	
Cylinder Deactivation on DOHC	DEACD	
Cylinder Deactivation on OHV	DEACO	
VVT - Coupled Cam Phasing (CCP) on OHV	CCPO	
Discrete Variable Valve Lift (DVVL) on OHV	DVVLO	
Conversion to DOHC with DCP	CDOHC	
Stoichiometric Gasoline Direct Injection (GDI)	SGDI	
Combustion Restart	CBRST	
Turbocharging and Downsizing	TRBDS	
Exhaust Gas Recirculation (EGR) Boost	EGRB	
Conversion to Diesel following CBRST	DSLC	
Conversion to Diesel following TRBDS	DSLT	
Electric Power Steering	EPS	
Improved Accessories	IACC	
12V Micro-Hybrid	MHEV	
Higher Voltage/Improved Alternator	HVIA	
Integrated Starter Generator (Belt/Crank)	ISG	
6-Speed Manual/Improved Internals	6MAN	
Improved Auto. Trans. Controls/Externals	IATC	
Continuously Variable Transmission	CVT	
6/7/8-Speed Auto. Trans with Improved Internals	NAUTO	
Dual Clutch or Automated Manual Transmission	DCTAM	
Power Split Hybrid	PSHEV	
2-Mode Hybrid	2MHEV	
Plug-in Hybrid	PHEV	
Material Substitution (1%)	MS1	
Material Substitution (2%)	MS2	
Material Substitution (5%)	MS5	
Low Rolling Resistance Tires	ROLL	
Low Drag Brakes	LDB	
Secondary Axle Disconnect	SAX	
Aero Drag Reduction	AERO	

Table IV-2: Phase-In Caps

		Percent Phase-in Rate per Year												
TECHNOLOGY	Abrev.	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Low Friction Lubricants	LUB													
Engine Friction Reduction	EFR													
VVT - Coupled Cam Phasing (CCP) on SOHC	CCPS													
Discrete Variable Valve Lift (DVVL) on SOHC	DVVLS													
Cylinder Deactivation on SOHC	DEACS													
VVT - Intake Cam Phasing (ICP)	ICP													
VVT - Dual Cam Phasing (DCP)	DCP													
Discrete Variable Valve Lift (DVVL) on DOHC	DVVLD													
Continuously Variable Valve Lift (CVVL)	CVVL													
Cylinder Deactivation on DOHC	DEACD													
Cylinder Deactivation on OHV	DEACO													
VVT - Coupled Cam Phasing (CCP) on OHV	CCPO													
Discrete Variable Valve Lift (DVVL) on OHV	DVVLO													
Conversion to DOHC with DCP	CDOHC													
Stoichiometric Gasoline Direct Injection (GDI)	SGDI													
Combustion Restart	CBRST													
Turbocharging and Downsizing	TRBDS													
Exhaust Gas Recirculation (EGR) Boost	EGRB													
Conversion to Diesel following CBRST	DSLC													
Conversion to Diesel following TRBDS	DSLT													
Electric Power Steering	EPS													
Improved Accessories	IACC													
12V Micro-Hybrid	MHEV													
Higher Voltage/Improved Alternator	HVIA													
Integrated Starter Generator (Belt/Crank)	ISG													
6-Speed Manual/Improved Internals	6MAN													
Improved Auto. Trans. Controls/Externals	IATC													
Continuously Variable Transmission	CVT													
6/7/8-Speed Auto. Trans with Improved Internals	NAUTO													
Dual Clutch or Automated Manual Transmission	DCTAM													
Power Split Hybrid	PSHEV													
2-Mode Hybrid	2MHEV													
Plug-in Hybrid	PHEV													
Material Substitution (1%)	MS1													
Material Substitution (2%)	MS2													
Material Substitution (5%)	MS5													
Low Rolling Resistance Tires	ROLL													
Low Drag Brakes	LDB													
Secondary Axle Disconnect	SAX													
Aero Drag Reduction	AERO													

Table IV-3a: Technology Cost Estimates

VEHICLE TECHNOLOGY RETAIL PRICE EQUIVALENT INCREMENTAL COSTS PER VEHICLE ($) BY VEHICLE SUBCLASS							
		Subcompact	Performance Subcompact	Compact	Performance Compact	Midsize	Performance Midsize
TECHNOLOGY	Abrev	Car	Car	Car	Car	Car	Car
Low Friction Lubricants	LUB						
Engine Friction Reduction	EFR						
VVT - Coupled Cam Phasing (CCP) on SOHC	CCPS						
Discrete Variable Valve Lift (DVVL) on SOHC	DVVLS						
Cylinder Deactivation on SOHC	DEACS						
VVT - Intake Cam Phasing (ICP)	ICP						
VVT - Dual Cam Phasing (DCP)	DCP						
Discrete Variable Valve Lift (DVVL) on DOHC	DVVLD						
Continuously Variable Valve Lift (CVVL)	CVVL						
Cylinder Deactivation on DOHC	DEACD						
Cylinder Deactivation on OHV	DEACO						
VVT - Coupled Cam Phasing (CCP) on OHV	CCPO						
Discrete Variable Valve Lift (DVVL) on OHV	DVVLO						
Conversion to DOHC with DCP	CDOHC						
Stoichiometric Gasoline Direct Injection (GDI)	SGDI						
Combustion Restart	CBRST						
Turbocharging and Downsizing	TRBDS						
Exhaust Gas Recirculation (EGR) Boost	EGRB						
Conversion to Diesel following CBRST	DSLC						
Conversion to Diesel following TRBDS	DSLT						
Electric Power Steering	EPS						
Improved Accessories	IACC						
12V Micro-Hybrid	MHEV						
Higher Voltage/Improved Alternator	HVIA						
Integrated Starter Generator (Belt/Crank)	ISG						
6-Speed Manual/Improved Internals	6MAN						
Improved Auto. Trans Controls/Externals	IATC						
Continuously Variable Transmission	CVT						
6/7/8-Speed Auto Trans with Improved Internals	NAUTO						
Dual Clutch or Automated Manual Transmission	DCTAM						
Power Split Hybrid	PSHEV						
2-Mode Hybrid	2MHEV						
Plug-in Hybrid	PHEV						
Material Substitution (1%)	MS1						
Material Substitution (2%)	MS2						
Material Substitution (5%)	MS5						
Low Rolling Resistance Tires	ROLL						
Low Drag Brakes	LDB						
Secondary Axle Disconnect	SAX						
Aero Drag Reduction	AERO						

Table IV-3b: Technology Cost Estimates

VEHICLE TECHNOLOGY RETAIL PRICE EQUIVALENT INCREMENTAL COSTS PER VEHICLE ($) BY VEHICLE SUBCLASS							
		Large	Performance Large	Minivan	Small	Midsize	Large
TECHNOLOGY	Abrev	Car	Car	LT	LT	LT	LT
Low Friction Lubricants	LUB						
Engine Friction Reduction	EFR						
VVT - Coupled Cam Phasing (CCP) on SOHC	CCPS						
Discrete Variable Valve Lift (DVVL) on SOHC	DVVLS						
Cylinder Deactivation on SOHC	DEACS						
VVT - Intake Cam Phasing (ICP)	ICP						
VVT - Dual Cam Phasing (DCP)	DCP						
Discrete Variable Valve Lift (DVVL) on DOHC	DVVLD						
Continuously Variable Valve Lift (CVVL)	CVVL						
Cylinder Deactivation on DOHC	DEACD						
Cylinder Deactivation on OHV	DEACO						
VVT - Coupled Cam Phasing (CCP) on OHV	CCPO						
Discrete Variable Valve Lift (DVVL) on OHV	DVVLO						
Conversion to DOHC with DCP	CDOHC						
Stoichiometric Gasoline Direct Injection (GDI)	SGDI						
Combustion Restart	CBRST						
Turbocharging and Downsizing	TRBDS						
Exhaust Gas Recirculation (EGR) Boost	EGRB						
Conversion to Diesel following CBRST	DSLC						
Conversion to Diesel following TRBDS	DSLT						
Electric Power Steering	EPS						
Improved Accessories	IACC						
12V Micro-Hybrid	MHEV						
Higher Voltage/Improved Alternator	HVIA						
Integrated Starter Generator (Belt/Crank)	ISG						
6-Speed Manual/Improved Internals	6MAN						
Improved Auto. Trans Controls/Externals	IATC						
Continuously Variable Transmission	CVT						
6/7/8-Speed Auto Trans with Improved Internals	NAUTO						
Dual Clutch or Automated Manual Transmission	DCTAM						
Power Split Hybrid	PSHEV						
2-Mode Hybrid	2MHEV						
Plug-in Hybrid	PHEV						
Material Substitution (1%)	MS1						
Material Substitution (2%)	MS2						
Material Substitution (5%)	MS5						
Low Rolling Resistance Tires	ROLL						
Low Drag Brakes	LDB						
Secondary Axle Disconnect	SAX						
Aero Drag Reduction	AERO						

Table IV-4a: Technology Effectiveness Estimates

VEHICLE TECHNOLOGY INCREMENTAL FUEL CONSUMPTION REDUCTION (-%) BY VEHICLE SUBCLASS							
		Subcompact	Performance Subcompact	Compact	Performance Compact	Midsize	Performance Midsize
TECHNOLOGY	Abrev	Car	Car	Car	Car	Car	Car
Low Friction Lubricants	LUB						
Engine Friction Reduction	EFR						
VVT - Coupled Cam Phasing (CCP) on SOHC	CCPS						
Discrete Variable Valve Lift (DVVL) on SOHC	DVVLS						
Cylinder Deactivation on SOHC	DEACS						
VVT - Intake Cam Phasing (ICP)	ICP						
VVT - Dual Cam Phasing (DCP)	DCP						
Discrete Variable Valve Lift (DVVL) on DOHC	DVVLD						
Continuously Variable Valve Lift (CVVL)	CVVL						
Cylinder Deactivation on DOHC	DEACD						
Cylinder Deactivation on OHV	DEACO						
VVT - Coupled Cam Phasing (CCP) on OHV	CCPO						
Discrete Variable Valve Lift (DVVL) on OHV	DVVLO						
Conversion to DOHC with DCP	CDOHC						
Stoichiometric Gasoline Direct Injection (GDI)	SGDI						
Combustion Restart	CBRST						
Turbocharging and Downsizing	TRBDS						
Exhaust Gas Recirculation (EGR) Boost	EGRB						
Conversion to Diesel following CBRST	DSLC						
Conversion to Diesel following TRBDS	DSLT						
Electric Power Steering	EPS						
Improved Accessories	IACC						
12V Micro-Hybrid	MHEV						
Higher Voltage/Improved Alternator	HVIA						
Integrated Starter Generator (Belt/Crank)	ISG						
6-Speed Manual/Improved Internals	6MAN						
Improved Auto. Trans. Controls/Externals	IATC						
Continuously Variable Transmission	CVT						
6/7/8-Speed Auto. Trans with Improved Internals	NAUTO						
Dual Clutch or Automated Manual Transmission	DCTAM						
Power Split Hybrid	PSHEV						
2-Mode Hybrid	2MHEV						
Plug-in Hybrid	PHEV						
Material Substitution (1%)	MS1						
Material Substitution (2%)	MS2						
Material Substitution (5%)	MS5						
Low Rolling Resistance Tires	ROLL						
Low Drag Brakes	LDB						
Secondary Axle Disconnect	SAX						
Aero Drag Reduction	AERO						

Table IV-4b: Technology Effectiveness Estimates

VEHICLE TECHNOLOGY INCREMENTAL FUEL CONSUMPTION REDUCTION (-%) BY VEHICLE SUBCLASS							
		Large	Performance Large	Minivan	Small	Midsize	Large
TECHNOLOGY	Abrev.	Car	Car	LT	LT	LT	LT
Low Friction Lubricants	LUB						
Engine Friction Reduction	EFR						
VVT - Coupled Cam Phasing (CCP) on SOHC	CCPS						
Discrete Variable Valve Lift (DVVL) on SOHC	DVVLS						
Cylinder Deactivation on SOHC	DEACS						
VVT - Intake Cam Phasing (ICP)	ICP						
VVT - Dual Cam Phasing (DCP)	DCP						
Discrete Variable Valve Lift (DVVL) on DOHC	DVVLD						
Continuously Variable Valve Lift (CVVL)	CVVL						
Cylinder Deactivation on DOHC	DEACD						
Cylinder Deactivation on OHV	DEACO						
VVT - Coupled Cam Phasing (CCP) on OHV	CCPO						
Discrete Variable Valve Lift (DVVL) on OHV	DVVLO						
Conversion to DOHC with DCP	CDOHC						
Stoichiometric Gasoline Direct Injection (GDI)	SGDI						
Combustion Restart	CBRST						
Turbocharging and Downsizing	TRBDS						
Exhaust Gas Recirculation (EGR) Boost	EGRB						
Conversion to Diesel following CBRST	DSLC						
Conversion to Diesel following TRBDS	DSLT						
Electric Power Steering	EPS						
Improved Accessories	IACC						
12V Micro-Hybrid	MHEV						
Higher Voltage/Improved Alternator	HVIA						
Integrated Starter Generator (Belt/Crank)	ISG						
6-Speed Manual/Improved Internals	6MAN						
Improved Auto Trans. Controls/Externals	IATC						
Continuously Variable Transmission	CVT						
6/7/8-Speed Auto. Trans with Improved Internals	NAUTO						
Dual Clutch or Automated Manual Transmission	DCTAM						
Power Split Hybrid	PSHEV						
2-Mode Hybrid	2MHEV						
Plug-in Hybrid	PHEV						
Material Substitution (1%)	MS1						
Material Substitution (2%)	MS2						
Material Substitution (5%)	MS5						
Low Rolling Resistance Tires	ROLL						
Low Drag Brakes	LDB						
Secondary Axle Disconnect	SAX						
Aero Drag Reduction	AERO						

Table IV-5: Energy Loss Mechanism Estimates

Percent Reduction of Energy Losses, by Loss Mechanism										
TECHNOLOGY	Abrev.	System Irreversibility	Exhaust and Coolant Heat Loss	Engine Friction	Pumping Losses	Accessory Losses	Transmission Loses	Aerodynamic Drag	Tire Rolling Resistance	Vehicle Work
Low Friction Lubricants	LUB									
Engine Friction Reduction	EFR									
VVT - Coupled Cam Phasing (CCP) on SOHC	CCPS									
Discrete Variable Valve Lift (DVVL) on SOHC	DVVLS									
Cylinder Deactivation on SOHC	DEACS									
VVT - Intake Cam Phasing (ICP)	ICP									
VVT - Dual Cam Phasing (DCP)	DCP									
Discrete Variable Valve Lift (DVVL) on DOHC	DVVLD									
Continuously Variable Valve Lift (CVVL)	CVVL									
Cylinder Deactivation on DOHC	DEACD									
Cylinder Deactivation on OHV	DEACO									
VVT - Coupled Cam Phasing (CCP) on OHV	CCPO									
Discrete Variable Valve Lift (DVVL) on OHV	DVVLO									
Conversion to DOHC with DCP	CDOHC									
Stoichiometric Gasoline Direct Injection (GDI)	SGDI									
Combustion Restart	CBRST									
Turbocharging and Downsizing	TRBDS									
Exhaust Gas Recirculation (EGR) Boost	EGRB									
Conversion to Diesel following CBRST	DSLC									
Conversion to Diesel following TRBDS	DSLT									
Electric Power Steering	EPS									
Improved Accessories	IACC									
12V Micro-Hybrid	MHEV									
Higher Voltage/Improved Alternator	HVIA									
Integrated Starter Generator (Belt/Crank)	ISG									
6-Speed Manual/Improved Internals	6MAN									
Improved Auto. Trans. Controls/Externals	IATC									
Continuously Variable Transmission	CVT									
6/7/8-Speed Auto. Trans with Improved Internals	NAUTO									
Dual Clutch or Automated Manual Transmission	DCTAM									
Power Split Hybrid	PSHEV									
2-Mode Hybrid	2MHEV									
Plug-in Hybrid	PHEV									
Material Substitution (1%)	MS1									
Material Substitution (2%)	MS2									
Material Substitution (5%)	MS5									
Low Rolling Resistance Tires	ROLL									
Low Drag Brakes	LDB									
Secondary Axle Disconnect	SAX									
Aero Drag Reduction	AERO									

Table IV-6a: Technology Synergy Estimates

Synergies		Fuel Consumption Improvement Synergy values by Subclass Positive values are [positive] synergies, negative values are dissynergies.					
Technology A	Technology B	Subcompact PC	Subcompact Perf. PC	Compact PC	Compact Perf. PC	Midsize PC	Midsize Perf. PC
ICP	CVT						

Table IV-6b: Technology Synergy Estimates

Synergies		Fuel Consumption Improvement Synergy values by Subclass Positive values are [positive] synergies, negative values are dissynergies.					
Technology A	Technology B	Large PC	Large Perf. PC	Minivan LT	Small LT	Midsize LT	Large LT
ICP	CVT						

Appendix B. Technology Decision Trees

Figure 1. Engine Technology Decision Trees

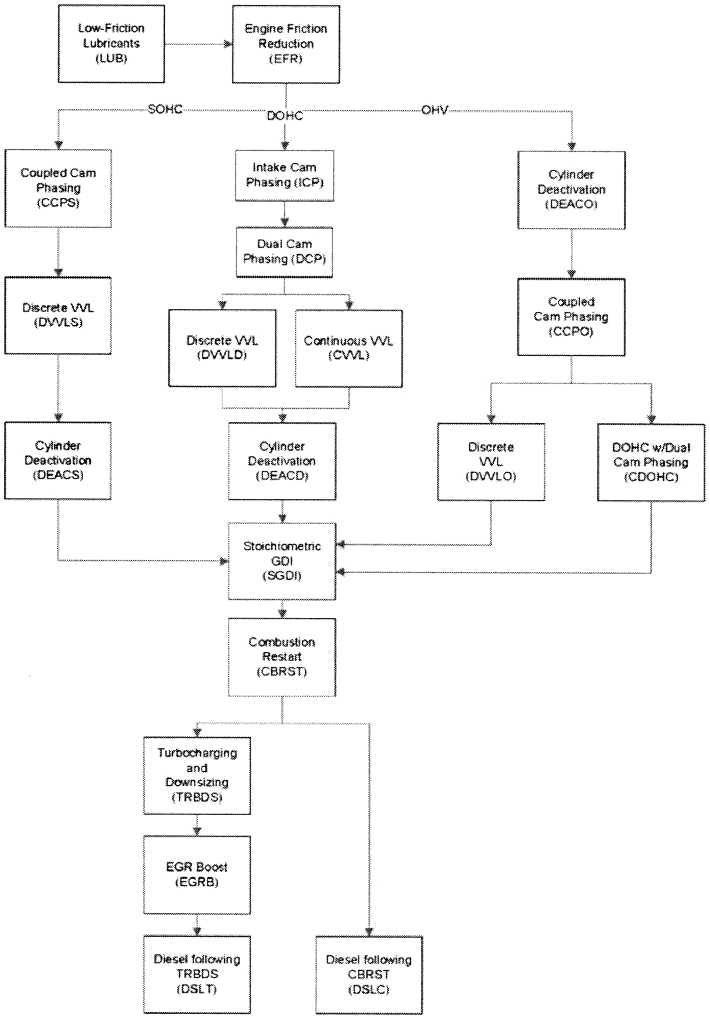


Figure 2. Transmission Technology Decision Trees

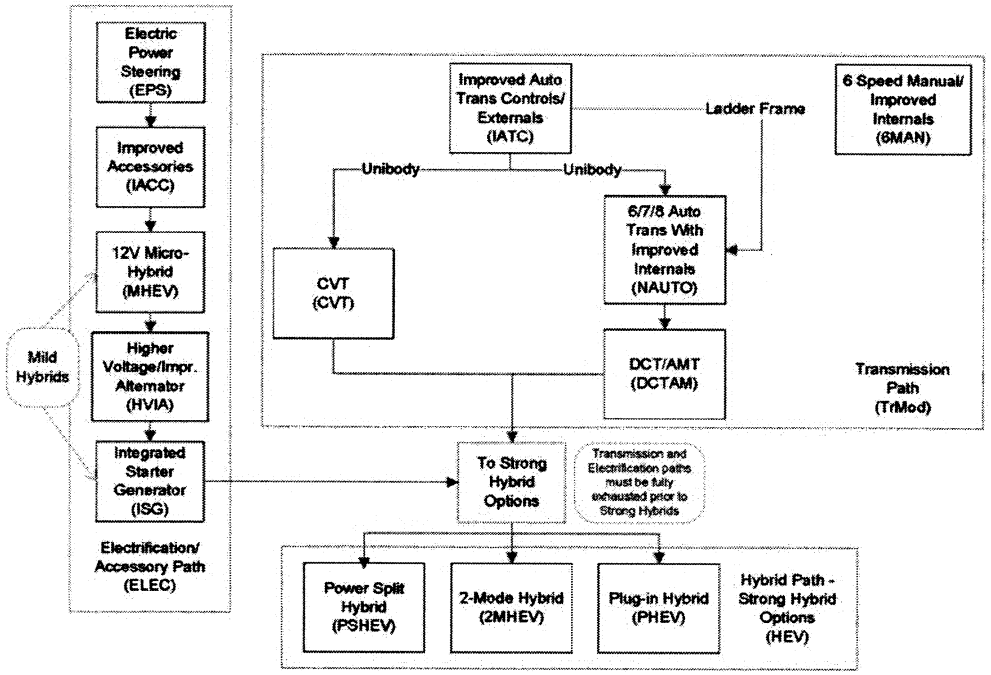
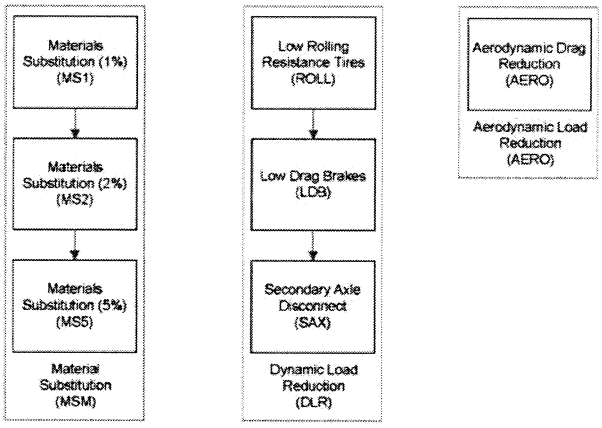


Figure 3. Decision Trees for Other Technologies



[FR Doc. E9–4449 Filed 2–26–09; 4:15 pm]
BILLING CODE 4910–59–C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2009–0038]

RIN 2127–AK44

Federal Motor Vehicle Safety Standard; Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This document proposes to extend by 18 months a requirement that trailers with antilock brake systems be equipped with an external antilock malfunction indicator lamp. It also considers making the requirement permanent. The indicator lamp requirement, which is included in the Federal motor vehicle safety standard that governs vehicles equipped with air brakes, was originally scheduled to sunset on March 1, 2009, but has been extended to September 1, 2009 in an interim final rule published in today's **Federal Register**. Under our proposal, the sunset date would be extended until March 1, 2011. This rulemaking is in response to a petition from the Commercial Vehicle Safety Alliance (CVSA), which has asked that this requirement be made permanent. Extending the sunset date for an additional 18 months would enable the agency to fully analyze CVSA's request that the requirement be made permanent, and avoid a potential confusing time gap in the vehicles subject to the requirement.

DATES: You should submit your comments early enough to ensure that the Docket receives them not later than April 2, 2009. Comments may be combined with ones on the accompanying interim final rule, which is being published today using the same docket number.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* 202–493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. George Soodoo, Office of Crash Avoidance Standards (Phone: 202–366–4931; FAX: 202–366–7002). For legal issues, you may call Mr. Ari Scott, Office of the Chief Counsel (Phone: 202–366–2992; FAX: 202–366–3820). You may send mail to these officials at: National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

The final rule requiring antilock brake systems (ABS) on truck tractors, other air-braked heavy vehicles including trailers, and hydraulic-braked trucks was published in the **Federal Register** (60 FR 13216) on March 10, 1995. As amended by that final rule, FMVSS No. 121, *Air Brake Systems*, required two separate in-cab ABS malfunction indicator lamps for each truck tractor, one for the tractor's ABS (effective March 1, 1997) and the other for the trailer's ABS (effective March 1, 2001). The final rule also required air-braked trailers to be equipped with an externally mounted ABS malfunction lamp (effective March 1, 1998) so that the driver of a non-ABS equipped tractor or a pre-2001 ABS-equipped tractor towing an ABS-equipped trailer would be alerted in the event of a malfunction in the trailer ABS.

The requirement for the trailer-mounted ABS malfunction indicator lamp was originally scheduled to expire on March 1, 2009. The agency established this sunset date in light of the fact that, after this eight-year period, many of the pre-2001 tractors without the dedicated trailer ABS malfunction indicator lamp would no longer be in long-haul service. The agency based its decision on the belief that the typical tractor life was five to seven years, and therefore decided on an eight-year period for the external ABS malfunction indicator lamp requirement. We further stated our belief that there would be no need for a redundant ABS malfunction lamp mounted on the trailer after the vast majority of tractors were equipped with an in-cab ABS malfunction indicator lamp for the trailer.

II. Summary of the CVSA Petitions

CVSA is an international not-for-profit organization comprised of local, state, provincial, territorial and federal motor carrier safety officials and industry representatives from the United States, Canada, and Mexico. The CVSA promotes commercial vehicle safety and sponsors vehicle inspections by partnering with the Federal Motor Carrier Safety Administration (FMCSA), Pipeline and Hazardous Materials Safety Administration, Canadian Council of Motor Transport Administrators, Transport Canada, and the Secretariat of Communications and Transportation (Mexico).

On October 22, 2007, CVSA petitioned the National Highway Traffic safety Administration (NHTSA) to amend FMVSS No. 121, *Air Brake Systems*, to make the requirement for the external antilock malfunction indicator lamp permanent instead of allowing it to expire, as originally intended, on March 1, 2009 (and is subsequently being modified to September 1, 2009, by an accompanying interim final rule). CVSA included in its petition suggested regulatory text along with its rationale for why the extension should be permanent. Since receiving the petition, the agency has received

letters of support for the CVSA petition from the Truck Trailer Manufacturers Association, the Owner Operator Independent Drivers Association, and the Heavy Duty Brake Manufacturers Council.

On October 15, 2008 CVSA again petitioned NHTSA to amend FMVSS No. 121, requesting that the agency issue a ''stay'' of the sunset date of March 1, 2009 for the external ABS warning lamp. CVSA stated that a ''stay'' would prevent a time gap in the regulation, while NHTSA continues to evaluate its 2007 petition. CVSA stated that the vehicle inspection process has already been complicated by the phased-in ABS and ABS malfunction indicator lamp requirements and a gap would further complicate the inspection process and cause additional confusion for drivers and maintenance personnel.

III. Agency Analysis and Proposal

The CVSA petitions raise two main issues that the agency will address. The first issue relates to ensuring that a driver or inspector can determine the operational status of a trailer ABS, if the trailer is not equipped with an external ABS lamp or the tractor is a pre-2001 tractor without the trailer in-cab ABS warning lamp. The second issue relates to the use of the external trailer ABS warning lamp for diagnostic purposes. We note that CVSA did not provide data indicating the number of pre-2001 truck tractors it believed to still be in long haul service.

The agency wants to ensure that drivers and inspectors can determine if a ABS trailer system is functioning, and we also want to avoid imposing unnecessary burdens on trailer manufacturers. Moreover, NHTSA is also concerned about the complications and confusion that could arise for drivers and inspectors, if the ABS warning lamp requirement sunsets and then NHTSA decides to extend it, either permanently or for some fixed period of time.

While we are continuing to evaluate whether a permanent or long-term extension would be appropriate, we have tentatively concluded that a two-year extension is in the interests of motor vehicle safety. This extension would prevent a potential gap in the regulation and allow the agency additional time to evaluate all the arguments raised in the CVSA petitions.

Given the imminence of the March 1, 2009 sunset, it is not possible for us to complete notice and comment rulemaking prior to that time. We are therefore publishing two related documents in today's **Federal Register**. We are publishing an interim final rule that extends the sunset date for six months, to September 1, 2009, as well as this proposed rule which would extend the sunset date for an additional 18 months, to March 1, 2011. The interim final rule will prevent the lamp requirement from sunsetting prior to our making a decision on the NPRM.

Accordingly, NHTSA is granting the petitions in part and is proposing to extend the sunset date by an additional 18 months, from September 1, 2009 to March 1, 2011. NHTSA expects to be able to fully analyze the issues raised by the petitions within this time frame and further address the issues raised by the CVSA petitions prior to March 1, 2011. Furthermore, depending on the comments received in response to this document, if the agency is able to fully resolve the outstanding issues, the agency may in a final rule based on this NPRM decide to remove the sunset provision entirely and make the requirement for the indicator lamp permanent.

IV. Shortened Comment Period

Given the short time before the sunset of the lamp requirement, even with the six-month extension provided in the interim final rule, we are providing a 30-day comment period. Because the full duration of the extension is only six months, we believe this shortened comment period is appropriate. We also note that the subject of the proposal is the extension of a longstanding existing requirement. Therefore, there has been considerable experience with the requirement at issue.

V. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging onto the Docket Management System Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://dms.dot.gov.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address

given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

VI. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This action was not reviewed by the Office of Management and Budget under E.O. 12866. The agency has considered the impact of this action under the Department of Transportation's regulatory policies and procedures (44 FR 11034; February 26, 1979), and has determined that it is not ''significant'' under them.

This document proposes to delay the sunset date of the antilock malfunction indicator lamp requirement from September 1, 2009 to March 1, 2011. Since trailers manufactured after March 1, 1998 have already been complying with the requirement and the agency is merely proposing to extend the requirement for an additional two years, the impact on costs is not significant. Not supplying a lamp could result in a trailer that could be made for a few dollars less. We estimate the costs to be so minimal that preparation of a full regulatory evaluation is not required.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NHTSA has evaluated the effects of this action on small entities. I hereby certify that this proposed rule would not have a significant impact on a substantial number of small entities. This proposal would merely extend a sunset provision in FMVSS No. 121. No other changes are being proposed in this document. Small organizations and small government units would not be significantly affected since this proposed action would not affect the price of new motor vehicles. Trailer manufacturers would not be required to install new systems but rather continue to install the systems they are already installing for two additional years.

Executive Order 13132 (Federalism)

NHTSA has examined today's proposed rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the proposed rule does not have federalism implications because it does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Further, no consultation is needed to discuss the preemptive effect of today's proposed rule. NHTSA's safety standards can have preemptive effect in at least two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: ''When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.'' 49 U.S.C. 30103(b)(1). It is this statutory command that unavoidably preempts State legislative and administrative law, not today's rulemaking, so consultation would be unnecessary.

Second, the Supreme Court has recognized the possibility of implied preemption: State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and execution of a NHTSA safety standard. When such a conflict is discerned, the Supremacy Clause of the Constitution makes the State requirements unenforceable. *See Geier* v. *American Honda Motor Co.*, 529 U.S. 861 (2000). NHTSA has considered today's proposed rule and does not currently foresee any potential State requirements that might conflict with it. Without any conflict, there could not be any implied preemption.

Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this proposed rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19855, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental, health, or safety risk that the agency has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

This proposed rule is not expected to affect children and it is not an economically significant regulatory action under Executive Order 12866. Consequently, no further analysis is required under Executive Order 13045.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There is not any information collection requirement associated with this NPRM.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, (15 U.S.C. 272) directs the agency to evaluate and use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or is otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business

practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers. The NTTAA directs us to provide Congress (through OMB) with explanations when we decide not to use available and applicable voluntary consensus standards. There are no voluntary consensus standards developed by voluntary consensus standards bodies pertaining to this NPRM.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This NPRM would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.regulations.gov.*

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.121 is amended by revising S5.2.3.3(a) to read as follows:

§ 571.121; Standard No. 121; Air brake systems.

* * * * *

S5.2.3.3 Antilock malfunction indicator.

(a) In addition to the requirements of S5.2.3.2, each trailer and trailer converter dolly manufactured on or after March 1, 1998, and before March 1, 2011, shall be equipped with an external antilock malfunction indicator lamp that meets the requirements of S5.2.3.3 (b) through (d).

* * * * *

Issued: February 26, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E9–4491 Filed 2–27–09; 11:15 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R2–ES–2009–0004; 92210–1111–0000–B3]

Endangered and Threatened Wildlife and Plants; Initiation of Status Review for the Roundtail Chub (Gila robusta) in the Lower Colorado River Basin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; initiation of status review and solicitation of new information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the initiation of a status review for the roundtail chub (*Gila robusta*) in the lower Colorado River basin. Through this action, we encourage all interested parties to provide us information regarding the status of, and any potential threats to, the roundtail chub. We request information on the status of roundtail chub throughout the range of the species, in order to evaluate a petition to list a distinct population segment (DPS) in the lower Colorado River basin.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before April 2, 2009.

ADDRESSES: You may submit information by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R2–ES–2009–0004; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all information on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Information Solicited section below for more information).

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021–4951; telephone 602–242–0210; facsimile 602–242–2513. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Solicited

To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the roundtail chub (*Gila robusta*). Information gained during this process will be used to evaluate whether the lower Colorado River basin population of roundtail chub is a distinct population segment (DPS) as described in our Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (DPS Policy; 61 FR 4722, February 7, 1996), and if listing as threatened or endangered is warranted under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). We request information from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties on the status of the roundtail chub throughout its range, including:

(1) Information from the United States and Mexico regarding the species' historical and current population status, distribution, and trends; taxonomy; genetics; biology and ecology; and habitat selection.

(2) Information that supports or refutes the appropriateness of considering the lower Colorado River basin population of roundtail chub to be discrete, as defined in the DPS Policy, including, but not limited to:

(a) Information indicating that lower Colorado River basin roundtail chub are markedly separated from other populations of roundtail chub due to physical, physiological, ecological, or behavioral factors.

(b) Information indicating whether or not the lower Colorado River basin population of roundtail chub is delimited by international governmental boundaries within which significant differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist.

(3) Information that supports or refutes the appropriateness of considering the lower Colorado River basin population of roundtail chub to be significant, as defined in the DPS Policy, including, but not limited to:

(a) Information indicating that the ecological setting, including such factors as temperature, moisture, weather patterns, plant communities, etc., in which the lower Colorado River basin population of roundtail chub persists is unusual or unique when compared to that of roundtail chub found elsewhere in the United States or Mexico.

(b) Information indicating that loss of the lower Colorado River basin population of roundtail chub would or would not result in a significant gap in the range of the taxon.

(c) Information indicating that the lower Colorado River basin population of roundtail chub differs markedly from other populations of roundtail chub in its genetic characteristics.

(4) Information on the effects of potential threat factors in the United States and Mexico that are the basis for a listing determination under section 4(a) of the Act, which are:

(a) The present or threatened destruction, modification, or curtailment of the subspecies' habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

Please note that submissions merely stating support or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, because section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made ''solely on the basis of the best scientific and commercial data available.'' At the conclusion of the status review, we will determine whether listing is warranted, not warranted, or warranted but precluded by other pending proposals.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. We will not consider submissions sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition and supporting information submitted with the petition. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**. Section 4(b)(3)(B) also requires that, for any petition to revise the Lists of Threatened and Endangered Wildlife and Plants that contains substantial scientific or commercial information that the action may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted but precluded by other pending proposals. Such 12-month findings are to be published promptly in the **Federal Register**.

On April 14, 2003, we received a petition from the Center for Biological Diversity requesting that we list a DPS of the roundtail chub in the lower Colorado River basin as endangered or threatened, that we list the headwater chub (*Gila nigra*) as endangered or threatened, and that we designate critical habitat concurrently with the listing for both species. On July 12, 2005, we published our 90-day finding that the petition presented substantial scientific information indicating that listing the headwater chub and a DPS of the roundtail chub in the lower Colorado River basin may be warranted and initiated a 12-month status review (70 FR 39981).

On May 3, 2006, we published our 12-month finding that listing was warranted for the headwater chub, but precluded by higher priority listing actions, and that listing of a DPS of the

roundtail chub in the lower Colorado River basin was not warranted because populations of roundtail chub in the lower Colorado River basin did not meet our definition of a DPS (71 FR 26007).

On September 7, 2006, we received a complaint from the Center for Biological Diversity for declaratory and injunctive relief, challenging our decision not to list the lower Colorado River basin population of the roundtail chub as an endangered species under the Act. On November 5, 2007, in a stipulated settlement agreement, we agreed to commence a new status review of the lower Colorado basin population of the roundtail chub and to submit a 12-month finding to the **Federal Register** by June 30, 2009.

At this time, we are soliciting new information on the status of and potential threats to the roundtail chub. We will base our new determination as to whether listing of a DPS for roundtail chub in the lower Colorado River basin is warranted on a review of the best scientific and commercial information available, including all information we receive as a result of this notice. For more information on the biology, habitat, and range of the roundtail chub, please refer to our previous 90-day finding published in the **Federal Register** on July 12, 2005 (70 FR 39981), and our previous 12-month finding published in the **Federal Register** on May 3, 2006 (71 FR 26007).

Author

The primary authors of this notice are the staff members of the Arizona Ecological Services Office.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 20, 2009.

Ken Stansell,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E9–4155 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[FWS–R9–MB–2009–0003; 91200–1231–9BPP]

RIN 1018–AW46

Migratory Bird Hunting; Application for Approval of Tungsten-Iron-Fluoropolymer Shot as Nontoxic for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of application for nontoxic shot approval.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce that Tundra Composites, LLC, of White Bear Lake, Minnesota, has applied for our approval of shot composed of alloys of tungsten, iron, and fluoropolymer as nontoxic for waterfowl hunting in the United States. The alloys are 41.5 to 95.2 percent tungsten, 1.5 to 52.0 percent steel, and 3.5 to 8.0 percent fluoropolymer by weight. We have initiated review of the shot under the criteria we have set out in our nontoxic shot approval procedures in our regulations.

DATES: Our comprehensive review of the application information is to conclude by May 4, 2009.

ADDRESSES: You may review the Tundra Composites application at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, VA 22203–1610.

FOR FURTHER INFORMATION CONTACT: Ron Kokel, Wildlife Biologist, Division of Migratory Bird Management, (703) 358–1967.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Act. The Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations in 50 CFR part 20. We prohibit the use of shot types other than those listed in the Code of Federal Regulations (CFR) at 50 CFR 20.21(j) for hunting waterfowl and coots and any species that make up aggregate bag limits.

Since the mid-1970s, we have sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We have approved nontoxic shot types and added them to the migratory bird hunting regulations in 50 CFR 20.21(j). We will continue to review all shot types submitted for approval as nontoxic.

Tundra Composites has submitted its application to us with the counsel that it contained all of the specified information for a complete Tier 1 submittal, and has requested unconditional approval pursuant to the Tier 1 timeframe. Having determined that the application is complete, we have initiated a comprehensive review of the Tier 1 information under 50 CFR 21.134. After review, we will either publish a notice of review to inform the public that the Tier 1 test results are inconclusive, or we will publish a proposed rule to approve the candidate shot. If the Tier 1 tests are inconclusive, the notice of review will indicate what other tests we will require before we will again consider approval of the Tungsten-Iron-Fluoropolymer shot as nontoxic. If the Tier 1 data review results in a preliminary determination that the candidate material does not pose a significant toxicity hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot and add it to our list at 50 CFR 20.21(j).

Dated: February 25, 2009.

Jerome Ford,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E9–4455 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

RIN 0648–AX72

Identification and Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, or Unregulated Fishing or Bycatch of Protected Living Marine Resources

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

ACTION: Notice of public hearing; request for comments.

SUMMARY: NMFS published a proposed rule for developing identification and certification procedures to address illegal, unreported, or unregulated (IUU) fishing activities and bycatch of protected living marine resources (PLMRs) pursuant to the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act). This notice is to announce five public hearings and to discuss and collect comments on the issues described in the proposed rule.

DATES: Written comments must be received no later than 5:00 pm Eastern time on May 14, 2009. Public hearings will be held in March, April, and May of 2009. For specific dates and times, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Public hearings will be held in Boston, MA; Silver Spring, MD; La Jolla, CA; Seattle, WA; and Miami, FL. For specific locations, see **SUPPLEMENTARY INFORMATION.** Written comments on this action, identified by RIN 0648–AV51, may be submitted by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.
- Mail: Laura Cimo, Trade and Marine Stewardship Division, Office of International Affairs, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Laura Cimo (ph. 301–713–9090, fax 301–713–9106, e-mail *Laura.Cimo@noaa.gov*).

SUPPLEMENTARY INFORMATION: On January 14, 2009 (74 FR 2019), NMFS published a proposed rule for developing certification procedures to address IUU fishing activities and PLMR bycatch pursuant to the Moratorium Protection Act. The regulatory measures proposed in this rule encourage nations to cooperate with the United States towards ending IUU fishing and reducing the bycatch of PLMRs.

Under the proposed rule, NMFS is required to identify foreign nations whose fishing vessels are engaged in IUU fishing or fishing activities or practices that result in bycatch of PLMRs in a biennial report to Congress. Once a nation has been identified in the biennial report, a notification and consultation process will be initiated. Subsequent to this process, NMFS will initiate a certification process regarding identified nations that considers whether the government of an identified nation has provided evidence that sufficient corrective action has been taken with respect to the activities described in the report or whether the relevant international fishery management organization has implemented measures that are effective in ending the IUU fishing activity by vessels of that nation. Nations will either receive a positive or a negative certification.

The absence of sufficient action by an identified nation to address IUU fishing and/or PLMR bycatch may lead to the denial of port privileges for vessels of that nation, prohibitions on the importation of certain fish or fish products into the United States from that nation, or other measures.

Identified nations that are not positively certified by the Secretary of Commerce could be subject to prohibitions on the importation of certain fisheries products into the United States and other measures, including limitations on port access, under the High Seas Driftnet Fisheries Enforcement Act (Enforcement Act)(16 U.S.C. 1826a).

Request for Comments

NMFS will hold five public hearings to receive oral and written comments on these proposed actions. Comments received on the proposed rule will assist NMFS in developing a final rule.

Dates, Times, and Locations

The public hearings will be held as follows:

1. Monday, March 16, 2009, 9:00–11:00 a.m., Boston Convention & Exhibition Center, 415 Summer Street, meeting room 203, Boston, MA 02210; phone 617–954–2000.

2. Monday, April 6, 2009, 6:30–8:30 p.m., Hilton Hotel, 8727 Colesville Road, Lincoln Ballroom, Silver Spring, MD 20910; phone 301–589–5200.

3. Monday, April 13, 2009, 4:00–6:00 p.m., NMFS Southwest Fisheries Science Center, 3333 N. Torrey Pines Court, meeting room 370, La Jolla, CA 92037; phone 858–546–7000.

4. Tuesday, April 14, 2009, 4:00–6:00 p.m., NMFS Northwest Fisheries Science Center, 2725 Montlake Boulevard East, Auditorium, Seattle, WA 98112; phone 206–860–3200. Proof of identification will be required for entry.

5. Tuesday, May 12, 2009, 6:30–8:00 p.m., Miami Airport Marriott, 1201 NW LeJeune Road, Caribbean Room, Miami, FL 33126; phone 305–649–5000.

Special Accommodations

The sessions are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Laura Cimo (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the session.

Dated: February 25, 2009.

Rebecca J. Lent,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. E9–4478 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 090129076–9092–01]

RIN 0648–AX56

Fisheries of the Northeastern United States; Spiny Dogfish; Framework Adjustment 2

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement Framework Adjustment 2 (Framework 2) to the Spiny Dogfish Fishery Management Plan (FMP), developed by the Mid-Atlantic and New England Fishery Management Councils (Councils). Framework 2 would broaden the FMP stock status determination criteria for spiny dogfish, while maintaining objective and measurable criteria to identify when the stock is overfished or approaching an overfished condition. The framework action would also establish acceptable categories of peer review of new or revised stock status determination criteria for the Council to use in its specification-setting process for spiny dogfish. This action is necessary to ensure that changes or modification to the stock status determination criteria, constituting the best available, peer-

reviewed scientific information, are accessible to the management process in a timely and efficient manner, consistent with National Standards 1 and 2 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received no later than 5 p.m. local time on April 2, 2009.

ADDRESSES: You may submit comments, identified by RIN 0648–AX56, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*
- Fax: 978–281–9135, Attn: Jamie Goen
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Dogfish Framework Adjustment 2.''

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Framework Adjustment 2 are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The framework document is also accessible via the Internet at *http://www.nero.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Jamie Goen, Fishery Policy Analyst, (978) 281–9220.

SUPPLEMENTARY INFORMATION:

Background

The current stock status determination criteria for spiny dogfish is found in the FMP. To modify or replace these stock status determination criteria, the Council must enact a framework adjustment or an amendment to the FMP.

The regulations at § 648.230 outline the management processes for spiny dogfish (*Squalus acanthias*). Stock assessment information is used in the management process that is used to derive annual catch limits (e.g., Total Allowable Landings (TAL)). Stock assessments for spiny dogfish undergo periodic formal scientific peer review as part of the Northeast Fisheries Science Center's (NEFSC) Stock Assessment Workshop (SAW) and Stock Assessment Review Committee (SARC) process. These and other periodic formal peer reviews may result in recommendations to revise or use different stock status determination criteria as different or new approaches are applied to previously existing data, or to new, previously unexamined data. Currently, these recommendations are incorporated into the management scheme through a framework adjustment or amendment to the FMP. Given the time necessary to develop FMP framework adjustments and amendments, it is likely that, should such new stock status determination criteria result from a formal SAW/SARC peer review, the new criteria would not be available for the Councils' use for at least 1 year.

In addition, groups such as the Councils, the Atlantic States Marine Fisheries Commission (Commission), academic institutions, and other interested parties have periodically contracted with outside parties or conducted in-house formal peer reviews of the stock status determination criteria. In such instances, it has not been clear how the results of these independently conducted peer reviews should be viewed by the Councils in regards to National Standard 2 of the Magnuson-Stevens Act, which specifies that management decisions shall be based upon the best scientific information available.

In response, the Council has developed and submitted for review by the Secretary of Commerce, Framework 2 to the Spiny Dogfish FMP. This framework, if adopted, would enact the following actions, designed to improve the time frame in which peer reviewed information can be utilized in the management process, as well as providing guidance on peer review standards and how to move forward in the management process when peer review results are not clear. The principal actions proposed by Framework 2 are to:

1. Redefine in general terms, while maintaining objective and measurable criteria, the stock status determination criteria for spiny dogfish;

2. Define what constitutes an acceptable level of peer review; and

3. Provide guidance on how the Council may engage its Scientific and Statistical Committee (SSC), including cases when approved peer review processes fail to provide a consensus recommendation or clear guidance for management decisions.

These changes, proposed in Framework 2, are discussed in detail in the following sections. This action is similar to Framework Adjustment 7 to the Summer Flounder, Scup, and Black Sea Bass FMP that was implemented in 2007.

Redefined Stock Status Determination Criteria

Framework 2 would redefine the stock status determination criteria for spiny dogfish in the FMP. The maximum fishing mortality rate (F) threshold is defined as FMSY; which is the fishing mortality rate associated with the maximum sustainable yield (MSY) for spiny dogfish. The maximum fishing mortality rate threshold (Fmsy), or a reasonable proxy thereof, may be defined as a function of (but not limited to): Total stock biomass, spawning stock biomass, or total pup production; and may include males and/or females, or combinations and ratios thereof, that provide the best measure of productive capacity for spiny dogfish. Exceeding the established fishing mortality rate threshold constitutes overfishing.

The minimum stock size threshold is defined as 1/2 of the biomass at MSY (B_{msy}) (or a reasonable proxy thereof) as a function of productive capacity. The minimum stock size threshold may be defined as (but not limited to): Total stock biomass, spawning stock biomass, or total pup production; and may include males and/or females, or combinations and ratios thereof, that provide the best measure of productive capacity for spiny dogfish. The minimum stock size threshold is the level of productive capacity associated with the relevant 1/2 B_{msy} level. Should the measure of productive capacity for the stock or stock complex fall below this minimum threshold, the stock or stock complex is considered overfished. The target for rebuilding is specified as B_{msy}, under the same definition of productive capacity as specified for the minimum stock size threshold.

Under Framework 2, the stock status determination criteria are proposed to be made more general by removing specific references to how maximum fishing mortality threshold, minimum stock size threshold, and biomass are calculated. By making the stock status determination criteria more general, the results of peer reviewed best available science could be more readily adopted through the specification-setting process. The Councils would still

provide specific definitions for the stock status determination criteria in the specifications and management measures, future framework adjustments, and amendments, including, where necessary, information on changes to the definitions.

Peer Review Standards

While the NEFSC SAW/SARC process remains the primary process utilized in the Northeast Region to develop scientific stock assessment advice, including stock status determination criteria for federally managed species, Framework 2 proposes several additional scientific review bodies and processes that would constitute an acceptable peer review to develop scientific stock assessment advice for spiny dogfish stock status determination criteria. These periodic reviews outside the SAW/SARC process could be conducted by any of the following, as deemed appropriate by the managing authorities:

- Transboundary Resource Assessment Committee (TRAC), composed of both U.S. and Canadian scientists
- MAFMC SSC Review
- MAFMC Externally Contracted Reviews with Independent Experts (e.g., Center for Independent Experts– CIE)
- NMFS Internally Conducted Review (e.g., Comprised of NMFS Scientific and Technical Experts from NMFS Science Centers or Regions)
- NMFS Externally Contracted Review with Independent Experts (e.g., Center for Independent Experts–CIE)

Guidance on Unclear Scientific Advice Resulting from Peer Review

In many formal peer reviews, the terms of reference provided in advance of the review instruct the reviewers to formulate specific responses on the adequacy of information and to provide detailed advice on how that information may be used for fishery management purposes. As such, most stock assessment peer reviews result in clear recommendations on stock status determination criteria for use in the management of fish stocks. However, there are occasional peer review results where panelists disagree and no consensus recommendation is made regarding the information. The terms of reference may not be followed and no recommendations for the suitability of the information for management purposes may be made. In such instances, it is unclear what then constitutes the best available information for management use.

Framework 2 proposes that, when clear consensus recommendations are made by any of the acceptable peer review groups, the information is considered the best available and may be utilized by the Council in the management process for spiny dogfish. Similarly, when the consensus results of a peer review are to reject proposed changes to the stock assessment methods or the stock status determination criteria, Framework 2 proposes that the previous information on record would still continue to constitute the best available information and should be used in the management process.

When peer review recommendations do not result in consensus, are unclear, or do not make recommendations on how the information is to be used in the management process, Framework 2 proposes that the Councils engage their SSCs or a subset of their SSCs with appropriate stock assessment expertise, to review the information provided by the peer review group. The SSC would then seek to clarify the information and provide advice to the Councils to either modify, change, or retain the existing stock status determination definitions as the best available information for use in the development of specifications and management measures.

Classification

NMFS has determined that this proposed rule is consistent with the FMP and has preliminarily determined that the rule is consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Regional Administrator has determined that this proposed rule is an administrative framework adjustment to the FMP and is, therefore, categorically excluded from the requirement to prepare an Environmental Impact Statement or equivalent document under the National Environmental Policy Act.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This proposed rule deals only with how the best available, peer-reviewed scientific information can be more quickly and efficiently incorporated into the Councils' specification-setting process for spiny dogfish. This is achieved by broadening the descriptions of the stock status determination criteria in the FMP, so updated and peer-reviewed information can be more readily adopted for use in the management process. The proposed change is to how the stock status determination criteria are defined; there is no change to the existing determination criteria. Additionally, the Framework identifies acceptable levels of peer review that must be satisfied before new or revised information is accepted as the best available science. These are administrative changes to the FMP that serve to improve the quality of data used in management decisions, consistent with National Standards 1 and 2 of the Magnuson-Stevens Act. As such, the rule will not have significant direct or indirect economic impacts on small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 25, 2009.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E9–4480 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 74, No. 40
Tuesday, March 3, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Privacy Act of 1974, System of Records

AGENCY: United States Agency for International Development

ACTION: Notice of new system of records.

SUMMARY: The United States Agency for International Development (USAID) is issuing public notice of its intent to establish a new system of records maintained in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, entitled ''USAID–029, Deployment Tracking System.'' This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of record systems maintained by the agency (5 U.S.C. 522a(e)(4)).

DATES: Public comments must be received on or before April 2, 2009. Unless comments are received that would require a revision, this update to the system of records will become effective on April 13, 2009.

ADDRESSES: You may submit comments:

Paper Comments

- *Mail:* Chief Privacy Officer, United States Agency for International Development, 1300 Pennsylvania Avenue, NW., Suite 2.12–003, Washington, DC 20523–2120.

Electronic Comments

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the Web site for submitting comments.

FOR FURTHER INFORMATION CONTACT: General questions regarding this notice should be directed to Randall Davis, Jr., Office of Civilian Response, (202) 712–1814. Privacy Act related questions should be directed to Rhonda Turnbow, Deputy Chief Privacy Officer (202) 712–0106.

SUPPLEMENTARY INFORMATION: USAID is establishing a new system of records pursuant to the Privacy Act (5 U.S.C. 552a), entitled the Deployment Tracking System (DTS). This system is being established to support USAID's responsibilities as identified in National Security Presidential Directive 44 (NSPD–44), issued on December 7, 2005.

The objective of NSPD–44 is to promote the security of the United States through improved coordination, planning and implementation for reconstruction and stabilization assistance for foreign states and regions at risk of, in, or in transition from conflict or civil strife. NSPD–44 mandates the Department of State to coordinate, plan and implement an interagency effort, with the capacity to quickly and effectively respond to a crisis overseas. To accomplish this, the Department of State established the Civilian Response Corps (CRC). Led by the Department of State, CRC is comprised of eight agency partners, including USAID, whose programs and personnel may have relevant capabilities to prepare, plan for, and conduct stabilization and reconstruction activities.

USAID's Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Civilian Response (DCHA/OCR) has been assigned to implement these mandates. In order to participate as a partner agency, USAID must have mechanisms in place to assign or employ skilled personnel and have the ability to mobilize resources rapidly in response to stabilization crisis. The DTS is being established to provide DCHA/OCR personnel with internal capabilities to plan and mobilize the appropriate personnel in response to a crisis. The system will be used to identify potential, current and former civilian employees and contractors skilled in crisis response, to ensure a coordinated U.S. response to international reconstruction and stabilization efforts.

Dated: February 23, 2009.

W. Philip Gordon, Jr.,
Acting Chief Privacy Officer.

USAID–029

SYSTEM NAME:

Deployment Tracking System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

Records will be maintained at USAID, Director, Office of Civilian Response, 1300 Pennsylvania Ave., NW., RRB Suite 08.6, Washington, DC 20253.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system will contain records of current, planned, and former employees and contractors who choose to participate in the Civilian Response Corps.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system will contain information relevant to the planning, administration, training, and management of CRC personnel. Categories of records include: Full name, date of birth, height/weight, hair/eye color, blood type, marital status, religion, citizenship, home address, home phone number, mobile phone number, personal e-mail address, emergency contact, next of kin, passport information, and driver license information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Presidential Directive 44, Supplemental Appropriations Bill for Fiscal Year 2008, H.R. 2642–7, and Foreign Assistance Act of 1961.

PURPOSE(S):

Records in this system will be used:

(1) To track operations of the hiring process;

(2) To monitor the deployment validation process;

(3) To identify and plan deployment teams;

(4) To assess and manage the deployment and logistics of team members;

(5) To notify, locate and mobilize individuals in a deployed area, as necessary during emergency or other threatening situation;

(6) To notify the designated emergency contact in case of a medical or other emergency involving an individual.

(7) To manage orientation, annual, specialized and pre-deployment training in preparation for projected deployments.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

These records are not disclosed to consumer reporting agencies.

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

In addition to USAID's Statement of Routine uses, records in this system may be disclosed to:

(1) Any Federal Agency, Foreign Government or other entity participating in emergency response activities or providing assistance to USAID with an evacuation, medical emergency, any other crisis situation, or

(2) Any CRC partner agency to carry out activities in support of the mission of OCR and the CRC.

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

STORAGE:

Records are stored in electronic format. Paper copy will be shredded once electronic input is complete.

RETRIEVABILITY:

Records are retrievable by name, location or any other identifier listed in the categories of records cited above.

SAFEGUARDS:

Access to electronic records will be restricted to those individuals with a need to know. Users will use passwords to access the system. The electronic records will be protected by standard USAID information system security measures.

RETENTION AND DISPOSAL:

Records will be updated periodically to reflect changes and deleted or destroyed when their use is no longer required. OCR is requesting a National Archives and Records Administration (NARA) approved electronic records schedule.

SYSTEM MANAGER AND ADDRESS:

USAID, Director, Office of Civilian Response, 1300 Pennsylvania Ave., NW., RRB Suite 08.6, Washington, DC 20253.

NOTIFICATION PROCEDURES:

Individuals requesting notification of the existence of records on them must send the request in writing to the USAID Chief Privacy Officer, 1300 Pennsylvania Ave. NW., RRB Suite 2.12–003, Washington, DC 20253. The request must include the requestor's full name, his/her current address and a return address for transmitting the information. The request must be notarized and reasonably specify the record contents being sought.

RECORD ACCESS PROCEDURES:

Individuals requesting access to a record maintained on them must address the request to the USAID Chief Privacy Officer as described in ''Notification Procedures'' above.

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment of a record maintained on them must identify the information to be changed and the corrective action sought. Requests must be sent to the USAID Chief Privacy Officer as described in ''Notification Procedures'' above.

RECORD SOURCE CATEGORIES:

The records contained in this system will be provided by and updated by the individual who is the subject of the record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–4325 Filed 3–2–09; 8:45 am]

BILLING CODE 6116–02–P

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Solicitation of Input From Stakeholders Regarding the Healthy Urban Food Enterprise Development Center Program

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Request for stakeholder input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) is implementing a new competitive grants program called the Healthy Urban Food Enterprise Development Center Program (the Center) authorized by 7 U.S.C. 2034(h). By this notice, CSREES is soliciting public comments and stakeholder input from persons who use or conduct research, extension or education, training, outreach and technical assistance regarding the development of competitive Requests for Applications (RFAs) and implementing regulations.

DATES: All written comments must be received by April 2, 2009.

ADDRESSES: You may submit comments, identified by CSREES–2008–0005, by any of the following methods:

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

E-mail: ltuckermanty@csrees.usda.gov. Include CSREES–2008–0005 in the subject line of the message.

Fax: (202) 401–1782.

Mail: Paper, disk or CD–ROM submissions should be submitted to: Liz Tuckermanty; Competitive Program (CP) Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Mail Stop 2201; 1400 Independence Avenue, SW.; Washington, DC 20250–2201. Hand Delivery/Courier: Liz Tuckermanty; Competitive Programs (CP) Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 2340; Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024.

Instructions: All submissions received must include the title ''The Center'' and CSREES–2008–0005. All comments received will be posted to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Dr. Liz Tuckermanty, (202) 205–0241 (phone), (202) 401–1782 (fax), or *ltuckermanty@csrees.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

The purpose of the Center is to increase access to healthy affordable foods to underserved communities. The Center will also collect, develop, and provide technical assistance and information to small and medium-sized agricultural producers, food wholesalers and retailers, schools, and other individuals and entities regarding best practices and the availability of assistance for aggregating, storing, processing, and marketing locally produced agricultural products and increasing the availability of such products in underserved communities.

Through a grant to a non-profit entity, sub-grants will be used to carry out feasibility studies to establish businesses to increase access to healthy affordable foods, including locally produced agricultural products, to underserved communities and establish and otherwise assist enterprises that process, distribute, aggregate, store, and market healthy affordable foods.

Sub-grants will be awarded to nonprofit organizations; cooperatives, commercial entities, agricultural producers, academic institutions, individuals and other entities as the Secretary of Agriculture may designate.

In FY 2009, it is anticipated that one million dollars in funding will be available and priority will be given to applications that:

1. Benefit underserved communities (as defined by 7 U.S.C. § 2034); and

2. Develop market opportunities for small and mid-sized farm and ranch operations.

Reporting requirement for funded projects include a report to the Secretary describing the activities carried out in the preceding fiscal year, including, but not limited to, a description of technical assistance provided by the Center; the total number and a description of the sub-grants provided; a complete listing of cases in which the activities of the Center have resulted in increased access to healthy, affordable foods, such as fresh fruit and vegetables, particularly for school-aged children and individuals in low income communities; and a determination of whether the activities identified are sustained during the years following the initial provision of technical assistance and sub-grants.

Additional Supplementary Information

It is anticipated that the competitive RFA will request applications within 60 days of issue. Proposals will be accepted through Grants.gov. All proposals meeting requirements of the RFA will be peer reviewed in a CSREES competitive process with one single award for approximately 1 million dollars (less administrative costs). It is anticipated that this will be a continuation award with the potential for three years of funding. A continuation is an award instrument by which the CSREES agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interest for the Federal government and the public.

Implementation Plans

CSREES plans to consider stakeholder input received from written comments in developing competitive RFAs and implementing regulations for this program. CSREES anticipates releasing a RFA for fiscal year 2009 funds by April 2009.

Done at Washington, DC, this 25th day of February 2009.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. E9–4384 Filed 3–2–09; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: North Central Idaho Resource Advisory Committee, Grangeville, Idaho, USDA, Forest Service.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 110–343) the Nez Perce and Clearwater National Forests' North Central Idaho Resource Advisory Committee will meet Wednesday, March 25th, 2009 in Grangeville, Idaho for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on March 25th will be held at the Super 8 motel in Grangeville, Idaho, beginning at 10 a.m. (PST). Agenda topics will include reviewing new law, election of chairperson and discussion of potential projects. A public forum will begin at 3:15 p.m. (PST).

FOR FURTHER INFORMATION CONTACT: Laura A. Smith, Public Affairs Officer and Designated Federal Officer, at (208) 983–5143.

Dated: February 23, 2009.

Thomas K. Reilly,

Forest Supervisor.

[FR Doc. E9–4344 Filed 3–2–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Generic Clearance for 2010 Census Program for Evaluations and Experiments.

Form Number(s): Various.

OMB Control Number: None.

Type of Request: New collection.

Burden Hours: 26,854.

Number of Respondents: 1,815,000.

Average Hours per Response: Between 7 and 10 minutes.

Needs and Uses: As with previous decennial censuses dating back to 1950, the U.S. Census Bureau has undertaken the 2010 Census Program for Evaluations and Experiments (CPEX) to examine methodologies, techniques, and strategies that will potentially improve the way it conducts the next decennial census. The 2010 CPEX will guide future census design, as well as benefit other ongoing programs conducted by the Census Bureau, such as the American Community Survey.

The 2010 CPEX includes four experiments and over 20 evaluations. This request for OMB approval covers all four experiments and four of the 20 evaluations. For the remaining 16 evaluations in the 2010 CPEX, some do not involve data collections and do not require OMB approval; others are still in development, and will be submitted for OMB clearance at a later time. The four experimental studies are as follows: 2010 Alternative Questionnaire Experiment (AQE); 2010 Nonresponse Followup (NRFU) Contact Strategy Experiment; 2010 Deadline Messaging (DM)/Compressed Schedule (CS) Experiment; and 2010 Privacy Notification (PN) Experiment. The four evaluations are as follows: 2010 AQE Reinterview Evaluation; 2010 Content Reinterview Evaluation; 2010 Alternative Group Quarters (GQ) Questionnaire Evaluation; and the 2010 Interactive Voice Response (IVR) Customer Satisfaction Survey Evaluation. The Census Bureau identified the need to include the IVR Customer Satisfaction Survey Evaluation in this generic clearance package after the publication of the pre-submission notice in the **Federal Register** on September 24, 2008. The Census Bureau and the Office of Management and Budget (OMB) have discussed and agree on the inclusion of the IVR Customer Satisfaction Survey Evaluation in this package.

All of the experiments and evaluations are primarily designed for use by the Census Bureau and will inform early 2020 testing and planning. These experiments and evaluations are designed to identify improvements for the next decennial census. Census Bureau managers and planners will use results from these studies to focus 2020 decennial census planning and research.

This request is for a generic clearance, which seeks to gain pre-approval for the evaluations and experiments listed above. General descriptions of each activity, and as much detail as can be provided presently are provided to OMB in this clearance request. However, some details and the forms to be utilized are not finalized as of the date of this submission and are not provided to OMB in the clearance request. These

details and final forms will be submitted to OMB in advance of each activity as non-substantive change requests.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: With the exception of the voluntary IVR Customer Satisfaction Survey, these activities are mandatory.

Legal Authority: Title 13, United States Code, Section 141 and 193.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: February 25, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–4376 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2010 Census—American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands.

OMB Control Number: 0607–0860.

Form Number(s): Various.

Type of Request: Reinstatement, with change, of an expired collection.

Burden Hours: 111,675.

Number of Respondents: 158,700.

Average Hours per Response: 42 minutes.

Needs and Uses: The U.S. Census Bureau (Census Bureau) requests authorization from the OMB to collect data from the public in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands (collectively referred to as the Island Areas) as part of the 2010 Census. The United States Constitution mandates that a census of the Nation's population be taken every ten years. In Title 13, U.S. Code, the Congress gave the Secretary of Commerce (delegated to the Director of the Census Bureau) authority to undertake the decennial census. The geographic scope of the decennial census is specified in Title 13 U.S.C., Section 191 as covering the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, Guam, and any other areas as may be determined by the Department of State. In the 2010 Census, the Census Bureau also will enumerate the Pacific Island Area of American Samoa. Census data are used to determine funding allocations for the distribution of federal and state funds each year.

From the 2010 Census of the Island Areas, the Census Bureau will collect demographic, social, economic, and housing characteristics specifically elaborated in Title 13 U.S. Code. The code also provides for the confidentiality of responses to various surveys and censuses.

Affected Public: Individuals or households.

Frequency: One-time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 141 and 191.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: February 26, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–4430 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2010 Census Integrated Communication Program Evaluation

AGENCY: U.S. Census Bureau, Commerce.

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 May 4, 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 Donna Souders, Bureau of the Census, HQ–3H470A, Washington DC; (301) 763–1810 (or via the Internet at *Donna.M.Souders@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau will conduct the 2010 Census Program for Evaluations and Experiments (CPEX) to evaluate the current census and to build a foundation on which to make early and informed decisions for planning the next census in 2020. Program planners designed CPEX to measure the effectiveness of the 2010 Census design (including operations, systems, and processes), in addition to determining how the design impacts data quality. The intent of this public notice is to present the plan for and to invite comments on one CPEX project: The 2010 Census Integrated Communication Program (ICP) Evaluation.

In September 2007, the Census Bureau contracted the services of Draftfcb, Inc., a marketing communications agency, to create, produce and implement an integrated marketing and communications campaign in support of the 2010

Census. The contract, known as the 2010 Census Integrated Communication Campaign (ICC), was awarded as an Indefinite Delivery—Indefinite Quantity (IDIQ), multiple-year contract (one 12-month base year and three 12-month option years), with an estimated value of $207 million.

The 2010 Census ICC is the second time that the decennial census has involved a paid advertising campaign. Evaluations of the Census 2000 paid advertising campaign indicated that the effort contributed to increasing mail returns of census forms, thereby reducing costs of the Non-Response Follow-Up operation. The 2010 Census ICC contract is a major public expenditure and has great potential to affect the quality and overall cost of the 2010 Census. For these reasons, a rigorous and independent evaluation of the 2010 Census ICC is essential for assessing the success of the 2010 Census and planning for the 2020 Census.

The 2010 Census ICC also includes partnerships, the Census in Schools effort, and other related outreach programs and activities to the public. The Census Bureau partnership campaign involves the Census Bureau partnering with state and local organizations, including churches and social organizations, to help U.S. residents learn about the Census, and be encouraged to participate by people they trust rather than the government collecting the data. The Census in Schools campaign is an effort to reach families through their school-age children.

In the fall of 2008, after an open competition, the Census Bureau awarded a contract to the National Opinion Research Center (NORC) at the University of Chicago to conduct an evaluation of the 2010 Census ICC. NORC is tasked with conducting an independent evaluation of the integrated marketing communication campaign to determine if the campaign is achieving its goals. The purpose of the evaluation is to assess the impact of the entire campaign in addition to determining the contribution of each of its components: Paid media/advertising, partnerships, the Census in Schools program, and related outreach to the public. NORC has developed an evaluation strategy to determine if the following three goals were achieved by the 2010 Census ICC.

(1) Increased mail response;

(2) Reduced differential undercount; and

(3) Improved cooperation with enumerators.

NORC's evaluation of the effectiveness of the overall campaign also involves assessing the extent to which the campaign moves people toward the goal of responding to the census. This may consist of measuring the effectiveness of specific messages for target audiences, measuring increases in awareness of the census and changes in attitudes toward the census (survey research), and measuring changes in intention to return the census form and actual return of the form (survey research; modeling). These are general measures of effectiveness, and when used together, provide a good indicator of how well a campaign does in support of the overall objectives.

NORC's evaluation will objectively measure whether campaign strategies and tactics were effective in raising awareness, changing attitudes and/or beliefs, and influencing behavior. In assessing the overall effectiveness of the campaign, NORC will also identify and measure the impact of key phenomena pertaining to the 2010 Census, but outside the scope of the official ICP. This includes acknowledgement and measurement of breaking events.

Finally, NORC will compare the knowledge, attitudes, and beliefs about the Census held by Americans before, during, and after the 2010 Census ICC implementation with those held at similar points in time relative to the Census 2000.

Populations of Interest: The Census Bureau and Draftfcb have identified two classifications of the U.S. population that undergird much of the design and implementation of the 2010 Census ICC. These two classifications figure prominently in the sample design and analysis plan for the 2010 Census ICP Evaluation. First, the Census Bureau has identified five race/ethnicity populations of particular priority in census outreach efforts. These are: Black Africans and African-Americans, Hispanics of any race, Native Hawaiians and other Pacific Islanders, American Indians and Alaska Natives, and Asians. In addition, Draftfcb and the Census Bureau have devised an audience segmentation that classifies all census tracts in the United States into one of eight segments that share similar socioeconomic and other demographic characteristics as well as propensity to complete the census form. The eight audience segments are: Advantaged Homeowners, All Around Average I, All Around Average II, Economically Disadvantaged, Ethnic Enclave I, Single Unattached Mobiles, Economically Disadvantaged II, and Ethnic Enclave II. The audience segments provide the basis for 2010 Census ICC decisions regarding resources, media selection, and tailored messages.

Evaluation Design

NORC's proposed evaluation design involves the following key elements: conduct surveys of the general public based on probability methods that combine cross-sectional, time-series samples with longitudinal samples to maximize the statistical power of cross-sectional estimates and change over time and in response to 2010 Census ICC efforts. NORC will conduct hybrid (cross-sectional/longitudinal) surveys with probability samples of United States households, oversampling minority populations and other target segments, at three points in time—[Wave 1] during the earliest phases of partnership activity, in mid-2009 to assess baseline levels of all measures of public attention and intentions that will be the focus of the 2010 Census ICC; [Wave 2] during the expected peak of 2010 Census ICC activity from January through May 2010; and [Wave 3] during the post mailout period from May through August 2010.

Exposure to components of the 2010 Census ICC will be estimated using several data sources in addition to survey data. These data sources will permit exploration of relationships between intensity of campaign activity and changes in awareness, attitudes, and intentions among the general public and key population subgroups. Data sources will include ratings and impressions data for the paid advertising campaign, and the Census Bureau's Integrated Campaign Partnership Database (ICPD) data for measuring partnership activity. NORC also plans to merge actual data on household participation in the 2010 Census with the survey records of households in the 2010 Census ICP Evaluation survey sample for a more detailed and accurate record of households' census participation, including mailback status, cooperation with enumerators, and other indicators of census actions regarding these households' 2010 participation. Each of these alternative data sources will be essential in corroborating, triangulating with, or providing alternative measures of exposure to the self-reported campaign exposure measures collected through surveys.

NORC will collaborate with Census Bureau staff to compile aggregate-level data on the 2010 Census ICC effort and Census results to analyze the relationships between measures of planned and actual 2010 Census ICC activity (by component) and aggregate Census participation results (mail response, enumerator response, non-response) in 1990, 2000, and 2010 to

identify trends over time in target segments and for hard-to-count areas.

To improve the ability of the NORC design to detect a relationship between campaign exposure and response, there will also be 'observational case-control studies.' In these studies, additional cases will be added in geographical areas selected as matched pairs. These pairs will be similar on socio-demographic and psychosocial characteristics but may be likely to experience planned or unplanned variations in the implementation of 2010 Census ICC components. The pairs will be determined during the course of the 2010 Census ICP Evaluation using evidence gathered from Draftfcb strategy and implementation, Waves 1 and 2 data from this evaluation, as well as the ancillary data mentioned above. The objective is to compare public exposure to the persuasive messages delivered through 2010 Census ICC components and to measure the resulting differential impact (if any), improving the clarity of the evidence for 2010 Census ICC effects.

Combining and interpreting results from multiple analytical approaches will improve the capacity of the design to answer the key evaluation questions concerning the impact of the 2010 Census ICC and its components, and the return on investment of 2010 Census ICC resources with respect to the three primary outcomes of interest. As needed, qualitative data collection may further inform or illuminate puzzles within the analysis activity.

Sample Selection

The 2010 Census ICP Evaluation data collection plan calls for 3,000 cases each in Waves 1 and 2, and 4,200 cases in Wave 3. Approximately 1,500 cases in each of Waves 2 and 3 will come from a longitudinal panel of Wave 1 cases, while the remaining cases in the Wave will be selected for the first time.

In Waves 1 and 2, equal numbers of cases will come from each of the five race/ethnicity populations and the remaining non-targeted group. The sample size of 500 per race/ethnicity group used in the 2000 Partnership and Marketing Program Evaluation (PMPE), the analogous evaluation from the 2000 Census, resulted in design effects around 2.0 and standard errors of 3.2 percent (on a binary proportion of 50 percent). The same sample sizes are planned for the 2010 Census ICP Evaluation. For Wave 3, the sample size will grow to 900 for each of the three largest race/ethnicity groups (non-targeted, non-Hispanic Black African and African-American, Hispanic of any race). This will not only decrease the standard errors for this wave, but will also permit selection of additional respondents into the sample to support the observational study design described above.

The three largest race/ethnicity groups will be fielded together as a core sample from a nationally representative sample of households selected using NORC's 2000 National Frame. The three additional samples are of sufficiently rare populations that they must be selected separately.

Three Supplemental Samples

For the remaining three race/ethnicity populations, manipulating the tracts and segments selected will not be sufficient to meet the target sample sizes. Therefore, NORC will have to field independent samples. Asian and Native Hawaiian samples can be drawn from addresses in NORC's National Frame, but American Indian/Alaska Native reservation samples will require fresh listing.

American Indians/Alaska Native (AIAN)

According to the 2000 Census, there were 3,420,171 persons living in the United States that were non-Hispanic and AIAN (alone or in combination with another race), and 998,199 living on the 651 U.S. reservations (29.3 percent of the AIAN population). For cost-efficiency, NORC will select Waves 1, 2, and 3 samples from 20 reservations out of the 283 reservations with at least 250 AIANs.

Asians

According to the 2000 Census, there were 11,266,934 persons in the United States that were non-Hispanic and Asian (alone or in combination with another race). Of these, 17.0 percent live in the five U.S. cities with the largest Asian populations, and 29.3 percent live in the 40 cities with the largest Asian populations that also satisfy a density of 10 percent. NORC will select Waves 1, 2, and 3 samples from 40 cities within its National Frame (some, like Fremont, CA, are not the central city for a metropolitan statistical area).

Native Hawaiian and Pacific Islander (NHOPI)

According to the 2000 Census, there were 860,965 persons living in the United States who were non-Hispanic and NHOPI (alone or in combination with another race). Of these persons, 32.8 percent live in the state of Hawaii, and 23.32 percent of Hawaii residents are NHOPI; less than 1 percent of residents are NHOPI in all other states. The state with the largest NHOPI population outside of Hawaii is California, which contains 25.4 percent of U.S. NHOPIs, but only 0.64 percent of California residents are NHOPI. The state with the next largest NHOPI population is Washington, which has 4.8 percent of U.S. NHOPIs, but only 0.70 percent of Washington residents are NHOPI. NORC will select Waves 1, 2, and 3 samples from all five counties in Hawaii.

The Census Bureau is discussing the sampling strategies for these three supplemental samples with NORC and may propose an alternative approach.

Analysis

The 2010 Census ICP Evaluation questionnaires will cover such topics as: Demographics; general media use and other activities that might lead to exposure to the 2010 Census ICC; knowledge, attitudes, and beliefs about the Census; intent to participate; actions taken upon receipt of the Census form or interactions with Census enumerators (depending on the timing of the wave); and self-reported exposure to 2010 Census ICC activities, including unaided and aided awareness and confirmed recall questions.

Analyses will include cross-sectional examinations of each wave's data independently, as well as repeated cross-section and longitudinal analyses across waves. By incorporating various other data sources, NORC will be able to estimate campaign evaluation-style models for assessing the impact of various components of the 2010 Census ICC. Analyses will focus on the general public, the five hard-to-enumerate groups, and the eight audience segments. For each of these sub-populations, NORC will discuss the various research questions described above.

II. Method of Collection

Pre-Testing of Survey Instruments

At least 75 percent of the questionnaire items for all three waves' instruments have previously been administered in national surveys cleared by Office of Management and Budget (OMB). Chiefly, the source instruments are from the 2000 PMPE and the Census Barriers, Attitudes, and Motivations Survey (fielded in 2008, by Macro International Inc. for DraftFCB). Additional pre-testing of the proposed instruments will be conducted under the generic OMB clearance provided to the Census Bureau for CPEX data collection. All three draft questionnaires will be pre-tested using cognitive interviewing techniques and then for accuracy of timing estimates. Convenience sample respondents will

be recruited from the general public, the five hard-to-enumerate populations identified as priorities by the Census Bureau, and the eight 'audience segments' defined at the census-tract level.

A key tool for improved quality of self-reported media exposure data is the use of confirmed recall items in which respondents are not only asked to report on ad viewing, but also on the details of the ad content. This question type will be of great value in the Waves 2 and 3 questionnaires, when the paid advertising campaign will be in full swing. Final advertisements will not be developed, however, until closer to the time of campaign implementation. Specific questionnaire items will be developed and pre-tested after final advertisements are available for review. Templates of these question formats will be submitted with the original OMB package, but specific questions will be submitted to OMB for review after the formal clearance process has been completed.

Survey Schedule

Three surveys are proposed:

Wave [dates]	Sample size and composition	Comments
1 [Summer/Fall 2009]	3,000 evenly distributed across 6 race/ethnic groups.	
2 [January 10–May 15, 2010]	3,000 evenly distributed across 6 race/ethnic groups.	1,500 cases (evenly distributed across race/ethnic groups) who completed Wave 1 as well.
3 [May 15–August 31, 2010]	4,200, of which 3,000 evenly distributed across 6 race/ethnic groups.	+ 1,500 cases (evenly distributed across race/ethnic groups) who completed Wave 1 (and possibly Wave 2) as well. + 1,200 cases in selected sites for 'observational case control'.

Mixed-Mode Data Collection

NORC will employ an address-based sampling design that marries the comprehensive coverage of address lists with the cost effectiveness of telephone data collection. Through telephone number matching services and advance letter requests to sampled addresses, NORC will begin the data collection effort by telephone, expecting to obtain phone numbers for approximately 60 percent of the selected sample. Cases will then also be solicited for web completion, or completion by mail and by paper-and-pencil Self-Administered Questionnaire. A sub-sample of all cases not completed will be fielded in-person. Telephone interviewing will make use of Computer-Assisted Telephone Interviewing technologies, while in-person data collection will make use of paper and pencil questionnaires. Telephone and in-person data collection will be conducted in the languages of the 2010 census form: English, Spanish, Chinese, Korean, Vietnamese and Russian.

III. Data

OMB Control Number: None.

Form Number: To be determined.

Type of Review: Regular submission.

Affected Public: Households.

Estimated Number of Respondents: 7,200.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 5,100.

2009: 1,500 hours (Wave 1).

2010: 3,600 hours (Waves 2 and 3).

Estimated Total Annual Cost: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. 141 and 193.

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: February 25, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–4380 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket 65–2008)

Foreign–Trade Zone 207 Richmond, Virginia, Withdrawal of Request for Subzone Status, Qimonda North America Corporation, Sandston, Virginia

Notice is hereby given of the withdrawal of the application of the Capital Region Airport Commission, grantee of FTZ 207, requesting special–purpose subzone status on behalf of Qimonda North America Corporation in Sandston, Virginia. The application was filed on December 2, 2008 (73 FR 76613, 12/17/2008).

The case has been closed without prejudice.

Dated: February 24, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–4469 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Chemical Weapons Convention Amendment: End-Use Certificates, Advanced Notifications and Annual Reports

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 4, 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 and instructions should be directed to Larry Hall, BIS ICB Liaison, (202) 482–4895, *lhall@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Chemical Weapons Convention (CWC), an international arms control treaty that seeks to achieve an international ban on chemical weapons. The CWC prohibits the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons. This collection implements certain provisions involving the transfer of chemicals between countries. The United States is required to notify the Organization for the Prohibition of Chemical Weapons (OPCW) at least 30 days before any transfer (export/import) of Schedule 1 chemicals to another State Party and to provide annual reports to the OPCW on all transfers of Schedule 1 chemicals. In addition, the United States is required to obtain End-Use Certificates for transfers of Schedule 3 chemicals to Non-States Parties to ensure the transferred chemicals are only used for the purposes not prohibited under the Convention.

II. Method of Collection

Submitted electronically or in paper form.

III. Data

OMB Control Number: 0694–0117.
Form Number(s): None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations; not-for-profit institutions.
Estimated Number of Respondents: 107.
Estimated Time per Response: 30 minutes.
Estimated Total Annual Burden Hours: 54.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of 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: February 25, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–4382 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814]

Chlorinated Isocyanurates from Spain: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: March 3, 2009.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–2371.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 2008, the Department of Commerce (the Department) published the notice of initiation of the administrative review of the antidumping duty order on chlorinated isocyanurates from Spain for the period June 1, 2007 through May 31, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, Request for Revocation in Part, and Deferral of Administrative Review, 73 FR 44220 (July 30, 2008). The preliminary results of this administrative review are currently due no later than March 2, 2009.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(1), the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245–day period to 365 days if it is not practicable to complete the review within the foregoing time period. *See id.; see also* 19 CFR 351.213(h)(2).

The Department finds that it is not practicable to complete the preliminary results by the current deadline of March 2, 2009 because it needs additional time to fully analyze the sales and cost–of-production supplemental questionnaire responses that are due from respondent, and to conduct cost and sales verifications of the questionnaire responses. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department has decided to extend the time limit for the preliminary results by 78 days to May 19, 2009. Unless extended, the final results continue to be due 120 days after the publication of the preliminary results, pursuant to section 751(a)(3)(A) of the Act and section 351.213(h) of the Department's regulations.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 25, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–4467 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–850]

Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Japan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

DATES: *Effective Date:* March 2, 2009.

FOR FURTHER INFORMATION CONTACT: Alexander Montoro or Nancy Decker, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0238 or (202) 482–0196, respectively.

Background

On July 30, 2008, the Department of Commerce (''Department'') published in

the **Federal Register** the initiation of administrative review of the antidumping duty order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe from Japan, covering the period June 1, 2007, through May 31, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 44220 (July 30, 2008). The preliminary results for this administrative review are currently due no later than March 2, 2009.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

The review covers four manufacturers/exporters: JFE Steel Corporation; Nippon Steel Corporation; NKK Tubes; and Sumitomo Metal Industries, Ltd. These four manufacturer/exporters submitted letters to the Department certifying that they made no shipments or entries for consumption in the United States of the subject merchandise during the period of review (POR). In response to the Department's query to U.S. Customs and Border Protection (CBP), CBP data showed POR entries for consumption of subject merchandise that were manufactured by one of the respondent companies. The information regarding these entries has been placed on the record of this review under the terms of the administrative protective order. The Department is soliciting additional information and comments regarding these entries. Because the Department requires additional time to analyze the additional information and comments, it is not practicable to complete this review within the original time limit (*i.e.*, March 2, 2009). Therefore, the Department is extending the time limit for completion of the preliminary results by 120 days to June 30, 2009, in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 26, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–4470 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before March 23, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 3720.

Docket Number: 08–061. Applicant: California Association for Research in Astronomy dba W.M. Keck Observatory, 65–1120 Mamalahoa Highway, Kamuela, HI 96743. Instrument: Laser Launch Telescope Assembly (LTA). Manufacturer: Galileo Avionica, Italy. Intended Use: The LTA will be used as part of a Laser Guide Star Adaptive Optics System, which will measure and correct for the turbulence in the earth's atmosphere that causes a blurring of images or the ''twinkling'' of stars as viewed at nighttime. The LTA will act as a projection system to launch a laser beam onto a layer of sodium atoms in the mesosphere, around 90 km above the earth's surface, to provide a high quality ''artificial star'' in the atmosphere that will be used as a reference in measuring and correcting for the blurring effect. Justification for Duty–Free Entry: No US–manufactured instruments in the same general category as the foreign instrument for the intended use. Application accepted by Commissioner of Customs: January 6, 2009.

February 25, 2009.

Chris Cassel,

Acting Director, IA Subsidies Enforcement Office.

[FR Doc. E9–4468 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 87–8A001]

Export Trade Certificate of Review

ACTION: Correction of Previously Published Notice of Application (#87–8A001) to Amend an Export Trade Certificate of Review Issued to Independent Film and Television Alliance (formerly named American Film Marketing Association).

SUMMARY: Export Trading Company Affairs (''ETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). A notice summarizing the proposed amendment was published in the **Federal Register** on December 15, 2008 (73 FR 75999), requesting comments relevant to whether the amended Certificate should be issued. The **Federal Register** notice published on December 15, 2008, contained errors. This correction notice supersedes the notice dated December 15, 2008.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or e-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination

whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a non-confidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be non-confidential. An original and five (5) copies, plus two (2) copies of the non-confidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021X, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, non-confidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 87–8A001.''

A summary of the application for an amendment follows.

Summary of the Application:

Applicant: Independent Film and Television Alliance (''IFTA''), 10850 Wilshire Blvd., 9th Floor, Los Angeles, CA 90024.

Contact: Jerald A. Jacobs, Attorney to IFTA, Telephone: (202) 663–8011.

Application No.: 87–8A001.

Date Deemed Submitted: December 1, 2008.

The original IFTA Certificate was issued on April 10, 1987 (52 FR 12578, April 17, 1987) and last amended on August 6, 2003 (68 FR 48342, August 13, 2003).

Proposed Amendment: IFTA seeks to amend its Certificate to:

1. Change name of the Certificate holder from ''American Film Marketing Association'' to the new listing ''Independent Film and Television Alliance'';

2. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)):

111 Pictures Ltd, London, United Kingdom.
2929 International, LLC, Beverly Hills, CA.
Action Concept Film und Stuntproduktion GmbH, Huerth/Cologne, Germany.
Alpine Pictures, Inc., Burbank, CA.
American Cinema International, Van Nuys, CA.
American World Pictures, Encino, CA.
Artist View Entertainment, Inc., Studio City, CA.
AV Pictures Ltd, London, United Kingdom.
Bleiberg Entertainment, Beverly Hills, CA.
Bold Films L.P., Los Angeles, CA.
Boll AG, Mainz, Germany.
Brainstorm Media, Beverly Hills, CA.
Brightlight Pictures Inc., Burnaby, Canada.
Capella International Inc., Los Angeles, CA.
Celluloid Dreams, Paris, France.
Cinamour Entertainment, Encino, CA.
Cine Excel Entertainment, Inc., Gardena, CA.
Cinema Management Group, West Hollywood, CA.
Cinesavvy, Inc., Toronto, Canada.
CJ Entertainment Inc., Seoul, Republic of (South) Korea.
Classic Media, Inc., New York, NY.
ContentFilm International, London, United Kingdom.
Continental Entertainment Capital, Beverly Hills, CA.
DeAPlaneta, Barcelona, Spain.
Distribution Workshop, Kowloon Tong, Hong Kong.
E! Entertainment Television Networks, Los Angeles, CA.
Ealing Studios International, London, United Kingdom.
Echo Bridge Entertainment, Needham, MA.
Emperor Motion Pictures, Wanchai, Hong Kong.
Epic Pictures Group, Inc., Beverly Hills, CA.
Essential Entertainment, Los Angeles, CA.
EuropaCorp, Paris, France.
Fabrication Films, Los Angeles, CA.
Film Department (The), West Hollywood, CA.
First California Bank, Los Angeles, CA.
First Look Studios, Century City, CA.
Foresight Unlimited, Bel Air, CA.
Freemantle Corporation (The), Toronto, Canada.
Fries Film Group, Inc., Woodland Hills, CA.
Gaiam Americas, Inc., New York, NY.
Gaumont, Neuilly-sur-Seine, France.
Golden Network Asia Limited, Kwun Tong, Hong Kong.
GreeneStreet Films, New York, NY.
HandMade Films International, London, United Kingdom.
Hollywood Wizard, Northridge, CA.
ICB Entertainment Finance, Glendale, CA.
IM Global, Beverly Hills, CA.
Imageworks Entertainment International, Inc., Chatsworth, CA.
Imagi Studios, Sherman Oaks, CA.
Imagination Worldwide, LLC, Beverly Hills, CA.
Independent Film Sales, London, United Kingdom.
Insight Film Releasing Ltd., Vancouver, Canada.
ITN Distribution, Inc., Las Vegas, NV.
Intandem Films, London, United Kingdom.
K5 International GmbH, Muenchen, Germany.
Kimmel International, New York, NY.
Koan Inc., Park City, UT.
Little Film Company (The), Studio City, CA.
Mainline Releasing, Santa Monica, CA.
MarVista Entertainment, Los Angeles, CA.
Maverick Global, a division of Maverick Entertainment Group, Inc., Deerfield Beach, FL.
Media 8 Entertainment, Sherman Oaks, CA.
Media Luna Entertainment, Cologne, Germany.
Myriad Pictures, Santa Monica, CA.
Neoclassics Films Ltd., Culver City, CA.
New Films International, Sherman Oaks, CA.
New Horizons Picture Corp., Los Angeles, CA.
NonStop Sales AB, Stockholm, Sweden.
Nordisk Film A/S, Valby, Denmark.
Odd Lot International, Culver City, CA.
Paramount Vantage International, Los Angeles, CA.
Park Entertainment Ltd., London, United Kingdom.
Passport International Entertainment, LLC, North Hollywood, CA.
Peace Arch Entertainment, Marina Del Rey, CA.
QED International, Los Angeles, CA.
Quantum Releasing LLC, Burbank, CA.
RHI Entertainment Distribution, LLC, New York, NY.
Rigel Entertainment, Los Angeles, CA.
Screen Capital International Corp., Beverly Hills, CA.
Screen Media Ventures, LLC, New York, NY.
SND, Neuilly sur Seine, France.
Sobini Films, Santa Monica, CA.
Spotlight Pictures, LLC, Hollywood, CA.
Starz Media, Burbank, CA.
Stevens Entertainment Group, Dallas, TX.
Tandem Communications, Munich, Germany.
Taurus Entertainment Company, Glendale, CA.
U.S. Bank, Los Angeles, CA.
UFO International Productions, Burbank, CA.
UK Film Council, London, United Kingdom.
Union Bank of California N.A., Los Angeles, CA.
Vision Films, Inc., Sherman Oaks, CA.
Voltage Pictures, Los Angeles, CA.
Wachovia Bank, Los Angeles, CA.
Weinstein Company (The), New York, NY.

Wild Bunch, Paris, France.
Worldwide Film Entertainment LLC, Los Angeles, CA.
Yari Film Group, LLC, Los Angeles, CA.
York International, Sherman Oaks, CA;

3. Delete the following companies as ''Members'' of the Certificate:

Alliance Communications Corporation, Beverly Hills, CA.
Alliance Atlantis Communication Corp., Toronto, Canada.
Arrow Films International Inc., New York, NY.
Artisan Entertainment, Santa Monica, CA.
Bank of America NT & SA, Los Angeles, CA.
Banque Paribas, Los Angeles, CA.
Behaviour Worldwide, Inc., Los Angeles, CA.
Beyond Films Ltd., Surry Hills, Australia.
Big Bear Licensing Corporation, Inc., Los Angeles, CA.
Bonneville Worldwide Entertainment, Encino, CA.
British Film Institute, London, United Kingdom.
Broadstar Entertainment Corporation, Hollywood, CA.
Buena Vista Film Sales, Burbank, CA.
Buena Vista Television, A Division of Disney/ABC Int'l TV Inc., Burbank, CA.
BV International Pictures AS, Avaldsnes, Norway.
Castle Hill Productions, Inc., New York, NY.
Cecchi Gori Group, Los Angeles, CA.
China Star Entertainment Group, TST, Kowloon, Hong Kong.
Cinema Financial Services, Inc., New York, NY.
Cinequanon Pictures International, Los Angeles, CA.
CLT–UFA, Beverly Hills, CA.
Concorde-New Horizons Corporation, Los Angeles, CA.
Cori International: Film and Television, Los Angeles, CA.
Coutts & Co./Natwest Group, Beverly Hills, CA.
Crown Int'l Pictures, Inc., Beverly Hills CA.
Discovery Communications, Inc., Bethesda, MD.
DZ Bank, London, United Kingdom.
Film Roman, Inc., Los Angeles, CA.
Filmfour International, London, United Kingdom.
Films (Guernsey) Limited.
Fleetboston Financial, Boston, MA.
Franchise Pictures, Los Angeles, CA.
Full Moon Pictures, Hollywood, CA.
G.E.L. Productions, Los Angeles, CA.
Golden Harvest Entertainment Co., Ltd., Beverly Hills, CA.
Good Times Entertainment, Inc., Bel Air, CA.
Hamdon Entertainment, Studio City, VA.
Han Entertainment, Hong Kong.
HBO Enterprises, New York, NY.
Hollywood Previews Entertainment, Inc., Santa Monica, CA.
Horizon Entertainment, Inc., Vancouver, Canada.
IAC Film & Television, London, United Kingdom.
Imperial Entertainment Group, Beverly Hills, CA.
In-Motion Pictures, Inc., London, United Kingdom.
Interlight Pictures, W. Hollywood, CA.
Intermedia, London, United Kingdom.
Intra Movies SRL, Rome, Italy.
J&M Entertainment, Los Angeles, CA.
JP Morgan Securities, Inc. Entertainment Industries Group, Los Angeles, CA.
Kevin Williams Associates, S.A., Madrid, Spain.
King World Productions, Inc., New York, NY.
Lewis Horwitz Organization, Los Angeles, CA.
Lolafilms, Madrid, Spain.
Lumiere International, Los Angeles, CA.
Marquee Entertainment Inc., Los Angeles, CA.
MCEG Sterling Entertainment, Los Angeles, CA.
Melrose Entertainment, Inc., Beverly Hills, CA.
MTG Media Properties, Ltd., New York, NY.
Noble Productions, Inc., Los Angeles, CA.
North American Releasing, Inc., Vancouver, Canada.
Oasis Pictures, Los Angeles, CA.
October Films International, New York, NY.
Overseas Film Group/First Look Pictures, Los Angeles, CA.
P.C. Films Corp., Nantucket, MA.
P.M. Entertainment, Sunland, CA.
Pacific Century Bank, Encino, CA.
Pandora Cinema, Santa Monica, CA.
Pearson Television International, Los Angeles, CA.
Phoenician Entertainment, Sherman Oaks, CA.
Playboy Entertainment Group, Inc., Beverly Hills, CA.
Powerhouse Entertainment Group, Inc., Beverly Hills, CA.
Quadra Entertainment, Beverly Hills, CA.
Quixote Productions, Los Angeles, CA.
Redwood Communications, Venice, CA.
Renaissance Films, Ltd., London, United Kingdom.
Republic Bank California N.A., Beverly Hills, CA.
Republic Entertainment, Inc., Los Angeles, CA.
RKO Pictures, Los Angeles, CA.
Rysher Entertainment, Santa Monica, CA.
Scanbox International, Inc., Studio City, CA.
Seven Arts Entertainment, Hollywood, CA.
Shapiro/Glickenhaus Ent., Studio City, CA.
Shooting Gallery, The, Beverly Hills, CA.
Silicon Valley Bank for the activities of its Entertainment Division, Los Angeles, CA.
Silver Star Film Corp., Los Angeles, CA.
Solo Entertainment Group, Inc., Beverly Hills, CA.
Spelling Films International, Los Angeles, CA.
Splendid Pictures, Inc., Bel Air, CA.
Stadtsparkasse Koeln, Entertainment Finance, Cologne, Germany.
Starway International, Los Angeles, CA.
The Norkat Company Limited, Beverly Hills, CA.
Tomorrow Film Corp., Santa Monica, CA.
Trident Releasing, Inc., Los Angeles, CA.
Trimark Pictures, Santa Monica, CA.
Trust Film Sales, Hvidovre, Denmark.
TVA Films, A Division of Group TVA, Inc., Montreal, Canada.
United Film Distributors, Inc., Los Angeles, CA.
Viacom Pictures/Showtime Networks, Universal City, CA.
Vine International Pictures, Ltd., Downe, Orpington, United Kingdom.
Vision International, Beverly Hills, CA.
World Films, Inc, Los Angeles, CA; and

4. Change the name and/or address listing of each of the following current Certificate Members:

Change ''Alain Siritzky Productions (ASP), Paris, France'' to ''Alain Siritzky Productions (ASP), Los Angeles, CA''; ''Arclight Films Pty. Ltd., Sydney, Australia'' to ''Arclight Films Pty. Ltd., Moore Park, Australia''; ''Atrium Productions KFT, Rotterdam, The Netherlands'' to ''Atrium Productions KFT, Budapest, Hungary''; ''Cinema Arts Entertainment, Beverly Hills, CA'' to ''Cinema Arts Entertainment, Los Angeles, CA''; ''Comerica Bank-California, Los Angeles, CA'' to ''Comerica Entertainment Group, Los Angeles CA''; ''Crystal Sky Communications, Los Angeles, CA'' to ''Crystal Sky Worldwide Sales LLC, Los Angeles, CA''; ''Distant Horizon Ltd., Surrey, United Kingdom'' to ''Distant Horizon Ltd., Middlesex, United Kingdom''; ''Dream Entertainment, Los Angeles, CA'' to ''Dream Entertainment, Beverly Hills, CA''; ''Filmax-SOGEDASA, Barcelona, Spain'' to ''Filmax International, Barcelona, Spain''; ''Green Communications, Burbank, CA'' to ''Green

Communications, Hollywood, CA''; ''Initial Entertainment, Los Angeles, CA'' to ''GK Films, LLC, Santa Monica, CA''; ''Keller Entertainment Group, Sherman Oaks, CA'' to ''Keller Entertainment Group, Inc., Los Angeles, CA''; ''Liberty International Entertainment, Inc., Los Angeles, CA'' to ''Liberation Entertainment, Inc., Los Angeles, CA''; ''Lakeshore International, Hollywood, CA'' to ''Lakeshore Entertainment Group, LLC, Beverly Hill, CA''; ''Lions Gate Films International, Los Angeles, CA'' to ''LIONSGATE, Santa Monica, CA''; ''Miramax International, Los Angeles, CA'' to ''Miramax Films, New York, NY''; ''Moonstone Entertainment, Beverly Hills, CA'' to ''Moonstone Entertainment, Studio City, CA''; ''Motion Picture Corporation of America, Santa Monica, CA'' to ''Motion Picture Corporation of America, Los Angeles, CA''; ''Natexis Bank—BFCE, Los Angeles, CA'' to ''Natixis Banques Populaires, Los Angeles, CA''; ''New Line Cinema Corporation, Los Angeles, CA'' to ''New Line Cinema, Burbank, CA''; ''North by Northwest Distribution, Spokane, WA'' to ''North by Northwest Entertainment, Spokane, WA''; ''Omega Entertainment Ltd., Los Angeles, CA'' to ''Omega Entertainment Ltd., Zurich, Switzerland''; ''Pathe International, Paris, France'' to ''Pathe Distribution, Paris, France''; ''Promark Entertainment Group, Los Angeles, CA'' to ''Promark/Zenpix, Sherman Oaks, CA''; ''Regent Entertainment, Los Angeles, CA'' to ''Regent Worldwide Sales LLC, Los Angeles, CA''; ''Safir Films, Ltd., Middlesex, United Kingdom'' to ''Safir Films, Ltd., Harrow, United Kingdom''; ''Studiocanal, Boulogne, France'' to ''StudioCanal, Issy Les Moulineaux, France''; ''TF1 International, Boulogne Billancourt Cedex, France'' to ''TF1 International, Issy Les Moulineaux, France''; ''The Works, London, United Kingdom'' to ''Works International (The), London, United Kingdom''; and ''Troma Entertainment, Inc., New York, NY'' to ''Troma Entertainment, Inc., Long Island City, NY.''

Dated: February 25, 2009.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E9–4412 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN63

Marine Mammals; File No. 774–1714

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

ACTION: Notice; receipt of application for amendment.

SUMMARY: Notice is hereby given that the National Marine Fisheries Service, Southwest Fisheries Science Center (SWFSC) (Jeremy Rusin, Principal Investigator), 3333 N. Torrey Pines Ct., La Jolla, CA 92037 has applied for an amendment to Scientific Research Permit No. 774–1714–09.

DATES: Written, telefaxed, or e-mail comments must be received on or before April 2, 2009.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov/index.cfm*, and then selecting File No. 774–1714 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521 and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 774–1714.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Kristy Beard, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 774–1714 issued on June 30, 2004 (68 FR 57673) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 774–1714–09 authorizes the SWFSC to conduct research on seven pinniped species, 53 cetacean species, and five sea turtle species in the Pacific, Indian, Atlantic, Arctic and Southern Oceans. The permit authorizes Level B harassment during aerial and vessel surveys for photo-identification/photogrammetry, incidental harassment, collection of sloughed skin, and salvage of carcasses and parts; Level A harassment for capture, biopsy sampling, and tagging activities; and the import/export of specimens. The permit holder requests the permit be amended to increase the number of short-beaked and long-beaked common dolphins (*Delphinus spp.*) that may be harassed during vessel and aerial surveys. For each species, up to 60,000 dolphins would be harassed annually during aerial surveys, up to 10,000 approached by vessel for photo-identification and 1,500 for biopsy sampling annually. During research up to 40,000 animals of each species may be incidentally harassed annually. The purposes of this research are to investigate the life history traits and assess the relative reproductive rates of these species off the coast of California and Baja California. The amendment would be valid for the duration of the permit, which currently expires on June 30, 2009.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 24, 2009.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–4375 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

0648–XN58

Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT); Spring Species Working Group Meeting

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

ACTION: Notice of advisory committee meeting.

SUMMARY: The Advisory Committee (Committee) to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) announces its spring meeting with its Species Working Group Technical Advisors on April 5–7, 2009. The Committee will meet to discuss matters relating to ICCAT, including the 2008 Commission meeting results; research and management activities; global and domestic initiatives related to ICCAT; the Atlantic Tunas Convention Act-required consultation on the identification of countries that are diminishing the effectiveness of ICCAT; the results of the meetings of the Committee's Species Working Groups; and other matters relating to the international management of ICCAT species.

DATES: The open sessions of the Committee meeting will be held on April 5, 2009, from 5 p.m. to 7 p.m., April 6, 2009, from 8:30 a.m. to 2:45 p.m., and April 7, 2009, from 9 a.m. to 9:15 a.m. as well as 11 a.m. to 3:30 p.m. Closed sessions will be held on April 6, 2009, from 2:45 p.m. to approximately 6 p.m. and on April 7, 2009, from 9:15 a.m. to 11 a.m.

ADDRESSES: The meeting will be held at the Crowne Plaza, 8777 Georgia Avenue, Silver Spring, MD 20910. The phone number is 301–589–5200.

FOR FURTHER INFORMATION CONTACT: Melanie King at (301) 713–2276.

SUPPLEMENTARY INFORMATION: The Advisory Committee to the U.S. Section to ICCAT will meet in open session to receive and discuss information on (1) the 2008 ICCAT meeting results and U.S. implementation of ICCAT decisions; (2) 2008 ICCAT and NMFS research and monitoring activities; (3) 2009 ICCAT activities; (4) global and domestic initiatives related to ICCAT (5) the Atlantic Tunas Convention Act-required consultation on the identification of countries that are diminishing the effectiveness of ICCAT; (6) the results of the meetings of the Committee's Species Working Groups; and (7) other matters relating to the international management of ICCAT species. The public will have access to the open sessions of the meeting, but there will be no opportunity for public comment.

The Committee will meet in its Species Working Groups for a portion of the afternoon of April 6, 2009, and of the morning of April 7, 2009. These sessions are not open to the public, but the results of the species working group discussions will be reported to the full Advisory Committee during the Committee's morning and afternoon open session on April 7, 2009. The Committee may also go into executive session on the afternoon of April 6, 2009, to discuss sensitive information relating to an upcoming intersessional meeting of ICCAT. This session would also be closed to the public.

Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Melanie King at (301) 713–2276 at least 5 days prior to the meeting date.

Dated: February 25, 2009.

Rebecca J. Lent,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. E9–4483 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN10

Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

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

ACTION: Notice; issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued one-year Letters of Authorization (LOA) to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

DATES: This authorization is effective from February 27, 2009 through February 26, 2010.

ADDRESSES: The application and LOAs are available for review by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3235 or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Ken Hollingshead, Office of Protected Resources, NMFS, 301–713–2289.

SUPPLEMENTARY INFORMATION: Sections 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the NMFS to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States (U.S.) citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made by NMFS and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt capture, or kill marine mammals.

Authorization for incidental taking, in the form of annual LOAs, may be granted by NMFS for periods up to five years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat (i.e., mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds, and areas of similar significance. The regulations also must including requirements pertaining to the monitoring, and reporting of such taking. Regulations governing the taking incidental to EROS were published on June 19, 2008 (73 FR 34889), and remain in effect from July 21, 2008 through July 19, 2013. For detailed information on this action, please refer to that

document. The species that applicants may take in small numbers during EROS activities are bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), pantropical spotted dolphins (*Stenella attenuata*), Clymene dolphins (*Stenella clymene*), striped dolphins (*Stenella coeruleoalba*), spinner dolphins (*Stenella longirostris*), rough-toothed dolphins (*Steno bredanensis*), Risso's dolphins (*Grampus griseus*), melon-headed whales (*Peponocephala electra*), pilot whales (*Globicephala macrorhynchus*), and sperm whales (*Physeter macrocephalus*).

Pursuant to these regulations, NMFS has issued an LOA to Demex Internatioal, Inc. and to Energy Resource Technology GOM, Inc. Issuance of the LOAs is based on a finding made in the preamble to the final rule that the total taking by these activities (with monitoring, mitigation, and reporting measures) will result in no more than a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS also finds that the applicant will meet the requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: February 25, 2009.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–4482 Filed 3–2–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0154]

Federal Acquisition Regulation; Submission for OMB Review; Davis-Bacon Act—Price Adjustment (Actual Method)

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

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning davis-bacon act price adjustment (actual method). A request for public comments was published in the **Federal Register** at 73 FR 67488, November 14, 2008. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before April 2, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT Mr. Ernest Woodson, Contract Policy Division, GSA, (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause at 52.222–32, Davis-Bacon Act—Price Adjustment (Actual Method), requires that a contractor must submit at the exercise of each option to extend the term of the contract, a statement of the amount claimed for incorporation of the most current wage determination by the Department of Labor, and any relevant supporting data, including payroll records, that the contracting officer may reasonably require.

The contracting officer may include this clause in fixed-price solicitations and contracts, subject to the Davis-Bacon Act, that will contain option provisions to extend the term of the contract and the Contracting Officer determines the most appropriate method to establish contract price is the method at 22.404–12(c)(3).

B. Annual Reporting Burden

Respondents: *900.*

Responses Per Respondent: *1.*

Annual Responses: *900.*

Hours Per Response: *90.*

Total Burden Hours: *81,000.*

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0154, Davis-Bacon Act—Price Adjustment (Actual Method), in all correspondence.

Dated: February 26, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–4442 Filed 3–2–09; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Director, 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 May 4, 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 Direct, 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: February 25, 2009.

Angela C. Arrington,

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

Federal Student Aid

Type of Review: Extension.

Title: Guaranty Agency Financial Report.

Frequency: Monthly and Annually.

Affected Public: Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 468.

Burden Hours: 25,740.

Abstract: The Guaranty Agency Financial Report (GAFR), ED Form 2000, is used by the thirty-six (36) guaranty agencies under the FFEL program, authorized by Title IV, Part B of the HEA of 1965, as amended. Guaranty agencies use the GAFR to: (1) Request reinsurance from ED; (2) request payment on death, disability, closed school, and false certification claim payments to lenders; (3) remit to ED refunds on rehabilitated loans and consolidation loans; (4) remit to ED default and wage garnishment collections. ED also uses report data to monitor the guaranty agency's financial activities (agency federal fund and agency operating fund) and each agency's Federal receivable balance.

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 3949. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to 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. E9–4461 Filed 3–2–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On February 25, 2009, the Department of Education published a comment period notice in the **Federal Register** (Page 8515, Column 2) for the information collection, ''Federal Family Education Loan (FFEL) Deferment Request Forms''. This notice amends the invitation for comment period for interested persons to March 27, 2009. The IC Clearance Official, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: February 26, 2009.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

[FR Doc. E9–4462 Filed 3–2–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Overview Information; Early Reading First Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.359A and B.

Dates: *Applications Available:* March 3, 2009.

Deadline for Transmittal of Pre-Applications: April 2, 2009.

Deadline for Transmittal of Full Applications: June 16, 2009 (for applicants invited to submit full applications only).

Deadline for Intergovernmental Review: August 17, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program supports local efforts to enhance the oral language, cognitive, and early reading skills of preschool-aged children, especially those from low-income families, through strategies, materials, and professional development that are grounded in scientifically based reading research.

The specific activities for which recipients must use grant funds are identified in section 1222(d) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). This and other relevant provisions of the ESEA are included in the application package.

Statutory Requirements: All applicants must meet the application requirements established in section 1222(b) of the ESEA in order to be considered for funding. All applications must include a description of the following:

(1) The programs to be served by the proposed project, including demographic and socioeconomic information on the preschool-aged children enrolled in the programs;

(2) How the proposed project will enhance the school readiness of preschool-aged children in high-quality oral language and literature-rich environments;

(3) How the proposed project will prepare and provide ongoing assistance to staff in the programs, through professional development and other support, in providing high-quality language, literacy, and prereading activities using scientifically based reading research, for preschool-aged children;

(4) How the proposed project will provide services and use instructional materials that are based on scientifically based reading research on early language acquisition, prereading activities, and the development of spoken vocabulary skills;

(5) How the proposed project will help staff in the programs to meet more effectively the diverse needs of preschool-aged children in the community, including such children with limited English proficiency, disabilities, or other special needs;

(6) How the proposed project will integrate such instructional materials and literacy activities with existing preschool programs and family literacy services;

(7) How the proposed project will help children, particularly children experiencing difficulty with spoken language, prereading, and early reading

skills, to make the transition from preschool to formal classroom instruction in school;

(8) If the eligible applicant has received a subgrant under the Reading First program, subpart 1, part B, title I of the ESEA, how the activities conducted under the Early Reading First program will be coordinated with the eligible applicant's activities under the Reading First program at the kindergarten through grade 3 level; and

(9) How the proposed project will evaluate the success of the activities supported under the Early Reading First program in enhancing the early language, literacy, and prereading development of the preschool-aged children served by the project.

Priorities: This competition includes four invitational priorities. Under this competition we are particularly interested in applications that address the following priorities.

Invitational 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 invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Intensity

The Secretary is especially interested in preschool programs that operate full-time, full-year, early childhood educational programs and that serve children for the two consecutive years prior to their entry into kindergarten.

Scientifically based research on increasing the effectiveness of early childhood education programs serving children from low-income families tells us that children attending these types of programs that have a greater intensity of service make higher and more persistent gains in the language and cognitive domains than children who attend early childhood programs that have lesser intensity of service. In other words, children who spend more time in high-quality early childhood education programs learn more than children who spend less time in those programs. The purpose of this invitational priority is to encourage preschool programs supported with Early Reading First funds to provide services that are of a sufficient duration and intensity to maximize language and early literacy gains for children enrolled in those programs.

Invitational Priority 2—English Language Acquisition Plan

For applicants serving children with limited English proficiency, the Secretary is especially interested in applications that include a specific plan for the development of English language proficiency for these children from the start of their preschool experience. The Early Reading First program is designed to prepare children to enter kindergarten with the necessary cognitive, early language, and literacy skills for success in school. School success often is dependent on each child entering kindergarten as proficient as possible in English so that the child is ready to benefit from formal reading instruction in English when he or she starts school.

Note: The term ''limited English proficient'' is defined in section 9101(25) of the ESEA (20 U.S.C. 7801(25)). That definition is included in the application package.

Under this invitational priority, the Secretary is interested in English language acquisition plans that, at a minimum: (1) Include a description of the applicant's approach to the development of language, based on the linguistic factors or skills that serve as the foundation for a strong language base, which foundation is a necessary precursor for success in the development of pre-literacy and literacy skills for children with limited English proficiency; (2) Explain the instructional strategies, based on best available valid and reliable research, that the applicant will use to address English language acquisition in a multi-lingual classroom; (3) Describe how the project will facilitate the children's transition to English proficiency through such means as the use of environmental print in appropriate multiple languages and hiring bilingual teachers, paraprofessionals, or translators to work in the preschool classroom; (4) Include intensive professional development for instructors and paraprofessionals on the development of English language proficiency; and (5) Include a timeline that describes benchmarks for the introduction of the development of English language proficiency and the use of measurement tools.

Ideally, at least one instructional staff member in each Early Reading First classroom that serves limited English proficient children will be dual-language proficient in the children's first language and in English so as to facilitate those children's understanding of instruction and transition to English proficiency. At a minimum, each such classroom should include a teacher who is proficient in English.

Invitational Priority 3—Kindergarten Transition

The Early Reading First program is designed to prepare children to enter kindergarten with the necessary cognitive, early language, and literacy skills for success in school. The Secretary is especially interested in applications that include a specific plan to transition preschool-aged children to kindergarten.

Under this invitational priority, the Secretary is especially interested in supporting projects that have kindergarten transition plans that, at a minimum: (1) Identify the key issues involved in transitioning preschool-aged children to kindergarten; (2) Explain how the program would support continuity through developmentally appropriate curricula for preschool and kindergarten children; (3) Where applicable, include a description of how the program will effectively support ongoing communication and cooperation between the program and Reading First; (4) Include a description of how the program will effectively support ongoing communication and cooperation between the program and the local educational agency (LEA); (5) Include a timeline that describes benchmarks for transition activities; and (6) Include a description of the role of stakeholders in transitioning preschool-aged children to kindergarten.

Invitational Priority 4—Community-Based Organizations

The Secretary is especially interested in applications that propose to engage community-based organizations in the delivery of services under this program.

Program Authority: 20 U.S.C. 6371–6376.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

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 grant.

Estimated Available Funds: $111,424,000. 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

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: $1,500,000–$4,500,000.

Estimated Average Size of Awards: $3,000,000.

Estimated Number of Awards: 24–74.

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

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Under this competition, eligible applicants are:

(a) One or more LEAs, including charter schools that are considered LEAs under State law, that are eligible to receive a subgrant under the Reading First program (Title I, Part B, Subpart 1 of the ESEA);

(b) One or more public or private organizations or agencies (including faith-based organizations) located in a community served by an eligible LEA; or

(c) One or more eligible LEAs, applying in collaboration with one or more eligible organizations or agencies.

To qualify under paragraph (b) of this definition, the organization's or agency's application must be on behalf of one or more programs that serve preschool-aged children (such as a Head Start program, a child care program, a family literacy program such as Even Start, or a lab school at a university), unless the organization or agency itself operates a preschool program.

Lists, by State, of LEAs that qualify under paragraph (a) of this definition for this FY 2009 competition are posted on the Early Reading First Web site at *http://www.ed.gov/programs/earlyreading/eligibility.html*. These lists are based on the most recent information provided by each State and the Department of Interior's Bureau of Indian Education (BIE) to the Department's Reading First program, and are posted for the convenience of Early Reading First applicants. However, we consider it to be each applicant's responsibility to verify with the Reading First office in its State, or with the BIE, as appropriate, whether a particular LEA is eligible to receive a subgrant under the Reading First program as of the date of publication of this notice in the **Federal Register**. A list of State and BIE contacts for this purpose is also posted at the Early Reading First Web site at *http://www.ed.gov/programs/earlyreading/eligibility.html*.

Eligibility determination date: The date governing whether an LEA is eligible to receive a subgrant under the Reading First program is the date of publication in the **Federal Register** of this notice inviting applications for new awards under the Early Reading First program for FY 2009.

Required submission of eligibility information: In accordance with the following instructions, each applicant must complete and submit with its pre-application for this competition a Pre-Application Attachment A, Applicant Eligibility, which is included in the application package:

- *LEAs included on a posted eligibility list:* If the LEA on which you, the applicant, are basing your Early Reading First eligibility *is* included on the State's Reading First subgrant eligibility list posted on the Early Reading First Web site, you must complete section I of Pre-Application Attachment A (Applicant Eligibility) and submit that attachment with your pre-application.
- *LEAs not included on a posted eligibility list:* If the LEA on which you, the applicant, are basing your Early Reading First eligibility is *not* included on the State's Reading First subgrant eligibility list posted on the Early Reading First Web site, you must complete *both* section I and section II of Pre-Application Attachment A (Applicant Eligibility) and submit that form with your pre-application. Section II requires you to verify with your State's Reading First office, or the BIE, as appropriate, that the LEA is in fact eligible to receive a Reading First subgrant as of the date of publication in the **Federal Register** of this notice. You must also submit the name of, and contact information for, the person with whom you verified that information. If you are invited to submit a full application and we are unable to verify the LEA's eligibility from the contact information that you have provided, we may not consider the LEA as an eligible LEA for the purposes of this competition or we may require you to submit additional written information demonstrating eligibility.

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 Education Publications Center (ED Pubs). To obtain a copy via Internet, use the following address: *http://www.Grants.gov*. 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 package from ED Pubs, be sure to identify this program or competition as follows: CFDA numbers 84.359A and B.

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 or team 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 competition.

Pre-Application: All applicants must apply in the pre-application phase; as explained in the application package, only selected applicants will be invited to submit a full application.

Page Limits: You must include in Part 2 of the pre-application and Part 3 of the full application an Abstract briefly describing your proposed project. You must limit each Abstract to one (1) page.

The pre-application narrative and the full application narrative for this program (Part 3 of the pre-application and Part 4 of the full application) are where you, the applicant, address the selection criteria that reviewers use to evaluate your pre- and full applications. You must limit Part 3 of the pre-application to the equivalent of no more than fifteen (15) pages and Part 4 of the full application to no more than forty (40) pages.

Part 4 of the pre-application is where you, the applicant, provide the Appendices for the pre-application. Pre-application Appendices are limited to the following: a list and a brief description of the existing preschool programs that the proposed Early Reading First project would support; an English language acquisition plan, if applicable; a kindergarten transition plan, if applicable; and endnote citations for research cited specifically in the pre-application narrative. You must limit the list and the brief description of the existing preschool

programs to the equivalent of no more than five (5) pages. You must limit any English language acquisition plan to the equivalent of no more than two (2) pages. You must limit any kindergarten transition plan to the equivalent of no more than two (2) pages. No page limit applies to the pre-application endnote citations.

Part 5 of the full application is where you, the applicant, provide a budget narrative that reviewers use to evaluate your full application. You must limit the budget narrative in Part 5 of the full application to the equivalent of no more than five (5) pages.

Part 6 of the full application is where you, the applicant, provide the Appendices for the full application. Full application Appendices are limited to the following: A list and a brief description of the existing preschool programs that the proposed Early Reading First project would support; an English language acquisition plan, if applicable; a kindergarten transition plan, if applicable; position descriptions (and resumes or curriculum vitae if available) for up to five (5) key personnel; endnote citations for research cited specifically in the full application narrative; and documentation demonstrating the stakeholder support for the project. You must limit the list and the brief description of the existing preschool programs to the equivalent of no more than five (5) pages. You must limit each resume or curriculum vitae to the equivalent of no more than three (3) pages, and limit the documentation demonstrating stakeholder support for the project to the equivalent of no more than five (5) pages. You must limit any English language acquisition plan to the equivalent of no more than five (5) pages. You must limit any kindergarten transition plan to the equivalent of no more than five (5) pages.

For all page limits, use the following standards:

• A ''page'' is 8.5″ × 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 and budget narratives, including titles, headings, quotations, references, and captions included in the body of the narrative.

• Text in charts, tables, figures, and graphs may be single-spaced.

• Use one of the following commonly used 12-point fonts or larger, or no smaller than 10 pitch (characters per inch) including for text in endnotes, charts, tables, figures, and graphs: Times New Roman, Times, Courier, or CG Times. An application submitted in any other font will not be accepted.

The page limits do not apply to any title page or table of contents, or the forms in Part I of the pre- and full applications; or the following portions of the full application: the budget form (ED Form 524) in Part 2; or the assurances and certifications and the endnotes in Part 7.

Our reviewers will not read any pages of your pre-application or full application that exceed the page limit if you apply these standards; or exceed the equivalent of the page limit if you apply other standards.

3. *Submission Dates and Times:*

Applications Available: March 3, 2009.

Deadline for Transmittal of Pre-Applications: April 2, 2009.

Deadline for Transmittal of Full Applications: June 16, 2009 (for applicants invited to submit full applications only).

Pre- and full 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: August 17, 2009.

4. *Intergovernmental Review:* This competition 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 competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Pre- and full 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.*

Pre- and full applications for grants under the Early Reading First program, CFDA number 84.359A (pre-application) and CFDA number 84.359B (full application), 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 pre- or full application. You may not e-mail an electronic copy of a grant application to us.

We will reject your pre- or full 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 pre- or full 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 pre- or full application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Early Reading First competition 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 84.359, not 84.359A).

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 pre- and full applications 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 pre- or full application deadline date, as appropriate. Except as otherwise noted in this section, we will not accept your pre- or full 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 pre- or full application deadline date, as

appropriate. We do not consider an application that does not comply with the deadline requirement. When we retrieve your pre- or full application from Grants.gov, we will notify you if we are rejecting your pre- or full application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the applicable application deadline date.

• The amount of time it can take to upload a pre- or full 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 pre- or full 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 pre- and any full 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 pre- or full 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 pre- and full 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 a pre- or full 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 pre- or full 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 pre- or full 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 pre- and full applications 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 pre- and full applications must comply with any page-limit requirements described in this notice.

• After you electronically submit your pre- or full 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 pre- or full application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your pre- or full application and has assigned your pre- or full application a PR/Award number (an ED-specified identifying number unique to your pre- or full 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 pre- or full 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 pre- or full application on the applicable 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 pre- or full application electronically or by hand delivery. You also may mail your pre- and full applications by following the mailing instructions described elsewhere in this notice.

If you submit a pre- or full application after 4:30:00 p.m., Washington, DC time, on the applicable 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 pre- or full 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 pre- or full application by 4:30:00 p.m., Washington, DC time, on the applicable application deadline date. The Department will contact you after a determination is made on whether your pre- or full 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 pre- or full application to Grants.gov before the pre- or full 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 pre- or full application in paper format, if you are unable to submit a pre- or full 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 pre- or full application deadline date (14 calendar days or, if the fourteenth calendar day before the pre- or full application deadline date falls on a Federal holiday, the next business day following the Federal holiday), as appropriate, 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 pre- or full application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the applicable 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 pre- or full application deadline date.

Address and mail or fax your statement to: Pilla Parker, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E247, Washington, DC 20202–6200. FAX: (202) 260–8969; or Rebecca Marek, U.S. Department of Education, 400 Maryland Avenue, SW., room 33E250, Washington, DC 20202–6200. FAX: (202) 260–8969.

Your paper pre- or full 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 pre- or full application to the Department. You must mail the original and two copies of your pre- or full application, on or before the applicable application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Numbers 84.359A and B), 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 pre- or full 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 pre- or full application is postmarked after the pre- or full application deadline date, we will not consider your pre- or full 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 pre- or full application to the Department by hand. You must deliver the original and two copies of your pre- or full application by hand, on or before the applicable application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Numbers 84.359A and B), 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 pre- or full 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 pre- or full application; and

(2) The Application Control Center will mail to you notification of receipt of your grant application. If you do not receive this notification within 15 business days from the pre- or full 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: This competition has separate selection criteria for pre-applications and full applications.

A. *Pre-application:* The following selection criteria for this competition for the pre-application are from 34 CFR 75.210 of EDGAR. Further information about each of these selection criteria is in the application package. There are two selection criteria, *Need for Project and Quality of the Project Design.* The maximum score for the pre-application selection criteria is 100 points.

(i) *Need for project* (0–20 points)

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(a) The extent to which the proposed project will provide services or otherwise address the needs of students at risk of educational failure. (34 CFR 75.210(a)(2)(iii))

(b) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (34 CFR 75.210(a)(2)(iv))

(ii) *Quality of the project design* (0–80 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:

(a) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice. (34 CFR 75.210(c)(2)(xiii))

(b) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements. (34 CFR 75.210(c)(2)(xiv))

(c) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources. (34 CFR 75.210(c)(2)(xvi))

B. *Full Application:* The following selection criteria for those invited to submit full applications are from 34 CFR 75.210 of EDGAR. Further information about each of these selection criteria is in the application package. The maximum score for each criterion is indicated after the title of the criterion. The maximum score for the full application selection criteria is 100 points.

(i) *Quality of the project design* (0–60 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:

(a) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice. (34 CFR 75.210(c)(2)(xiii))

(b) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements. (34 CFR 75.210(c)(2)(xiv))

(c) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources. (34 CFR 75.210(c)(2)(xvi))

(ii) *Quality of project personnel* (0–10 points)

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers 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. (34 CFR 75.210(e)(1), (2))

In addition, the Secretary considers the following factors:

(a) The qualifications, including relevant training and experience, of the

project director or principal investigator. (34 CFR 75.210(e)(3)(i))

(b) The qualifications, including relevant training and experience, of key project personnel. (34 CFR 75.210(e)(3)(ii))

(c) The qualifications, including relevant training and experience, of project consultants or subcontractors. (34 CFR 75.210(e)(3)(iii))

(iii) *Adequacy of resources* (0–5 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:

(a) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project. (34 CFR 75.210(f)(2)(ii))

(b) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (34 CFR 75.210(f)(2)(iv))

(iv) *Quality of the management plan* (0–15 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:

(a) 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. (34 CFR 75.210(g)(2)(i))

(b) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (34 CFR 75.210(g)(2)(ii))

(c) 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. (34 CFR 75.210(g)(2)(iv))

(v) *Quality of the project evaluation* (0–10 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:

(a) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (34 CFR 75.210(h)(2)(i))

(b) 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. (34 CFR 75.210(h)(2)(iv))

VI. Award Administration Information

1. *Award Notices:* If your pre-application is successful, we notify you in writing and post the list of successful applicants on the Early Reading First Web site at *http://www.ed.gov/programs/earlyreading/awards.html*. If your full 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 pre-application is not evaluated, or following the submission of your pre-application you are not invited to submit a full application, we notify you. If your full 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). Early Reading First grantees also are required to meet the annual reporting requirements outlined in section 1225 of the ESEA. 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 Secretary has established the following four (4) measures for evaluating the overall effectiveness of the Early Reading First program: (1) The cost per preschool-aged child participating in Early Reading First programs who achieves a significant gain in oral language skills after each year of implementation; (2) the percentage of preschool-aged children participating in Early Reading First programs who demonstrate age-appropriate oral language skills after each year of implementation; (3) the average number of letters Early Reading First preschool-aged children are able to identify after each year of implementation; and (4) the percentage of preschool-aged children participating in Early Reading First programs who achieve significant gains in oral language skills after each year of implementation. The Department will provide further information on selecting valid, reliable, and age-appropriate assessment instruments on the program Web site at *http://www.ed.gov/programs/earlyreading/applicant.html*.

All grantees must provide information on these performance measures in the annual performance report referred to in section VI.3. of this notice.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Pilla Parker, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E247, Washington, DC 20202–6132. Telephone: (202) 260–3710 or by e-mail: *Pilla.Parker@ed.gov*; or Rebecca Marek, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E250, Washington, DC 20202–6132. Telephone: (202) 260–0968 or by e-mail: *Rebecca.Marek@ed.gov*.

If you use a TDD, call the Federal Relay Service (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 persons 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*.

Delegation of Authority: The Secretary of Education has delegated authority to Joseph C. Conaty, Director, Academic Improvement and Teacher Quality Programs for the Office of Elementary and Secondary Education to perform the functions of the Assistant Secretary for Elementary and Secondary Education.

Dated: February 26, 2009.

Joseph C. Conaty,

Director, Academic Improvement and Teacher Quality Programs.

[FR Doc. E9–4497 Filed 3–2–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Title IV, Part I, Section 499 of the Higher Education Act of 1965, as Amended—Competitive Loan Auction Pilot Program

AGENCY: Office of Postsecondary Education, U.S. Department of Education.

ACTION: Notice inviting eligible lenders to participate in the Competitive Loan Auction Pilot Program for the right to originate PLUS loans to parent borrowers under the Federal Family Education Loan (FFEL) Program.

SUMMARY: Through this notice, the Secretary of Education (the Secretary) invites eligible lenders to participate in the Competitive Loan Auction Pilot Program (Auction Program) for the rights to originate PLUS loans to parent borrowers under the FFEL Program. Through the Competitive Loan Auction (Auction), the Secretary will award the rights to originate PLUS loans to new parent borrowers under the Federal PLUS Program authorized by section 428B of Title IV of the Higher Education Act of 1965, as amended (HEA), for loan periods beginning on or after July 1, 2009 and ending June 30, 2011. This notice establishes the dates for submission of information to participate in the Auction, describes the information that lenders must submit and the auction process, and describes the statutory requirements a lender must meet if it is selected as a winning bidder in the Auction.

DATES: Deadline for Submission of Pre-Qualification Information: FFEL Program eligible lenders that wish to bid in the Auction must submit the required prequalification information to the Secretary at the address provided in the **ADDRESSES** section of this notice by April 1, 2009.

Deadline for Submission of PLUS Lender of Last Resort Applications: FFEL Program eligible lenders interested in serving as a PLUS lender of last resort must submit their applications to the Secretary at the address provided in the **ADDRESSES** section of this notice by April 1, 2009.

Date of Auction: The Auction will be conducted on April 15, 2009. Bids for origination rights must be submitted on the date of the Auction to the Secretary at the address provided in the **ADDRESSES** section of this notice. Bids will only be accepted during the time period the Auction is open on that date, as designated by the Secretary. The time period the Auction will be open will be included in an Auction Information Sheet that will be sent to those eligible lenders meeting the prequalification requirements to participate in the Auction. The Auction Information Sheet will: (1) Describe the procedures for submitting bids, (2) provide the Web address of the on-line Auction, and (3) assign eligible bidders a password to submit a bid during the period the Auction is open. When the Auction is complete, the Secretary will notify winning bidders and announce the winning bidders for each State no later than April 24, 2009. Further information on the Auction procedures is in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: Pre-qualification information, PLUS Lender of Last Resort applications, and bids should be sent by e-mail to: *plus-auction@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For information about the Auction Program go to *http://www.ed.gov/ope/plus-auction* or contact: Donald Conner, U.S. Department of Education, 1990 K Street, NW., room 8030, Washington, DC 20006. Telephone (202) 502–7818, or by fax to (202) 502–7873. You may also e-mail your questions about the Auction to: *donald.conner@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 this document in an accessible format (*e.g.*, braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

SUPPLEMENTARY INFORMATION: The Secretary announces his intention to conduct and invites eligible FFEL lenders to participate in the Auction for the rights to originate PLUS loans to parent borrowers under the FFEL Program. Through the Auction, the Secretary will award the rights to originate PLUS loans to new parent borrowers under the Federal PLUS Program authorized by section 428B of Title IV of the HEA, for loan periods beginning on or after July 1, 2009 and ending June 30, 2011. The right to originate PLUS loans to parent borrowers under the Federal PLUS Program will be determined through a competitive, sealed bid, one-round auction to be conducted for each State, the District of Columbia, Guam, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Puerto Rico (State). Loans to borrowers attending schools outside of these areas are not included in the Auction Program and may be made by any eligible FFEL Program lender.

Two winning bidders will be identified for each State and will be the only eligible lenders authorized to originate Federal PLUS loans to parent borrowers who are borrowing on behalf of a dependent student who will be enrolled in an eligible postsecondary educational institution in that State and who are new borrowers on or after July 1, 2009. Parents currently borrowing on behalf of a dependent student enrolled prior to July 1, 2009 may continue with their current lender or secure a loan from another eligible FFEL Program lender. Loans to graduate and professional student borrowers under the PLUS Program are not included in the Auction process.

All eligible Federal PLUS Program loans originated under the Auction will be insured by a guaranty agency against losses. The insurance rate shall be in an amount equal to 99 percent of the unpaid principal and interest due on the loan. The Secretary will not collect a loan fee with respect to eligible Federal PLUS Program loans originated under this program.

To see a listing of the PLUS loan volume by State for Award Years 2006–07 and 2007–08, go to: *http://www.ed.gov/ope/plus-auction/*.

Auction Requirements

Prequalification Requirements

All eligible FFEL Program lenders that want to participate in the Auction for PLUS loans to parent borrowers in a State under the Federal PLUS Program must meet the following prequalification requirements:

Required Agreement: A lender with a winning bid is obligated to enter into an agreement with the Secretary in accordance with section 499(b)(3)(G)(i) of the HEA, to make PLUS loans to all

eligible new parent borrowers in the State(s) for which it has the winning bid.

Borrower Benefits: The statute requires the Secretary to establish the borrower benefits lenders must provide to participate in the Auction Program. The only permitted borrower benefit for PLUS loans to parents made under the Auction Program is a reduction in interest rate of 0.25 percent that is contingent on the borrower's use of an automatic payment process for any payments due. This benefit is required to be offered to all parent PLUS borrowers whose loans are made under the Auction Program in all States for which the lender is the winning bidder.

States in which a bid will be made: An eligible lender participating in the FFEL Program must identify the State(s) in which the lender intends to bid. The listing of a particular State(s) does not limit the lender's ability to bid in an additional State(s) and it does not bind the lender to bid in the State(s) indicated. The listing will provide the Secretary with information necessary to assess the ability of the lender to originate, service and raise the capital necessary to make PLUS Loans in the State(s) in which the lender has indicated an interest in bidding.

Origination of PLUS Loans: The lender must describe its capacity to originate loans in compliance with existing FFEL Program requirements in the State(s) for which it intends to bid. A lender must explain and provide any supporting documentation that demonstrates its ability to originate the number and dollar volume of loans in each State based on the number and volume of new PLUS loans to parents made in that State in the last complete award year for which data is available.

Note: As the winning bidder, a lender will be one of only two lenders originating all new PLUS loans to parents in each State. The lender should provide any relevant information to assist the Department in determining its capacity to originate loans timely and efficiently in the State(s) for which it intends to bid, including the technological compatibility with the institutions in the State(s) and, the State-designated or other guaranty agency with which the lender may not have previously participated.

Servicing of PLUS Loans: The lender must describe its loan servicing capability for the PLUS loans to parents to be originated in the State(s) for which the lender intends to bid. The lender may provide any supporting documentation that demonstrates that capability. The lender should advise the Department of any outstanding adverse audit findings, or other compliance or performance issues that may negatively affect the lender's ability to originate or service PLUS loans to parents originated in the State(s) for which it intends to bid. If the lender uses a third-party servicer to originate and/or to provide ongoing servicing of loans, please also provide this information for that servicer(s) and include the organization's name, address, and contact information.

Capital to Make PLUS Loans: The lender must provide any supporting documentation necessary to demonstrate that the lender will have or be able to raise, as necessary, the capital required to provide for the origination and full disbursement of the anticipated new volume of PLUS Loans to parents for the period covered by the Auction Program in the State(s) for which the lender intends to bid.

Auction Procedures

Eligible lenders that meet the prequalification requirements will be permitted to submit a sealed and confidential bid in a one-round auction. A bid must consist of the amount of the special allowance payment (SAP), as defined in section 438 of the HEA, that a lender proposes to accept from the Secretary for the eligible Federal PLUS Program loans that the lender will make pursuant to this program.

Bids must be submitted on the Auction Date during the time period the Auction will be open as designated by the Secretary. The Secretary will announce the time period during which the Auction will be open in an Auction Information Sheet that will be sent to eligible lenders after their prequalification information has been reviewed and approved. The Auction Information Sheet will (1) describe the procedures for submitting bids, (2) provide the address to which the bid must be submitted, and (3) assign eligible bidders a password to use to submit the bid during the period the Auction is open. When the Auction is complete, the Secretary will post the results of the Auction, including the winning bidders for each State, at *http://www.ed.gov/ope/plus-auction/* no later than April 24, 2009. The winning bidders will be the two eligible lenders that submit bids that offer to accept the lowest and second lowest SAP from the Secretary on the Federal PLUS loans made pursuant to the Auction. The winning bidders within each State will be the only FFEL Program lenders permitted to originate loans under the Federal PLUS Program for first time borrower parents of dependent students at institutions within that State until those students are no longer enrolled at an institution in that State or they graduate from those institutions.

Eligible lender bids will remain confidential even after the announcement of the winning bidders.

Winning Bidder Requirements

Each winning bidder in the Auction must enter into an agreement with the Secretary under which the eligible lender agrees to originate eligible Federal PLUS Program loans to each eligible parent borrower that: (1) Seeks an eligible Federal PLUS Program loan to enable a dependent student to attend an institution of higher education within that State, (2) is eligible for a Federal PLUS Program loan, and (3) elects to borrow from the eligible lender. Each winning bidder for a State also must agree to accept a SAP from the Secretary for eligible loans originated in the amount proposed in the second lowest winning bid.

If a winning bidder fails to enter into the agreement with the Secretary as required, or fails to comply with the terms of such agreement, the Secretary may sanction the eligible lender in one or more of the following ways:

(1) The Secretary may assess a penalty for any eligible Federal PLUS Program loan that such eligible lender fails to originate in accordance with the agreement with the Secretary;

(2) The Secretary may prohibit that lender from bidding in other auctions under section 499 of the HEA;

(3) The Secretary may limit, suspend, or terminate the lender's participation in the FFEL Programs; or

(4) The Secretary may take any other enforcement action authorized under Title IV, Part B, of the HEA. Should the Secretary decide to levy a penalty on a lender, the collection of those penalties may be sought by reducing the amount of any payments otherwise due to the eligible lender from the Secretary by the amount of the penalty or by requesting that any other Federal agency reduce the amount of any payments due to the eligible lender from that agency by the amount of the penalty.

Plus Lender of Last Resort

In the event that there are not two winning bids in a given State, borrowers and institutions of higher education in that State will be served by a PLUS Loan Lender of Last Resort (PLUS–LLR), as determined by the Secretary, in accordance with section 499 of the HEA.

Eligible lenders that wish to be considered as the PLUS–LLR for a given State(s) must (1) prequalify by submitting the prequalification material described in this notice, (2) submit a letter not less than 14 days prior to the

start of the Auction indicating that they want to be considered as a PLUS–LLR and list the State(s) they will service, and (3) commit to making PLUS loans to all eligible new parent borrowers in the State(s) they have indicated until the dependent student graduates or is no longer attending an institution in that State. The Secretary will not identify the PLUS–LLR for a State until after the Auction is completed and only if needed. A prequalified lender that requests to be a PLUS–LLR may still participate as a regular eligible lender in the Auction.

The Secretary is authorized to set a SAP payable to a PLUS–LLR for a State. That SAP will be kept confidential, both before and after the announcement of the winning bidders. To determine the SAP payment to a PLUS–LLR the Secretary will take into account the lowest bid that was submitted in the auction for the State and the lowest bid that was submitted in a similar State in terms of PLUS dollar volume and number of loans.

Additional Auction Program Information

All eligible Federal PLUS Program loans originated under the Auction Program will be insured by a guaranty agency with which the lender currently has an agreement against losses. The insurance on default claims on these loans will be in an amount equal to 99 percent of the unpaid principal and interest due on the loan.

The Secretary will not collect a loan fee with respect to eligible Federal PLUS Program loans originated under this program.

If the parent borrower with FFEL PLUS loans made under the Auction Program requests to consolidate those loans, the FFEL Program eligible lender who made those loans may consolidate the borrower's Federal PLUS Program loans made under this program into one loan under certain conditions, as described in section 499(L)(i)–(iii) of the HEA. Similarly, an eligible lender with a winning bid may consolidate a Federal Direct PLUS Program loan or a loan made to the parent borrower under section 428B of the HEA under conditions described in section 499(L)(iv)(I) and (II) of the HEA. For Federal Direct PLUS Program loans, the Auction Program eligible lender must agree within 10 days to match the terms and conditions available under the Federal Direct Consolidation Loan Program.

The SAP paid to Auction Program eligible lenders on FFEL Program Consolidation loans is the lesser of the weighted average of the SAP on the loans consolidated (excluding Federal Direct PLUS Program loans) or the average of the bond equivalent rates of the quotes of the 3-month average commercial paper rate plus 1.59 percent.

An Auction Program lender who consolidates a PLUS Program loan under this program is not required to pay the interest payment rebate fee on the Consolidation loan under Section 428C(f) of the HEA.

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*.

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzelan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education to perform the functions of the Assistant Secretary for Postsecondary Education.

Dated: February 25, 2009.

Daniel T. Madzelan,

Director, Forecasting and Policy Analysis.

[FR Doc. E9–4447 Filed 3–2–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP09–66–000; CP09–67–000]

Northwest Pipeline GP, Parachute Pipeline LLC; Notice of Application

February 24, 2009.

Take notice that on February 12, 2009, Northwest Pipeline GP (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed an application in Docket No. CP09–66–000, pursuant to section 7(b) of the Natural Gas Act and Part 157 of the Commission's regulations, requesting permission and approval to abandon its certificate authority to operate the Parachute Lateral and associated facilities. Take further notice that on this same date, Parachute Pipeline LLC, One Williams Center, Tulsa, Oklahoma 74172, filed an application in Docket No. CP09–67–000, pursuant to Rule 207 of the Commission's regulations, requesting a declaratory order disclaiming jurisdiction and declaring certain facilities (The facilities Northwest proposes to abandon in Docket No. CP09–66–000) and services to be exempt from regulation under the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions regarding this application, Docket No. CP09–66–000, should be directed to Lynn Dahlberg, Manager, Certificates and Tariffs, Northwest Pipeline GP, PO Box 58900 Salt Lake City, Utah 84158, telephone: (801) 584–6851, Fax: (801) 584–7764, e-mail: *lynn.dahlberg@williams.com.*

Any questions regarding this application, Docket No. CP09–67–000, should be directed to Mari Ramsey, Senior Counsel, The Williams Companies, Inc., One Williams Center 47th floor, Tulsa, Oklahoma 74172, telephone: (918) 573–2611, Fax: (918) 573–4503.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, 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: March 17, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–4419 Filed 3–2–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL03–37–011]

New England Power Company; Notice of Filing

February 24, 2009.

Take notice that on February 17, 2009, the New England Power Company submitted a compliance filing in accordance with the Commission's Order on Remand dated January 15, 2009.

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, 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. 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: 5 p.m. Eastern Time on March 10, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–4420 Filed 3–2–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC09–3–000]

North American Electric Reliability Corporation; Northeast Power Coordinating Council, Inc.; Notice of Filing

February 24, 2009.

Take notice that on February 20, 2009, the North American Electric Reliability Corporation and the Northeast Power Coordinating Council, Inc. (NPCC) filed a comprehensive list of Bulk Electric System facilities with the United States portion of the NPCC Region and responses to the set of questions and data requests, pursuant to the Commission's December 18 Order, *North American Electric Reliability Corporation and Northeast Power Coordinating Council, Inc.,* 125 FERC ¶ 61,295 (2008) and January 15, 2009 Order, *North American Electric Reliability Corporation and Northeast Power Coordinating Council, Inc.,* Notice of Extension of Time (Jan. 15, 2009).

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, 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. 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: 5 p.m. Eastern Time on March 13, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–4423 Filed 3–2–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–65–000]

Columbia Gas Transmission, LLC; Jefferson Gas, LLC; Notice of Application

February 24, 2009.

Take notice that on February 12, 2009, Columbia Gas Transmission, LLC (Columbia), 5151 San Felipe, Suite 2500, Houston TX 77056, filed, pursuant to section 7 of the Natural Gas Act (NGA), an application to abandon by sale to Jefferson Gas, LLC (Jefferson), certain natural gas facilities located in Menifee and Morgan Counties, Kentucky. Columbia requests that the Commission find the facilities, when sold, as exempt from the Commission's jurisdiction pursuant to section 1(b) of the NGA. This filing 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this Application should be directed to Fredric J. George, Lead Counsel, Columbia Gas Transmission LLC, P.O. Box 1273, Charleston, West Virginia 25325–1273, at (304) 357–2359 or by fax at (304) 357–3206.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: March 17, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–4424 Filed 3–2–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 23, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER07–521–008.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. Submits Compliance Filing.

Filed Date: 02/18/2009.

Accession Number: 20090219–0291.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 11, 2009.

Docket Numbers: ER07–1332–003.

Applicants: Smoky Hills Wind Farm, LLC.

Description: Supplemental Information to April 2008 Change in Status Filing and Request for Shortened Notice Period of Smoky Hills Wind Farm, LLC.

Filed Date: 02/20/2009.

Accession Number: 20090220–5146.

Comment Date: 5 p.m. Eastern Time on Monday, March 02, 2009.

Docket Numbers: ER08–1377–001.

Applicants: Xcel Energy Services Inc.

Description: Northern States Power Co—MN & Northern States Power Co—WI Submits Revised Versions of Certain Service Agreements to Rate Schedule Transmission Service Tm–1 Relating to Implementation of the Midwest ISO Ancillary Services Market etc.

Filed Date: 02/19/2009.

Accession Number: 20090220–0179.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER08–1574–002.

Applicants: ORNI 18, LLC.

Description: ORNI 18, LLC submits Notice of Non-Material Change in Status.

Filed Date: 02/19/2009.

Accession Number: 20090219–5044.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER08–1591–001.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation Submits Instant Filing in Compliance with FERC's 12/30/08 Letter.

Filed Date: 01/29/2009.

Accession Number: 20090202–0542.

Comment Date: 5 p.m. Eastern Time on Monday, March 02, 2009.

Docket Numbers: ER09–169–001.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp Submits Substitute Second Revised Sheet 20.00 *et al.* to FERC Electric Tariff, Third Replacement Volume 1 in Compliance with the Commission's 12/30/08 Order.

Filed Date: 01/28/2009.

Accession Number: 20090129–0224.

Comment Date: 5 p.m. Eastern Time on Monday, March 02, 2009.

Docket Numbers: ER09–507–001.

Applicants: PSEG Power Connecticut LLC.

Description: PSEG Power Connecticut LLC Submits Revised Reliability Must-run Agreements with ISO New England Inc for Power Connecticut's *et al.*

Filed Date: 02/18/2009.

Accession Number: 20090219–0286.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 11, 2009.

Docket Numbers: ER09–552–001.

Applicants: Goldfinch Capital Management, LP.

Description: Goldfinch Capital Management, LP Submits Petition for Acceptance of Initial Tariff and Waivers.

Filed Date: 02/19/2009.

Accession Number: 20090220–0297.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER09–564–001.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits Sub. Original Service Agreement 2085 that Supersedes Original Service Agreement 2085, Substituting the Name DPL Energy, LLC for DP&L in the Agreement.

Filed Date: 02/18/2009.

Accession Number: 20090219–0290.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 11, 2009.

Docket Numbers: ER09–594–001.

Applicants: Coaltrain Energy LP.

Description: Coaltrain Energy LP Submits Substitute Original Sheets 1 and 2 and Revised Attachment A.

Filed Date: 02/19/2009.

Accession Number: 20090220–0296.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER09–595–001.

Applicants: Gotham Energy Marketing, LP.

Description: Gotham Energy Marketing LP Submits Substitute Tariff Sheets and Revised Attachment A.

Filed Date: 02/19/2009.

Accession Number: 20090220–0294.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER09–596–001.

Applicants: Silverado Energy LP.

Description: Silverado Energy LP Submits Substitute Original Sheets 1 and 2 and Revised Attachment A.

Filed Date: 02/19/2009.

Accession Number: 20090220–0292.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER09–597–001.

Applicants: Rockpile Energy LP.

Description: Rockpile Energy LP Submits Substitute Tariff Sheets and Revised Attachment A.

Filed Date: 02/19/2009.

Accession Number: 20090220–0293.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER09–598–001.

Applicants: Big Bog Energy, LP.

Description: Big Bog Energy LP Submits Substitute Original Sheets 1 and 2 and Revised Attachment A.

Filed Date: 02/19/2009.

Accession Number: 20090220–0295.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER09–626–001.

Applicants: Participating Transmission Owners Administrative Committee.

Description: SSP Administrative Committee Request Waiver of Certain Business Practice Standards of the NAESB, etc.

Filed Date: 02/18/2009.

Accession Number: 20090219–0287.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 11, 2009.

Docket Numbers: ER09–712–000.

Applicants: High Lonesome Mesa, LLC.

Description: Petition of High Lonesome Mesa, LLC for Order Accepting Market-Based Rate Tariff for Filing and Granting Waivers and Blanket Approvals.

Filed Date: 02/18/2009.

Accession Number: 20090219–0292.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 11, 2009.

Docket Numbers: ER09–727–000.

Applicants: Central Illinois Light Company.

Description: Central Illinois Light Company Submits Boundary Line Agreement between AmerenCILCO and the City of Springfield, IL *et al.* requesting an effective date of 4/19/09 for the Boundary Line Agreement.

Filed Date: 02/18/2009.

Accession Number: 20090219–0288.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 11, 2009.

Docket Numbers: ER09–728–000.

Applicants: Twin Cities Energy, LLC.

Description: Twin Cities Energy, LLC Submits Notice of Succession to the Tariff of Alberta Power, LLC.

Filed Date: 02/18/2009.

Accession Number: 20090219–0289.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 11, 2009.

Docket Numbers: ER09–729–000.

Applicants: Avista Corporation.

Description: Avista Corp Submits Revisions to its Electric Tariff Volume 11 for the Sale, Assignments, or Transfer of Transmission Rights, etc.

Filed Date: 02/19/2009.

Accession Number: 20090220–0291.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER09–730–000.

Applicants: PJM Interconnection LLC.

Description: PJM Interconnection Submits Revised Tariff Sheets of their Open Access Transmission Tariff.

Filed Date: 02/19/2009.

Accession Number: 20090220–0290.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 2009.

Docket Numbers: ER09–731–000.

Applicants: Illinois Power Company.

Description: Ameren Services Company Submits Construction Agreement between AmerenIP and the Exelon Generation Company, LLC.

Filed Date: 02/19/2009.

Accession Number: 20090220–0298.

Comment Date: 5 p.m. Eastern Time on Thursday, March 12, 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. E9–4383 Filed 3–2–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2413–110]

Georgia Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

February 24, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands.

b. *Project No.:* 2413–110.

c. *Date Filed:* February 2, 2009.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Wallace Hydroelectric Project.

f. *Location:* The proposal would be located on the Clarks Fork Creek, in Morgan County, Georgia and the project occupies U.S. lands within the Oconee National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Herbie Johnson, Georgia Power Company, 125 Wallace Dam Road, NE., Eatonton, Georgia 31024; (706) 485–8704.

i. *FERC Contact:* Gina Krump, Telephone (202) 502–6704, and e-mail: *Gina.Krump@ferc.gov.*

j. *Deadline for Filing Comments, Motions to Intervene, and Protest:* March 24, 2009.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Georgia Power Company (GPC) is requesting to permit construction of two bridge crossings over the Clarks Fork Creek, a minor tributary stream of Lake Oconee. The proposal would consist of a foot/golf cart path crossing impacting .05 acres of project lands, and a roadway bridge impacting .48 acres of project lands. The bridges are in association with a planned residential development and golf course known as ''Kingston on Lake Oconee'' on privately owned lands outside of the project boundary. No dredging is proposed in association with the application. The licensee has consulted the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and state and local agencies on its application.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call (866) 208–3372 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified

comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–4422 Filed 3–2–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–712–000]

High Lonesome Mesa, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

February 24, 2009.

This is a supplemental notice in the above-referenced proceeding of High Lonesome Mesa, 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 March 16, 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. E9–4421 Filed 3–2–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM08–2–000]

Pipeline Posting Requirements Under Section 23 of the Natural Gas Act; Notice of Technical Conference

February 24, 2009.

Take notice that on March 18, 2008, a technical conference will be convened to consider certain issues related to Order No. 720.[1] The technical conference will be held in the Commission Meeting Room (Room 2C) at the headquarters of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, from 9 a.m. to 1 p.m. (EDT).

On November 20, 2008, the Commission issued Order No. 720, *Pipeline Posting Requirements under Section 23 of the Natural Gas Act.* The Final Rule, among other things, requires major non-interstate pipelines to post scheduled flow information and to post information for each receipt and delivery point with a design capacity greater than 15,000 MMBtu per day. The topics for discussion are: (1) The definition of major non-interstate pipelines; (2) what constitutes ''scheduling'' for a receipt or delivery point; and (3) how the 15,000 MMBtu per day design capacity threshold should be applied. The technical conference will be organized around these three topics. An agenda for the conference will be issued in a later notice.

This technical conference will be transcribed. Transcripts will be available immediately for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646). For additional information, please contact Saida Shaalan of FERC's Office of Enforcement at (202) 502–8278 or by e-mail at *Saida.Shaalan@ferc.gov.*

Commission conferences and meetings are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–4418 Filed 3–2–09; 8:45 am]

BILLING CODE 6717–01–P

[1] *Pipeline Posting Requirements under Section 23 of the Natural Gas Act*, Order No. 720, FERC Stats. & Regs. ¶ 31,281 (2008).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2008–0293; FRL–8778–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Kraft Pulp Mills (Renewal), EPA ICR Number 1055.09, OMB Control Number 2060–0021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for

review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 2, 2009.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2008–0293, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 30, 2008 (73 FR 31088), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2008–0293, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NSPS for Kraft Pulp Mills (Renewal).

ICR Numbers: EPA ICR Number 1055.09, OMB Control Number 2060–0021.

ICR Status: This ICR is scheduled to expire on May 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, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The New Source Performance Standards (NSPS) for Kraft Pulp Mills were proposed on September 24, 1976, and promulgated on February 23, 1978. Revision to the standards was promulgated on May 20, 1986. These standards apply to total reduced sulfur (TRS) and particulate matter emissions from new, modified and reconstructed kraft pulp mills. Owners or operators of the affected facilities described must make initial reports when a source becomes subject, conduct and report on a performance test, demonstrate and report on continuous monitor performance, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility. Semiannual reports of excess emissions are required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to NSPS.

Owners or operators of the affected facilities must make a one-time-only report of the date of construction or reconstruction, notification of the actual date of startup, notification of any physical or operational change to an existing facility that may increase the rate of emission of the regulated pollutant, notification of initial performance test, and results of initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction, or any period during which the monitoring system is inoperative. Performance tests are the Agency's records of a source's initial capability to comply with emissions standards and not the operating conditions under which compliance was achieved. A semiannual summary report is also required.

Any owner or operator subject to the provisions of this subpart must maintain a file of these measurements, and retain the file for at least two years following the collection of such measurements, maintenance reports, and records.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 60, subpart BB, as authorized in sections 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA regulations, listed in 40 CFR part 9 and 48 CFR chapter 15, are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 37 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose and provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information. All existing ways will have to adjust to comply with any previously applicable instructions and requirements that have

subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of kraft pulp mills.

Estimated Number of Respondents: 100.

Frequency of Response: On occasion, initially and semiannually.

Estimated Total Annual Hour Burden: 15,235.

Estimated Total Annual Cost: $5,194,799, which is comprised of $1,229,899 in labor costs, $344,900 in capital/startup costs, and operation and maintenance (O&M) costs of $3,620,000.

Changes in the Estimates: There is no change in the labor cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or nonexistent, so there is no significant change in the overall burden. It should be noted that there is a small adjustment to the burden cost figure because rounded figures were used in the previous ICR. In this ICR, exact figures are used.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR, and there is no change in burden to industry.

Dated: February 25, 2009.

John Moses,

Acting-Director, Collection Strategies Division.

[FR Doc. E9–4450 Filed 3–2–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8774–2]

Approval of a Petition for Exemption From Hazardous Waste Disposal Injection Restrictions to ArcelorMittal Hennepin, Inc., Hennepin, IL

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition.

SUMMARY: Notice is hereby given by the United States Environmental Protection Agency (EPA) that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been granted to ArcelorMittal Hennepin, Inc. (Hennepin Works) of Hennepin, Illinois, for one Class I injection well located in Hennepin, Illinois. As required by 40 CFR part 148, Hennepin Works has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents out of the injection zone or into an underground source of drinking water (USDW) for at least 10,000 years. This final decision allows the continued underground injection by Hennepin Works of a specific restricted waste, Waste Pickle Liquor (code K062 under 40 CFR part 261), into one Class I hazardous waste injection well specifically identified as Waste Pickle Liquor No. 1 (WPL–1), at the Hennepin facility. This decision constitutes a final EPA action for which there is no Administrative Appeal.

DATES: This action is effective as of March 3, 2009.

FOR FURTHER INFORMATION CONTACT: Leslie Patterson, Lead Petition Reviewer, EPA, Region V, telephone (312) 886–4904. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

SUPPLEMENTARY INFORMATION:

Background

Hennepin Works submitted a petition for renewal of an existing exemption from the land disposal restrictions of hazardous waste on March 6, 2007. EPA personnel reviewed all data pertaining to the petition, including, but not limited to, well construction, well operations, regional and local geology, seismic activity, penetrations of the confining zone, and computational models of the injection zone. EPA has determined that the geologic setting at the site as well as the construction and operation of the well are adequate to prevent fluid migration out of the injection zone within 10,000 years, as required under 40 CFR part 148. The injection zone at this site is the Mt. Simon Sandstone and the lower Eau Claire Formation, at depths between 2,902 feet and 4,800 feet below ground level. The confining zone is the upper Eau Claire formation (Proviso Member) at depths between 2,705 feet and 2,902 feet below ground level. The confining zone is separated from the lowermost underground source of drinking water (at a depth of 2510 feet below ground level) by a sequence of permeable and less permeable sedimentary rocks, which provide additional protection from fluid migration into drinking water sources.

EPA issued a draft decision, which described the reasons for granting this exemption in more detail, a fact sheet, which summarized these reasons, and a public notice on November 24, 2008, pursuant to 40 CFR 124.10. The public comment period expired on December 26, 2008. EPA received no comments on the proposed exemption granted to Hennepin Works. A final exemption is therefore granted as proposed.

Conditions

This exemption is subject to the following conditions. Non-compliance with any of these conditions is grounds for termination of the exemption:

(1) All regulatory requirements in 40 CFR 148.23 and 148.24 are incorporated by reference;

(2) The exemption applies to the existing injection well, WPL–1, located at the Hennepin Works facility at 10726 Steel Drive, Hennepin, Illinois;

(3) Injection is limited to that part of the Mt. Simon Sandstone at depths between 3,109 and 4,800 feet;

(4) Only wastes denoted by the RCRA waste code K062 may be injected;

(5) The chemical properties of the injectate that defined the edge of the plume in the demonstration are limited according to the table below:

Chemical constituent or property	Limitation at the well head
Chromium	Maximum concentration is 1200 mg/L.
pH	Minimum pH is zero.

(6) The monthly average of the specific gravity of the injected waste stream must fall within the range of 1.00 to 1.27;

(7) The volume of wastes injected in any month through the well must not exceed 6,705,990 gallons;

(8) This exemption is approved for the 22-year modeled injection period, which ends on December 31, 2028. Hennepin Works may petition EPA for a reissuance of the exemption beyond that date, provided that a new and complete petition and no-migration demonstration is received at EPA, Region 5, by July 1, 2028;

(9) Hennepin Works shall quarterly submit to EPA a report containing a fluid analysis of the injected waste which shall indicate the chemical and physical properties upon which the no-migration petition was based, including the physical and chemical properties

listed in Conditions 5 and 6 of this exemption approval;

(10) Hennepin Works shall annually submit to EPA a report containing the results of a bottom hole pressure survey (fall-off test) performed on WPL–1. The survey shall be performed after shutting in the well for a period of time sufficient to allow the pressure in the injection interval to reach equilibrium, in accordance with 40 CFR 146.68(e)(1). The annual report shall include a comparison of reservoir parameters determined from the fall-off test with parameters used in the approved no-migration petition;

(11) The petitioner shall fully comply with all requirements set forth in Underground Injection Control Permit UIC–004–W1–JL issued by the Illinois Environmental Protection Agency; and

(12) Whenever EPA determines that the basis for approval of a petition may no longer be valid, EPA may terminate this exemption and will require a new demonstration in accordance with 40 CFR 148.20.

Dated: January 21, 2009.

Anthony C. Carrollo,

Acting Director, Water Division, Region 5.

[FR Doc. E9–4452 Filed 3–2–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8774–7]

Notice of Disclosure Pursuant To Court Order of Possible Confidential Business Information Obtained Under the Comprehensive Environmental Response, Compensation and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of disclosure.

SUMMARY: EPA regulations provide that EPA may, in special circumstances, disclose business information, including confidential business information, ''in any manner and to the extent ordered by a Federal Court.'' *See* 40 CFR 2.209(d). EPA is currently engaged in litigation with the Potentially Responsible Parties (''PRPs'') in connection with the Modesto Groundwater Superfund Site (''Site'') in California (*U.S.* v. *Lyon, et al.*, Case No. 07–CV–00491 LJO GSA). A Stipulation and Order Protecting Confidential Information, dated January 22, 2009, providing procedures for the release of confidential business information in that case, has been entered at the United States Federal District Court for the Eastern District of California (hereinafter ''Court Order''). EPA intends to release to the PRPs and to third-party defendants documentation, including but not limited to documentation of EPA's past costs at the Site, which may contain confidential business information, pursuant to that Court Order.

DATES: Disclosures will be made no earlier than two weeks following the date that this **Federal Register** Notice is published.

Availability: A copy of the above-referenced Court Order will be provided to the public upon request.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the Court Order and additional information should be directed to Laurie Williams, Assistant Regional Counsel, U.S. EPA, Region IX, 75 Hawthorne St., ORC–3, San Francisco, CA 94105; *williams.laurie@epa.gov*; phone: (415) 972–3867.

Notice of Disclosures Pursuant to Court Order

Pursuant to the Court Order, defendants and third-party defendants who receive documents that may contain CBI are required to follow specified procedures to maintain the confidentiality of such information. EPA hereby gives notice to the following parties that EPA intends to disclose information in EPA's possession that may be or may contain confidential business information, under the protection of the above-mentioned Court Order:

(1) Any and all contractors that were under contract to perform and/or did perform work at the Site, including but not limited to the contractors listed below and any subcontractor or temporary firm that performed work at or for the Site:

ACC Environmental Consultants, Inc.
Agriculture & Priority Pollutants Laboratories, Inc.
Air Toxics Ltd.
APPL, Inc.
Armstrong Data Services, Inc. (68–W5–0024)
ASRC Aerospace Corp. (68–W–01–002, 68–R9–0101)
Beylik Drilling, Inc.
Block Environmental Services, Inc.
Calgon Carbon Corp.
California Water Laboratories, Inc.
CH2M Hill, Inc.
Condor Earth Technologies, Inc.
Curtis & Tompkins Analytical Laboratories
Ecology and Environment, Inc.
Energy Laboratories, Inc.
FGL Environmental
Forward, Inc.
GeoAnalytical Laboratories, Inc.
Geological Technics, Inc.
GRB Environmental Services, Inc. (EP–R9–06–03)
ICF Kaiser Engineers, Inc.
ICF Technology, Inc.
JL Analytical, Inc.
Labat-Anderson, Inc. (68–W9–0052, 68–W4–0028)
Lockheed Idaho Technologies Co.
Lockheed Martin Environmental Services
McCain Environmental Services
Mid-Valley Engineering
Montgomery Watson Americas, Inc.
Montgomery Watson Harza
Montgomery Watson, Inc.
MPDS Services, Inc.
Osterburg Brothers Drillers
Pace Analytical Services, Inc.
PC Exploration, Inc.
Pratt-Navarro Architecture
PRC Environmental Management, Inc.
PRC Patterson Corp, Inc.
Radian Corp
R B Welty & Associates, Inc.
Recra Environmental Inc.
Southwest Laboratory of Oklahoma, Inc.
Standard Management Company
Thermo Nutech
Thompson-Hysell Engineers, Inc.
Trace Analysis Laboratory, Inc.
Truesdail Laboratories, Inc.
U.S. Ecology, Inc.

(2) Other business entities that have done business with the above-listed contractors and/or who may have been listed in conflict of interest disclosures.

(3) Unsuccessful offerors to any contracts for work at the Site.

Dated: February 10, 2009.

Keith Takata,

Director, Superfund Division, U.S. EPA Region IX.

[FR Doc. E9–4463 Filed 3–2–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8778–3]

Meeting of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Local Government Advisory Committee (LGAC) and the Small Community Advisory Subcommittee (SCAS), and workgroups will meet on March 23–25, 2009, in Washington, DC. The Committee and Subcommittee meetings will be located at The Fairfax Hotel Embassy Row, 2100 Massachusetts Avenue, NW.,

Washington, DC 20008, in the Balcony conference room. The focus of the meeting will be: Economic Stimulus/ water infrastructure and environmental provisions, climate change, energy efficiency, small communities, watersheds and coastlines, military issues, recycling DVD, product stewardship and green buildings.

This is an open meeting and all interested persons are invited to attend. The Committee will hear comments from the public between 12:05 p.m. and 12:30 p.m. on Tuesday, March 24, 2009. Individuals or organizations wishing to address the LGAC meeting will be allowed a maximum of five minutes to present their point of view. Also, written comments should be submitted electronically to *Eargle.Frances@epa.gov*. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come first serve basis, and the total period for comments may be extended if the number of requests for appearances requires it.

ADDRESSES: The LGAC meeting will be held at the Fairfax Hotel Embassy Row, located at 2100 Massachusetts Avenue, NW., Washington, DC 20008 in the Balcony conference room on March 23–25, 2009.

The Committee's meeting minutes and Subcommittee summary notes will be available after the meeting online at *http://www.epa.gov/ocir/scas* and can be obtained by written request to the DFO.

FOR FURTHER INFORMATION CONTACT: Frances Eargle, DFO for the Local Government Advisory Committee (LGAC) at (202) 564–3115 or e-mail at *Eargle.frances@epa.gov*.

Information on Services for Those with Disabilities: For Information on access or services for individuals with disabilities, please contact Frances Eargle at (202) 564–3115 or *eargle.frances@epa.gov*. To request accommodation of a disability, please request it 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 19, 2009.

Frances Eargle,

Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. E9–4479 Filed 3–2–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8777–2]

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection Rubicon, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of a Final Decision on a No Migration Petition Reissuance.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Rubicon, LLC, (Rubicon) for four Class I injection wells located at Geismar, Louisiana. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Rubicon of the specific restricted hazardous wastes identified in this exemption into Class I hazardous waste injection wells Nos. 1, 3, 4 and 5 at the Geismar, Louisiana facility, until December 31, 2025, unless EPA moves to terminate this exemption under provisions of 40 CFR 148.24. Additional conditions included in this final decision may be reviewed by contacting the Region 6 Ground Water/ UIC Section. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued on December 23, 2008. The public comment period closed on February 9, 2009. No comments were received. This decision constitutes final Agency action, and there is no administrative appeal. This decision may be reviewed/appealed in compliance with the Administrative Procedure Act.

DATES: This action is effective as of February 18, 2009.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/ UIC Section, EPA—Region 6, telephone (214) 665–7150.

Dated: February 18, 2009.

Miguel I. Flores,

Division Director, Water Quality Protection Division.

[FR Doc. E9–4464 Filed 3–2–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, Comments Requested

February 26, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 2, 2009. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, or an e-

mail to *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Section 80.231, Technical Requirements for Class B Automatic Identification System (AIS) Equipment.

Form No.: Not applicable.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 20 respondents; 20 responses.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–155, and 301–609.

Total Annual Burden: 20 hours.

Total Annual Cost: $28,000.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission requesting OMB approval for this new information collection. On September 19, 2008, the Commission adopted a Second Report and Order, FCC 08–208, which added a new section 80.231, which requires that manufacturers of Class B Automatic Identification Systems (AIS) transmitters for the Marine Radio Service include with each transmitting device a statement explaining how to enter static information accurately and a warning statement that entering inaccurate information is prohibited. Specifically, the information collection requires that manufacturers of AIS transmitters label each transmitting device with the following statement:

WARNING: It is a violation of the rules of the Federal Communications Commission to input an MMSI hat has not been properly assigned to the end user, or to otherwise input any inaccurate data in this device.

Additionally, prior to submitting a certification application (FCC Form 731, OMB Control Number 3060–0057) for a Class B AIS device, the following information must be submitted in duplicate to the Commandant (CG–521), U.S. Coast Guard, 2100 2nd Street, SW., Washington, DC 20593–0001: (1) The name of the manufacturer or grantee and the model number of the AIS device; and (2) copies of the test report and test data obtained from the test facility showing that the device complies with the environmental and operational requirements identified in IEC 62287–1. After reviewing the information described in the certification application, the U.S. Coast Guard will issue a letter stating whether the AIS device satisfies all of the requirements specified in IEC 62287–1. A certification application for an AIS device submitted to the Commission must contain a copy of the U.S. Coast Guard letter stating that the device satisfies all of the requirements specified in IEC–62287–1, a copy of the technical test data and the instruction manual(s).

These reporting and third party disclosure requirements aid the Commission monitoring advance marine vessel tracking and navigation information transmitted from Class B AIS devices to ensure that they are accurate and reliable, while promoting marine safety.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–4495 Filed 3–2–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; FCC To Hold Open Commission Meeting Thursday, March 5, 2009

February 26, 2009.

The Federal Communications Commission will hold an Open Meeting on Thursday, March 5, 2009, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

- The meeting will include presentations and discussion by senior agency officials as well as industry, consumer groups and others involved in the Digital Television Transition. A list of presenters will be released prior to the meeting.
- Congress has set June 12, 2009 as the final deadline for terminating full-power analog broadcasts. The purpose of the meeting is to educate and inform the Commission and the public about the digital television transition, including the partial transition on February 17, 2009, when some full-power broadcast television stations stopped broadcasting in analog and began broadcasting in digital only.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need. Also include a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC's Audio/Video Events Web page at *http://www.fcc.gov/realaudio.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com.*

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E9–4597 Filed 2–27–09; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of January 27 and 28, 2009

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on January 27 and 28, 2009.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long–run objectives, the Committee seeks conditions in reserve markets consistent with federal funds trading in a range of 0 to ¼ percent. The Committee directs the Desk to purchase GSE debt and agency–guaranteed MBS during the intermeeting period with the aim of providing support to the mortgage and housing markets. The timing and pace of these purchases should depend on conditions in the markets for such securities and on a broader assessment of conditions in primary mortgage markets and the housing sector. By the end of the second quarter of this year, the Desk is expected to purchase up to $100 billion in housing–related GSE debt and up to $500 billion in agency–guaranteed MBS. The System Open Market Account Manager and the Secretary will keep the Committee informed of ongoing developments regarding the System's balance sheet that could affect the attainment over time of the Committee's objectives of maximum employment and price stability.

By order of the Federal Open Market Committee, February 19, 2009.

Brian F. Madigan,

Secretary, Federal Open Market Committee.

[FR Doc. E9–4471 Field 3–2–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 071 0230]

The Lubrizol Corporation and The Lockhart Company; Analysis of Agreement Containing Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 27, 2009.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Lubrizol and Lockhart, File No. 071 0230,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room 135-H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form by following the instructions on the web-based form at (*http://secure.commentworks.com/ftc-LubrizolLockhart*). To ensure that the Commission consider an electronic comment, you must file it on that web-based form.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Leonard L. Gordon, Nancy Turnblacer, and Alan B. Loughnan, Northeast Regional Office, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, (212) 607-2829.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 26, 2009), on the World Wide Web, at (*http://www.ftc.gov/os/2009/02/index.htm*). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from The Lubrizol Corporation and The Lockhart Company (''Respondents''). The Consent Agreement is intended to resolve anticompetitive effects stemming from The Lubrizol Corporation's (''Lubrizol'') acquisition of certain assets of The Lockhart Company (''Lockhart'') in the United States market for rust preventives containing oxidates. Under the terms of the proposed Consent Agreement, Lubrizol is required to

[1] Copies of the Minutes of the Federal Open Market Committee at its meeting held on January 27 and 28, 2009, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

divest assets it acquired from Lockhart to Additives International LLC (''AI'').

The proposed Consent Agreement has been placed on the public record for thirty days to solicit comments from interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement, modify it, or make it final.

Pursuant to an Asset Purchase Agreement dated February 7, 2007, Lubrizol acquired from Lockhart a product line of chemical additives used to make rust preventives for approximately $15.6 million (''Acquisition''). The Asset Purchase Agreement also included a non-competition agreement that prohibited Lockhart, for a period of five years from the date of the purchase agreement, from directly or indirectly engaging in any business competitive with the assets it sold to Lubrizol. The Commission's complaint alleges that the Acquisition violated Section 7 of the Clayton Act, as amended 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended 15 U.S.C. § 45, by lessening competition in the market for rust preventives containing oxidates sold to metalworking firms, automotive parts suppliers, and other entities. The proposed Consent Agreement would remedy the alleged violation by replacing the competition that has been lost in this market as a result of the Acquisition.

II. The Parties

Lubrizol is a specialty chemical manufacturer that produces and supplies products designed for use in the global transportation, industrial, and consumer markets. Lubrizol manufactures products such as additives, ingredients, resins, and compounds, which customers use as rust preventives and in other ways to improve the quality of their end-use products. Prior to the Acquisition, Lubrizol was the leading maker of oxidates in North America. Lubrizol, headquartered in Wickliffe, Ohio, operates facilities in 29 countries, including production facilities in 20 countries and laboratories in 13 countries. In FY2007, Lubrizol had approximately $4.5 billion in revenue.

Lockhart, a private corporation headquartered in Flint, Michigan, was the second leading maker of oxidates in North America. Lockhart previously manufactured specialty chemicals including corrosion and lubricity additive packages, soluble bases, coating intermediates, and petroleum sulfonates and oxidates that serve the metalworking and coatings industries. Lockhart's metalworking product line included oxidates, natural, synthetic and gelled sulfonates, corrosion inhibitors and lubricity agents, emulsifier packages, grease additives, esters, soaps, semi-finished coatings, and rust preventives.

III. Oxidates

Oxidates are waxy petroleum-based substances that are normally solid at room temperature and are used in chemical formations designed to be applied to metal for rust prevention purposes. Oxidates may be further processed into soaps of oxidates and esters, which have the same rust preventive abilities as oxidates and are also used in chemical blends. In addition to their excellent rust preventive properties, oxidates are inexpensive and long-lasting compared to other rust preventive additives in the market. Due to oxidates' low costs and superior rust-preventing properties, they have become the ''gold-standard'' in long-term rust and corrosion protection. Oxidates are purchased by chemical formulators who use them to formulate rust protection and corrosion-inhibiting additives.

The relevant geographic market in which to assess the impact of the Acquisition is the United States. Foreign importers of oxidates face tariffs and other obstacles that increase their prices and make United States customers less likely to rely on foreign sources.

The market for oxidates is highly concentrated, with Lubrizol, and previously, Lockhart, being the top two providers of oxidates in the United States. While a few fringe firms exist, oxidates customers do not regard them as suitable alternatives to Lubrizol and Lockhart.

The acquisition of Lockhart's oxidate line by Lubrizol substantially lessened competition in the oxidate market. Through the Acquisition, Lubrizol removed its last substantial competitor in the market. Before the Acquisition, customers benefitted from the rivalry between Lubrizol and Lockhart in the form of lower prices, innovative products, and better service and support. In addition, the Acquisition thwarted entry by restricting the use of Lockhart's Flint, Michigan, plant and equipment through the non-competition agreement.

New entry or fringe expansion into the market for the manufacture of oxidates sufficient to counteract the competitive effects of the Acquisition is unlikely to occur within two years. To enter the market, a firm needs to invest in assets such as equipment, production know-how, supplier relationships, and infrastructure. The market for oxidates is not expanding and it is likely a new entrant would not be able to establish enough sales to achieve the minimum viable scale to make entry economically feasible. In addition, the formulations for oxidates and other rust preventatives go through extensive testing and certification processes. Due to the time and expense of testing, customers are reticent to change suppliers absent exigent circumstances.

IV. Consent Agreement

Under the terms of the Consent Agreement, Lubrizol is required to transfer certain assets to AI. The transferred assets consist of a non-exclusive license to manufacture twenty-eight former Lockhart rust preventive formulas that contain oxidates, including testing data relating to the formulas and the right to use the Lockhart trademarks and trade name for a period of two years after the date upon which the Decision and Order becomes final. Under the terms of the Consent Agreement, Lockhart must also lease a portion of its Flint plant to AI and maintain the plant in good working order for the duration of the lease. Lubrizol must also release its right of first refusal to purchase Lockhart's oxidizer. AI also acquired from Lockhart a right of first refusal to purchase the plant.

The Consent Agreement also requires Lubrizol to execute a waiver of the non-compete provision of the Acquisition Agreement. Specifically, Section II.A. of the Decision and Order requires Lubrizol to ''[r]emove and rescind any prohibition or restraint including, but not limited to, any non-compete agreements, on the sale or use of all or any part of Respondent Lockhart's Flint Plant for the manufacture and sale of any products produced at the Flint Plant by [AI] or any other Person.'' Finally, the Consent Agreement prohibits Lubrizol from acquiring any or all of AI without prior Commission approval.

The Commission believes that this Consent Agreement establishes AI as a viable competitor in the oxidate market and substantially restores the competition lost as a result of the transaction. The acquisition of the former Lockhart formulas and the lease of the Lockhart plant by AI decreases the normal barriers a new entrant would face and remedies the anticompetitive effects of the previously executed Acquisition.

The purpose of this analysis is to facilitate public comment on the proposed Decision and Order. This analysis is not intended to constitute an official interpretation of the Consent Agreement and the proposed Decision and Order, and does not modify their terms in any way. Further, the proposed Consent Agreement has been entered into for settlement purposes only, and does not constitute an admission by Respondents that they violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–4481 Filed 3–2–09: 8:45 am]

[BILLING CODE 6750–01–S]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees for the Oak Ridge Hospital, Oak Ridge, TN, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees for the Oak Ridge Hospital, Oak Ridge, Tennessee, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Oak Ridge Hospital.

Location: Oak Ridge, Tennessee.

Job Titles and/or Job Duties: All employees.

Period of Employment: June 30, 1958 through December 31, 1959.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Christine M. Branche,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. E9–4493 Filed 3–2–09; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Request for Nominations of Candidates To Serve on the Board of Scientific Counselors, Coordinating Center for Infectious Diseases (BSC, CCID)

CDC is soliciting nominations for possible membership on the BSC, CCID. This board provides advice and guidance to the Secretary, Department of Health and Human Services (HHS), the Director, CDC, and the Director, CCID, concerning strategies and goals for the programs and research within the national centers; shall conduct peer-review of scientific programs; and monitor the overall strategic direction and focus of the national centers. The board shall also monitor program organization and resources for infectious disease prevention and control.

Nominations are being sought for individuals who have the expertise and qualifications necessary to contribute to the accomplishment of the board's objectives. Nominees will be selected by the Secretary, HHS, or designee, from authorities knowledgeable in the fields relevant to the issues addressed by the CCID and related disciplines, including: Epidemiology; microbiology; bacteriology; virology; parasitology; mycology; immunology; public health; entomology; bioterrorism threats; clinical medicine; ecology; and from the general public. Federal employees will not be considered. Members may be invited to serve for terms of up to four years.

Consideration is given to representation from diverse geographic areas, both genders, ethnic and minority groups, and the disabled. Nominees must be U.S. citizens.

The following information must be submitted for each candidate: Name, affiliation, address, telephone number, e-mail address, and current curriculum vitae.

Nominations should be accompanied with a letter of recommendation stating the qualifications of the nominee and postmarked by March 20, 2009 to: Harriette Lynch, Coordinating Center for Infectious Diseases, Office of the Director, CDC, 1600 Clifton Road, NE., Mailstop E–77, Atlanta, Georgia 30333, Telephone (404) 498–2726.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 25, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–4475 Filed 3–2–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0606]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Export of Food and Drug Administration Regulated Products: Export Certificates

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 2, 2009.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0498. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3794.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Export of Food and Drug Administration Regulated Products: Export Certificates (OMB Control Number 0910–0498)—Extension

In April 1996 a law entitled ''The FDA Export Reform & Enhancement Act of 1996'' (FDAERA) amended sections 801(e) and 802 of the act (21 U.S.C. 381(e) and 382). It was designed to ease restrictions on exportation of unapproved pharmaceuticals, biologics, and devices regulated by FDA. Section 801(e)(4) of the FDAERA provides that persons exporting certain FDA-regulated products may request FDA to certify that the products meet the requirements of 801(e) or 802 or other requirements of the act. This section of the law requires FDA to issue certification within 20 days of receipt of the request and to charge firms up to $175.00 for the certifications.

This new section of the act authorizes FDA to issue export certificates for regulated pharmaceuticals, biologics, and devices that are legally marketed in the United States, as well as for these same products that are not legally marketed but are acceptable to the importing country, as specified in sections 801(e) and 802 of the act. FDA has developed five types of certificates that satisfy the requirements of section 801(e)(4)(B) of the act: (1) Certificates to Foreign Governments, (2) Certificates of Exportability, (3) Certificates of a Pharmaceutical Product, (4) Non-Clinical Research Use Only Certificates, and (5) Certificates of Free Sale. Table 1 of this document lists the different certificates and details their use:

TABLE 1.

Type of Certificate	Use
''Supplementary Information Certificate to Foreign Government Requests'' ''Exporter's Certification Statement *Certificate to Foreign Government*'' ''Exporter's Certification Statement *Certificate to Foreign Government* (For Human Tissue Intended for Transplantation)''	For the export of products legally marketed in the United States
''Supplementary Information Certificate of Exportability Requests'' ''Exporter's Certification Statement *Certificate of Exportability*''	For the export of products not approved for marketing in the United States (unapproved products) that meet the requirements of sections 801(e) or 802 of the act
''Supplementary Information Certificate of a Pharmaceutical Product'' ''Exporter's Certification Statement *Certificate of a Pharmaceutical Product*''	Conforms to the format established by the World Health Organization and is intended for use by the importing country when the product in question is under consideration for a product license that will authorize its importation and sale or for renewal, extension, amending, or reviewing a license
''Supplementary Information Non-Clinical Research Use Only Certificate'' ''Exporter's Certification Statement *Non-Clinical Research Use Only*''	For the export of a non-clinical research use only product, material, or component that is not intended for human use which may be marketed in, and legally exported from the United States under the act
Certificates of Free Sale	For food, cosmetic products, and dietary supplements that may be legally marketed in the United States

FDA will continue to rely on self-certification by manufacturers for the first three types of certificates listed in table 1 of this document. Manufacturers are requested to self-certify that they are in compliance with all applicable requirements of the act, not only at the time that they submit their request to the appropriate center, but also at the time that they submit the certification to the foreign government.

The appropriate FDA centers will review product information submitted by firms in support of their certificate and any suspected case of fraud will be referred to FDA's Office of Criminal Investigations for follow-up. Making or submitting to FDA false statements on any documents may constitute violations of 18 U.S.C. 1001, with penalties including up to $250,000 in fines and up to 5 years imprisonment.

In the **Federal Register** of December 17, 2008 (73 FR 76655), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 2.—TOTAL ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Center	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Center for Biologics Evaluation and Research	1,501	1	1,501	1	1,501
Center for Drug Evaluation and Research	7,046	1	7,046	1	7,046
Center for Devices and Radiological Health	6,091	1	6,091	2	12,182
Center for Veterinary Medicine	664	1	664	1	664

TABLE 2.—TOTAL ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

FDA Center	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Center for Food Safety and Applied Nutrition	1,794	5	8,970	2	17,940
Total	14,853		24,272		39,333

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates were averaged based on the approximate number of requests for certificates the agency received over the past 3 years. The burden estimate for the Center for Drug Evaluation and Research was increased to reflect a more accurate average number of requests for certificates.

Dated: February 23, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–4457 Filed 3–2–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–E–0308]

Determination of Regulatory Review Period for Purposes of Patent Extension; ENDEAVOR

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ENDEAVOR and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device, ENDEAVOR (Zotarolimus-Eluting Coronary Stent System). ENDEAVOR is indicated for improving coronary luminal diameter in patients with ischemic heart disease due to *de novo* lesions of length ≤27 millimeters (mm) in native coronary arteries with reference vessel diameters of ≥2.5 mm to ≤3.5 mm. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ENDEAVOR (U.S. Patent No. 5,624,411) from Medtronic, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated June 19, 2008, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of ENDEAVOR represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ENDEAVOR is 1,507 days. Of this time, 1,068 days occurred during the testing phase of the regulatory review period, while 439 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective*: December 19, 2003. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective was December 19, 2003.

2. *The date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e)*: November 20, 2006. The applicant claims November 16, 2006, as the date the premarket approval application (PMA) for ENDEAVOR (PMA P060033) was initially submitted. However, FDA records indicate that PMA P060033 was submitted on November 20, 2006.

3. *The date the application was approved*: February 1, 2008. FDA has verified the applicant's claim that PMA P060033 was approved on February 1, 2008.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 954 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may

submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by May 4, 2009. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 31, 2009. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 17, 2009.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E9–4374 Filed 3–2–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0095]

Draft Guidance for Industry on the Clinical Pharmacology Section of Labeling for Human Prescription Drug and Biological Products—Content and Format; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Clinical Pharmacology Section of Labeling for Human Prescription Drug and Biological Products—Content and Format.'' This draft guidance is one of a series of guidance documents intended to assist applicants in complying with new FDA regulations on the content and format of labeling for human prescription drug and biological products. The draft guidance describes the recommended information to include in the *Clinical pharmacology* section of labeling that pertains to the safe and effective use of human prescription drug and biological products.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by June 1, 2009.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002; or to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Paul Hepp, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 1270, Silver Spring, MD 20993–0002, 301–796–1538; or

Lei Zhang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 3106, Silver Spring, MD 20993–0002, 301–796–1635; or

Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17),Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 24, 2006 (71 FR 3922), FDA published a final rule entitled ''Requirements on Content and Format of Labeling for Human Prescription Drug and Biological Products,'' to revise the agency's previous regulations on labeling (effective June 30, 2006). The new FDA regulations are designed to make information in prescription drug labeling easier for health care practitioners to access, read, and use, thereby increasing the extent to which practitioners rely on labeling for prescribing decisions. Among other things, the new FDA regulations require that the *Clinical pharmacology* section of the labeling contain the following subsections: *Mechanism of action*, *Pharmacodynamics*, and *Pharmacokinetics*(§ 201.57(c)(13)(i) (21 CFR 201.57(c)(13)(i)).

FDA is announcing the availability of a draft guidance for industry entitled ''Clinical Pharmacology Section of Labeling for Human Prescription Drug and Biological Products—Content and Format.'' The draft guidance is intended to assist applicants in producing the *Clinical pharmacology* section of labeling for human prescription drug and biological products that is consistent, understandable, organized, clinically useful, and in compliance with the new requirements of § 201.57(c)(13)(i). The ultimate goal of the guidance is to optimize patient drug therapy.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on the content and format of the clinical pharmacology section of labeling for human prescription drug and biological products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of

Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information related to the content and format of labeling have been approved under OMB control no. 0910–0572; the collections of information related to pharmacogenomic data have been approved under OMB control no. 0910–0557.

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/guidance/index.htm*, *http://www.fda.gov/cber/guidelines.htm*, or *http://www.regulations.gov*.

Dated: February 20, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–4372 Filed 3–2–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer on (301) 443–1129.

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

Proposed Project: HRSA Office of Performance Review (OPR) Leading Practices Data Collection Initiative—NEW

HRSA conducts performance reviews to assure that HRSA-funded grantees are successfully accomplishing their program purposes. While the Office of Performance Review's (OPR) primary function is to conduct performance reviews, another core function is to identify leading practices through the performance review process. The purpose of this submission is to collect qualitative information from diverse grantees across HRSA and identify a program component (activity, strategy, process, or intervention) that has been shown to work effectively, and produce successful outcomes, supported by objective and/or subjective data sources. Some characteristics of the program components that grantees will be asked to describe are their ability to be replicable and adaptable, ability to be documented, and ability to lead to successful program outcomes.

In order to document and evaluate leading practices, grantees with potential leading practices will be asked to complete both the Data Collection Tool and the Narrative. The information collected through these documents will be submitted to OPR. The estimated annual burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Data Collection Tool	40	1	40	3	120
Narrative	40	1	40	3	120
Total					240

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 24, 2009.

Alexandra Huttinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E9–4459 Filed 3–2–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Health Centers Patient Survey—New.

The Health Center program supports Community Health Centers (CHCs), Migrant Health Centers (MHCs), Health Care for the Homeless (HCH) projects, and Public Housing Primary Care (PHPC) programs. Health Centers receive grants from HRSA to provide primary and preventive health care services to medically underserved populations.

The proposed Patient Survey will collect in-depth information about health center patients, their health

status, the reasons they seek care at health centers, their diagnoses, the services they utilize at health centers and elsewhere, the quality of those services, and their satisfaction with the care they receive, through personal interviews of a stratified random sample of health center patients. Interviews are planned to take approximately 1 hour and six minutes each.

The Patient Survey builds on previous periodic User-Visit Surveys which were conducted to learn about the process and outcomes of care in CHCs and HCH projects. The original survey questions were derived from the National Health Interview Survey (NHIS) and the National Hospital Ambulatory Medical Care Survey (NHAMCS) conducted by the National Center for Health Statistics (NCHS). Conformance with the NHIS and NHAMCS allowed comparisons between these NCHS surveys and the previous CHC and HCH User-Visit Surveys. The new Patient Survey was developed using a questionnaire methodology similar to that used in the past, and will also allow some longitudinal comparisons for CHCs and HCH projects with the previous User-Visit survey data, including monitoring of process outcomes over time. In addition, this survey will include interviews of patients drawn from migrant populations and from residents of public housing; these populations were not included in the previous surveys.

The annual estimate of burden is as follows:

The estimated response burden for the survey is as follows:

SURVEY

Type of respondent; activity involved	Number of respondents	Responses per respondent	Total number of responses	Burden per response (hours)	Total hour burden
Grantee/Site Recruitment and Site Training	115	3	345	3.75	1,294
Patient Recruitment	5,658	1	5,658	.167	945
Patient Survey	4,526	1	4,526	1.1	4,979
Total	5,773	.....	10,529	.....	7,218

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Dated: February 24, 2009.

Alexandra Huttinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E9–4460 Filed 3–2–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Prevention of Head and Neck Cancer Using Rapamycin and Its Analogs

Description of Technology: It is frequently observed in head and neck squamous cell carcinoma (HNSCC), a cancer occurring mostly in the mouth, that the Akt/mTOR pathway is abnormally activated. Therefore, inhibiting this signaling pathway may help in treating this disease. Rapamycin and its analogs are known to inhibit the activity of mTOR so in principle they could serve as therapeutics for treating HNSCC.

Researchers at the NIH have developed a method of potentially preventing or treating HNSCC through the inhibition of mTOR activity. The proof of this principle was demonstrated by rapid regression of mouth tumors in mice afflicted with Cowden syndrome with the administration of rapamycin. Like HNSCC, development of this disease is linked to over activation of the Akt/mTOR pathway. Furthermore, the therapeutic potential of rapamycin was demonstrated using mice in experiments that model chronic exposure to tobacco, which promotes the development of HNSCC. Therefore, inhibitors of mTOR have considerable potential in the prevention and treatment of HNSCC.

Applications: Preventing the development of oral cancer using mTOR inhibitors to halt progression of pre-cancerous lesions.

Market: Approximately 500,000 new cases of squamous cell carcinomas of the head and neck arise every year making it the 6th most common cancer in the world.

Frequently, prognosis is poor due to late detection of cancer.

Development Status: Pre-clinical proof of principle.

Inventors: J. Silvio Gutkind *et al.* (NIDCR).

Publications: 1. CH Squarize, RM Castilho, JS Gutkind. Chemoprevention and treatment of experimental Cowden's disease by mTOR inhibition with rapamycin. Cancer Res. 2008 Sep 1;68(17):7066–7072.

2. R Czerninski, P Amornphimoltham, V Patel, AA Molinolo, JS Gutkind. Targeting mTOR by rapamycin prevents tumor progression in an oral-specific chemical carcinogenesis model. Cancer Prevention Res. 2009 Jan;2(1):27–36.

Patent Status: U.S. Patent Application No. 61/090/414 filed 20 Aug 2008 (HHS Reference No. E–302–2008/0-US–01).

Licensing Status: Available for licensing.

Licensing Contact: Whitney Hastings; 301–451–7337; *hastingw@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute of Dental and

Craniofacial Research, Oral and Pharyngeal Cancer Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact David W. Bradley, PhD at *bradleyda@nidcr.nih.gov* for more information.

Use of Tetracyclines as Anti-Cancer Agents

Description of Technology: The invention describes compositions of tetracycline compounds and their derivatives as having anti-cancer activity, as well as methods of treating cancer. Tetracyclines are commonly used as antibiotics; however, testing of these compounds in a high throughput screening system revealed certain derivatives to be potent inhibitors of tyrosyl-DNA-phosphodiesterase (Tdp1).

Camptothecins are effective Topoisomerase I (Top1) inhibitors, and two derivatives (Topotecan® and Camptosar®) are currently approved for treatment of ovarian and colorectal cancer. Camptothecins damage DNA by trapping covalent complexes between the Top1 catalytic tyrosine and the 3=-end of the broken DNA. Tdp1 repairs Top1-DNA covalent complexes by hydrolyzing the tyrosyl-DNA bond. This can reduce the effectiveness of camptothecins as anti-cancer agents. In addition, Tdp1 repairs free-radical-mediated DNA breaks.

As disclosed in the instant technology, tetracyclines have the potential to enhance the anti-neoplastic activity of Top1 inhibitors by reducing repair of Top1-DNA lesions through inhibition of Tdp1. Inhibition of Tdp1 may also reduce repair of DNA breaks and increase the rate of apoptosis in cancer cells, making them potential anti-cancer agents on their own.

Development Status: Pre-clinical stage.

Inventors: Yves Pommier, Christophe Marchand, Laurent Thibaut (NCI).

Publications: 1. Z Liao *et al.* Inhibition of human tyrosyl-DNA phosphodiesterase (Tdp1) by aminoglycoside antibiotics and ribosome inhibitors. Mol Pharmacol. 2006 Jul;70(1):366–372.

2. Y Pommier. Camptothecins and topoisomerase I: A foot in the door. Targeting the genome beyond topoisomerase I with camptothecins and novel anticancer drugs: Importance of DNA replication, repair and cell cycle checkpoints. Curr Med Chem Anticancer Agents. 2004 Sep;4(5):429–434. Review.

3. Y Pommier *et al.* Repair of and checkpoint response to topoisomerase I mediated DNA damage. Mutat Res. 2003 Nov 27;532(1–2):173–203. Review.

Patent Status: U.S. Provisional Application No. 60/786,746 filed 27 Mar 2006 (HHS Reference No. E–097–2006/0–US–01).

International Application No. PCT/US2007/007724 filed 27 Mar 2007 (HHS Reference No. E–097–2006/0–PCT–02).

U.S. Patent Application No. 12/241,011 filed 29 Sep 2008 (HHS Reference No. E–097–2006/1–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Betty Tong, PhD; 301–594–6565; *tongb@mail.nih.gov*.

Collaborative Research Opportunity: The Laboratory of Molecular Pharmacology at the National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize tetracycline derivatives, particularly optimizing them for therapeutic use. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Glutathione S-transferase Clones for Members of the Ubiquitin-Dependent Protein Degradation Pathway

Description of Technology: Scientists at the National Institutes of Health have developed cDNA for glutathione S-transferase (GST) clones for the following factors: Nedd4, XIAP, UBCH5B, and CBL–B. These proteins are involved in the ubiquitin-dependent pathway of protein degradation in cells, the major cellular system for protein degradation. The ubiquitin-proteosome pathway regulates several cancer regulated proteins. Defects in this pathway can lead to cancer development. The GST clones can be used to produce corresponding GST fusion proteins in order to isolate each protein from the pathway for further analysis. These constructs can also be incorporated into assays/kits to detect proteins in the ubiquitin-dependent pathway.

Applications: Research tools for detection and isolation of ubiquitin-dependent pathway members in order to understand the pathway defects that lead to cancer and develop preventions and treatments to overcome these defects.

Research tools for generating fusion proteins of Nedd4, XIAP, UBCH5B, and CBL–B to further analyze their functions *in vivo* and *in vitro*.

Controls for screening inhibitors of the ubiquitin-dependent pathway in order to better understand the different mechanisms of ubiquitin-dependent protein degradation.

Inventors: Allan M. Weissman *et al.* (NCI).

Patent Status: HHS Reference No. E–245–2003/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Status: Available for licensing under a Biological Materials License Agreement.

Licensing Contact: Samuel E. Bish, Ph.D.; 301–435–5282; *bishse@mail.nih.gov*.

Dated: February 24, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–4477 Filed 3–2–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. 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: Microbiology, Infectious Diseases and AIDS Initial Review Group; Acquired Immunodeficiency Syndrome Research Review Committee.

Date: March 30–31, 2009.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Erica L. Brown, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2639, *ebrown@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Pandemic Flu.

Date: April 1, 2009.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Clayton C. Huntley, PhD, Scientific Review Officer, Scientific Review Program, National Institutes of Health/NIAID, Room 3124, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2570, *chuntley@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–4411 Filed 3–2–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye 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 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 Eye Institute Special Emphasis Panel; Research Grant Applications.

Date: March 26, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Houmam H Araj, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, NIH, 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892–9602, 301–451–2020, *ha50c@nih.gov*.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Mentored Career Development Grant Applications (K).

Date: March 31, 2009.

Time: 12 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anne E Schaffner, PhD, Scientific Review Officer, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: February 23, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–4286 Filed 3–2–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed 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 Board of Scientific Counselors, NIA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Aging, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIA.

Date: May 12–13, 2009.

Time: May 12, 2009, 8 a.m to 4 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institute on Aging, Biomedical Research Center, 251 Bayview Blvd., 3rd Floor Conference Room, Baltimore, MD 21224.

Time: May 13, 2009, 8 a.m to 1:50 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institute on Aging, Biomedical Research Center, 251 Bayview Blvd., 3rd Floor Conference Room, Baltimore, MD 21224.

Contact Person: Dan L. Longo, MD, Scientific Director, National Institute of Aging, Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825. 410–558–8110, *dl14q@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 23, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–4265 Filed 3–2–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. 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 sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Center for AIDS Intervention Research Core Support.

Date: March 20, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Enid Light, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6132, MSC 9608, Bethesda, MD 20852–9608, 301–443–0322, *elight@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 25, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–4476 Filed 3–2–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1820–DR; Docket ID FEMA–2008–0018]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA–1820–DR), dated February 15, 2009, and related determinations.

DATES: *Effective Date:* February 15, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 15, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from severe storms and tornadoes during the period of February 10–11, 2009, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Douglas G. Mayne, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Oklahoma have been designated as adversely affected by this major disaster:

Carter, Logan, and Oklahoma Counties for Individual Assistance.

All counties within the State of Oklahoma are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4511 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1819–DR; Docket ID FEMA–2008–0018]

Arkansas; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–1819–DR), dated February 6, 2009, and related determinations.

DATES: *Effective Date:* February 24, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of February 6, 2009.

Pope County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4503 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1819–DR; Docket ID FEMA–2008–0018]

Arkansas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–1819–DR), dated February 6, 2009, and related determinations.

DATES: *Effective Date:* January 30, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective January 30, 2009.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4505 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1819–DR; Docket ID FEMA–2008–0018]

Arkansas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–1819–DR), dated February 6, 2009, and related determinations.

DATES: *Effective Date:* February 11, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of February 6, 2009.

Cleburne, Conway, Crawford, Cross, Poinsett, and Randolph Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4506 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1819–DR; Docket ID FEMA–2008–0018]

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–1819–DR), dated February 6, 2009, and related determinations.

DATES: *Effective Date:* February 6, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 6, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from a severe winter storm beginning on January 26, 2009, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, and Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Direct Federal assistance is authorized. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, W. Michael Moore, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Arkansas have been designated as adversely affected by this major disaster:

Baxter, Benton, Boone, Carroll, Clay, Craighead, Franklin, Fulton, Greene, Independence, Izard, Jackson, Johnson, Lawrence, Madison, Marion, Mississippi, Newton, Searcy, Sharp, Stone, Van Buren, and Washington Counties for Public Assistance. Direct Federal assistance is authorized.

All counties within the State of Arkansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4507 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1818–DR; Docket ID FEMA–2008–0018]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1818–DR), dated February 5, 2009, and related determinations.

DATES: *Effective Date:* February 5, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 5, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky resulting from a severe winter storm and flooding beginning on January 26, 2009, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act). Therefore, I declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the Commonwealth, and any other forms of assistance under the Stafford Act that you deem appropriate. Direct Federal assistance is authorized. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Kim R. Kadesch, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Kentucky have been designated as adversely affected by this major disaster:

Allen, Anderson, Ballard, Barren, Bath, Bourbon, Boyd, Boyle, Breathitt, Breckinridge, Bracken, Bullitt, Butler, Caldwell, Calloway, Campbell, Carlisle, Carroll, Carter, Christian, Clark, Clay, Crittenden, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Fulton, Garrard, Grant, Graves, Grayson, Green, Greenup, Hardin, Harrison, Hart, Henderson, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Johnson, Larue, Lawrence, Lee, Lewis, Lincoln, Livingston, Logan, Lyon, Madison, Magoffin, Marion, Marshall, Martin, Mason, McCracken, McLean, Meade, Menifee, Mercer, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Perry, Powell, Pendleton, Robertson, Rockcastle, Rowan, Scott, Shelby, Spencer, Todd, Trigg, Union, Warren, Washington, Webster, and Woodford Counties for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program.

All counties within the Commonwealth of Kentucky are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4508 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1818–DR; Docket ID FEMA–2008–0018]

Kentucky; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky (FEMA–1818–DR), dated February 5, 2009, and related determinations.

DATES: *Effective Date:* February 13, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective February 13, 2009.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4518 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1822–DR; Docket ID FEMA–2008–0018]

Missouri; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri (FEMA–1822–DR), dated February 17, 2009, and related determinations.

EFFECTIVE DATE: February 24, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of February 17, 2009.

Barry County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4504 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1821–DR; Docket ID FEMA–2008–0018]

Tennessee; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Tennessee (FEMA–1821–DR), dated February 17, 2009, and related determinations.

DATES: *Effective Date:* February 17, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 17, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Tennessee resulting from severe winter storms and flooding during the period of January 27–31, 2009, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Tennessee.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Terry L. Quarles, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Tennessee have been designated as adversely affected by this major disaster:

Dyer, Henry, Lake, Montgomery, Obion, Stewart, and Weakley Counties for Public Assistance.

All counties within the State of Tennessee are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4512 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3302–EM] Docket ID FEMA–2008–0018]

Kentucky; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the Commonwealth of Kentucky (FEMA–3302–EM), dated January 28, 2009, and related determinations.

DATES: *Effective Date:* February 12, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the

Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared an emergency by the President in his declaration of January 28, 2009.

Boone, Casey, Gallatin, Henry, Kenton, Taylor, and Trimble Counties for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4510 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1822–DR; Docket ID FEMA–2008–0018]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1822–DR), dated February 17, 2009, and related determinations.

DATES: *Effective Date:* February 17, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 17, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from a severe winter storm during the period of January 26–28, 2009, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Direct Federal assistance is authorized. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas A. Hall, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Missouri have been designated as adversely affected by this major disaster:

Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Howell, Madison, Mississippi, New Madrid, Oregon, Ozark, Pemiscot, Reynolds, Ripley, Scott, Shannon, Stoddard, Stone, Taney, and Wayne Counties for Public Assistance, including direct Federal assistance.

All counties and the Independent City of St. Louis in the State of Missouri are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4514 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1823–DR; Docket ID FEMA–2008–0018]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA–1823–DR), dated February 17, 2009, and related determinations.

DATES: *Effective Date:* February 17, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 17, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from a severe winter storm during the period of January 26–28, 2009, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided

under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Douglas G. Mayne, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Oklahoma have been designated as adversely affected by this major disaster:

Adair, Cherokee, Delaware, and Hughes Counties for Public Assistance.

All counties within the State of Oklahoma are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–4517 Filed 3–2–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14922–B; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Cully Corporation. The lands are in the vicinity of Point Lay, Alaska, and are located in:

Umiat Meridian, Alaska

T. 3 S., R. 44 W.,
Secs. 1 to 8, inclusive.
Containing approximately 5,064 acres.

The subsurface estate in these lands will be conveyed to Arctic Slope Regional Corporation when the surface estate is conveyed to Cully Corporation. Notice of the decision will also be published four times in The Arctic Sounder.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 2, 2009 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Hillary Woods,

Land Law Examiner, Land Transfer Adjudication I.

[FR Doc. E9–4432 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–08–1310–NB]

Call for Public-at-Large Nominations to the Pinedale Anticline Working Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations to fill one vacant public-at-large seat on the Pinedale Anticline Working Group (PAWG) as part of the adaptive management program for the Pinedale Anticline Project Area in Southwestern Wyoming.

DATES: All nominations should be postmarked by 30 days from date of publication in the **Federal Register**. Final appointments will be made by the Secretary of the Interior.

ADDRESSES: Nominations should be sent to Mr. David Crowley, PAWG Designated Federal Officer, Bureau of Land Management, Pinedale Field Office, 1625 West Pine Street, P.O. Box 768, Pinedale, Wyoming 82941, or via e-mail to *dave_crowley@blm.gov*.

SUMMARY: There is currently one vacancy on the PAWG for which nominations are being solicited: A representative of the public-at-large. Individuals or groups who wish to submit a nomination or who are interested in becoming a member of the PAWG must submit the required information within 30 days of this Notice. Requisite nomination information is listed below, or nomination forms may be found at: *http://www.blm.gov/wy/st/en/field_offices/Pinedale/pawg.html*.

FOR FURTHER INFORMATION CONTACT: Mr. David Crowley, PAWG Designated Federal Officer, Bureau of Land Management, Pinedale Field Office, 1625 West Pine Street, P.O. Box 768, Pinedale, Wyoming 82941, telephone: (307) 367–5323, e-mail: *dave_crowley@blm.gov*.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) is a Federal Advisory Committee that advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field proceeds. PAWG members are expected to attend the scheduled PAWG meetings and provide input to the Bureau of Land Management on the development of adaptive management recommendations related to the Pinedale Anticline Oil and Gas Exploration and Development Project. Members shall be reimbursed for travel and per diem expenses related to the PAWG. Additional information, including meeting minutes and agendas, previous adaptive management recommendations, current membership details, and nomination forms, can be found at: *http://www.blm.gov/wy/st/en/field_offices/Pinedale/pawg.html*.

On June 25, 2008, the Secretary of the Interior renewed the PAWG Charter. The charter established several membership selection criteria and operational procedures that were developed when the Working Group became active. These are listed as follows:

1. The PAWG is composed of nine members who reside in the State of Wyoming. The PAWG members will be appointed by and serve at the pleasure of the Secretary of the Interior.

2. All members should have a demonstrated ability to analyze and interpret data and information, evaluate proposals, identify problems, and promote the use of collaborative management techniques (such as long-term planning, management across jurisdictional boundaries, data sharing, information exchange, and partnerships), and a knowledge of issues involving oil and gas development activities.

3. The service of the PAWG members shall be as follows:

a. PAWG members will be appointed to 2-year terms, subject to removal by the Secretary of the Interior. At the discretion of the Secretary of the Interior, members may be reappointed to additional terms.

b. The Chairperson of the PAWG will be selected by the PAWG.

c. The term of the Chairperson will not exceed 2 years.

Individuals, or representatives of groups, who wish to become a member of the Pinedale Anticline Working Group should complete and submit the following information to this office within 30 days after publication in the **Federal Register**:

1. Representative Group To Be Considered for: Public-at-Large.
2. Nominee's Full Name.
3. Business Address.
4. Business Phone.
5. Home Address.
6. Home Phone.
7. Occupation/Title.
8. Qualifications (education, including colleges, degrees, major fields of study and/or training).
9. Career Highlights (significant related experience, civic and professional activities, elected offices, prior advisory committee experience, or career achievements related to the interest to be represented).
10. Experience in collaborative management techniques, such as long-term planning, management across jurisdictional boundaries, data sharing, information exchange, and partnerships.
11. Experience in data analysis and interpretation, problem identification, and evaluation of proposals.
12. Knowledge of issues involving oil and gas development.
13. List any leases, licenses, permits, contracts, or claims held by the Nominee that involve lands or resources administered by the BLM.
14. Attach two or three Letters of Reference from interests or organization to be represented.
15. Nominated by: Include Nominator's name, address, and telephone numbers (if not self-nominated).
16. Date of Nomination.

Groups should nominate more than one person and indicate their preferred order of appointment selection.

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 or nomination—including your personal identifying information—may be made publicly available at any time. While you can ask us in your nomination or comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 19, 2009.

Donald A. Simpson,

State Director.

[FR Doc. E9–4377 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT922200–09–L13100000–FI0000–P;NDM 90111]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease NDM 90111

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per 30 U.S.C. 188(d), Whiting Oil and Gas Corporation, True Oil LLC, and Williams Production Rocky Mountain Company timely filed a petition for reinstatement of oil and gas lease NDM 90111, Billings County, North Dakota. The lessees paid the required rental accruing from the date of termination.

No leases were issued that affect these lands. The lessees agree to new lease terms for rentals and royalties of $10 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessees paid the $500 administration fee for the reinstatement of the lease and $163 cost for publishing this Notice.

The lessees met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $10 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $163 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Teri Bakken, Chief, Fluids Adjudication Section, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5091.

Dated: February 25, 2009.

Teri Bakken,

Chief, Fluids Adjudication Section.

[FR Doc. E9–4434 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT922200–09–L13100000–FI0000–P;NDM 90948]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; NDM 90948

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per 30 U.S.C. 188(d), Whiting Oil and Gas Corporation, Encore Operating, LP, Upton Resources U.S.A., Inc., Northern Energy Corporation, and W.H. Champion timely filed a petition for reinstatement of oil and gas lease NDM 90948, Billings County, North Dakota. The lessees paid the required rental accruing from the date of termination.

No leases were issued that affect these lands. The lessees agree to new lease terms for rentals and royalties of $10 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessees paid the $500 administration fee for the reinstatement of the lease and $163 cost for publishing this Notice.

The lessees met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $10 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $163 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Teri Bakken, Chief, Fluids Adjudication

Section, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5091.

Dated: February 25, 2009.

Teri Bakken,

Chief, Fluids Adjudication Section.

[FR Doc. E9–4435 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR015000 L14300000 EU0000; OR–65259; HAG–09–0086]

Proposed Sale of Public Lands, Oregon

AGENCY: Bureau of Land Management (BLM), Lakeview District, Oregon.

ACTION: Notice of realty action.

SUMMARY: This notice announces the sale of one parcel of public land totaling 40 acres in Lake County, Oregon, by direct sale procedures and at not less than appraised market value. The parcel proposed for sale is identified as suitable for disposal in the Lakeview Resource Management Plan and Record of Decision dated November 2003, as amended.

ADDRESSES: Address all written comments to Thomas E. Rasmussen, Field Manager, Lakeview Resource Area Office, 1301 South G Street, Lakeview, Oregon 97630. Comments submitted verbally or in electronic format will not be accepted.

SUPPLEMENTARY INFORMATION: The following described public land in Lake County, Oregon, has been examined and found suitable for sale under Sections 203 and 209 of the Federal Land Policy Act of 1976 (43 U.S.C. 1713 and 1719).

Willamette Meridian, Oregon

T.29S., R.17E.,

Section 24: NW¼NW¼.

The area described contains 40 acres and will be sold by direct sale to Ernest and Dixie Shuffield at not less than the appraised market value of $30,000.

In accordance with 43 CFR 2711.3–3(a)(5), direct sale procedures are appropriate to resolve inadvertent unauthorized use or occupancy of the land. Currently, portions of the sale parcel are being used in conjunction with the Shuffield residence as a fenced storage area and are under cultivation for alfalfa hay. All improvements to the parcel were constructed/developed either by the Shuffields or their predecessors and have encumbered the sale parcel for over 50 years.

Federal law requires that public land may be sold only to either (1) Citizens of the United States 18 years of age or older; (2) corporations subject to the laws of any State or of the United States; (3) other entities such as an association or a partnership capable of holding land or an interest therein under the laws of the State within which the land is located; or (4) a State, State instrumentality or political subdivision authorized to hold property. Certifications and evidence to this effect will be required of the purchaser prior to issuance of a patent.

The following rights, reservations, and conditions will be included in the patent that may be issued for the above described parcel of land:

1. A reservation to the United States for a right-of-way for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation to the United States for all leasable minerals including oil, gas and geothermal resources in the land in accordance with Section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

3. The patent will include a notice and indemnification statement under the Comprehensive Environmental Response, Compensation and Liability Act. The parcel is subject to the requirements of section 120(h) (42 U.S.C. Section 9620) holding the United States harmless from any release of hazardous materials that may have occurred as a result of the unauthorized use of the property by other parties. No Warranty of any kind, express or implied, is given by the United States as to the title, physical condition or potential uses of the parcel of land proposed for sale.

4. Subject to such rights as Lake County or its successors in interest may have for roadway purposes pursuant to right-of-way, OR 49313.

5. Subject to such rights as CenturyTel of Eastern Oregon or its successors in interest may have for buried telephone cable purposes pursuant to right-of-way, OR 45023.

6. The parcel is subject to valid existing rights.

The mineral interests being offered for conveyance have no known mineral value. Consent to purchase constitutes an application for conveyance of the mineral interests. In addition to the full purchase price, the Shuffields must submit a nonrefundable filing fee of $50 for purchase of the mineral interests to be conveyed simultaneously with the sale of the land with the exception of all leasable minerals, including oil, gas and geothermal resources, which will be reserved to the United States in accordance with Section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

On March 3, 2009, the above described lands will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713). Until completion of the sale, the Bureau of Land Management is no longer accepting land use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of existing grants in accordance with 43 CFR 2807.15 and 2886.15. The effect of segregation will terminate upon issuance of a patent, upon publication in the **Federal Register** of a termination of the segregation, or March 3, 2011, unless extended by the Bureau of Land Management, State Director, in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

The Shuffields will be allowed 30 days from receipt of a written offer to submit either full payment or at least 20 percent of the appraised value of the parcel and within 180 days, thereafter, submit the balance. If the balance of the purchase price in not received within the 180 days, the deposit will be forfeited to the United States and the parcel withdrawn from sale.

Public Comments: On or before April 17, 2009, any person may submit written comments regarding the proposed sale to the Bureau of Land Management, Lakeview Resource Area Office, 1301 South G Street, Lakeview, Oregon 97630.

Comments, including names, street addresses, and other contact information of respondents, will be available for public review. Individual respondents may request confidentiality. If you wish to request that the Bureau of Land Management consider withholding your name, street address, and other contact information (such as Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. The Bureau of Land Management will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. The Bureau of Land Management will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

Detailed information concerning the sale, including the appraisal, planning and environmental documents, and mineral report is available for review at the Bureau of Land Management, Lakeview Resource Area Office, 1301 South G Street, Lakeview, Oregon 97630, during business hours. Objections will be reviewed by the Bureau of Land Management, Lakeview District Manager who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposal will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711.1–2).

FOR FURTHER INFORMATION CONTACT: Dan Stewardson, Realty Specialist, at the Lakeview Resource Area Office, 1301 South G Street, Lakeview, Oregon 97630 or phone (541) 947–6115.

Dated: February 11, 2009.

Thomas E. Rasmussen,

Field Manager, Lakeview Resource Area.

[FR Doc. E9–4494 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDI01000–L143000000.EU0000; IDI–36180]

Notice of Realty Action; Proposed Direct Sale of Public Land, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: An isolated parcel of public land totaling 40 acres in Bonneville County, Idaho, is being considered for direct sale under the provisions of the Federal Land Policy Management Act of 1976 (FLPMA), at no less than the appraised fair market value.

DATES: In order to ensure consideration in the environmental analysis of the proposed sale, comments must be received by April 17, 2009.

ADDRESSES: Address all comments concerning this Notice to Field Manager, Bureau of Land Management (BLM), Upper Snake Field Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION CONTACT: Becky Lazdauskas, Realty Specialist, at the above address or phone (208) 524–7521.

SUPPLEMENTARY INFORMATION: The following-described public land in Bonneville County, Idaho, is being considered for direct sale under the authority of Section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750, 43 U.S.C. 1713):

Boise Meridian

T. 3 N., R. 41 E.,
Section 34, SW¼SE¼.

The area described contains 40 acres in Bonneville County.

The 1985 BLM Medicine Lodge Resource Management Plan identifies this parcel of public land as suitable for disposal through sale or exchange. Conveyance of the identified public land will be subject to valid existing rights and encumbrances of record, including but not limited to, rights-of-way for roads and public utilities. Conveyance of any mineral interests pursuant to Section 209 of the FLPMA will be analyzed during processing of the proposed sale.

On March 3, 2009, the above-described land will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or March 3, 2011, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

Public Comments

For a period until April 17, 2009, interested parties and the general public may submit in writing any comments concerning the land being considered for sale, including notification of any encumbrances or other claims relating to the identified land, to the Field Manager, BLM Upper Snake Field Office, at the above address. In order to ensure consideration in the environmental analysis of the proposed sale, comments must be in writing and postmarked or delivered within 45 days of the initial date of publication of this Notice. Comments transmitted via e-mail will not be accepted. Comments, including names and street addresses of respondents, will be available for public review at the BLM Upper Snake Field Office during regular business hours, except holidays. Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comments, 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. If you wish to have your name or address withheld from public disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Any determination by the BLM to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. Such requests will be honored to the extent allowed by law. The BLM will make available for public review, in their entirety, all comments submitted by businesses or organizations, including comments by individuals in their capacity as an official or representative of a business or organization.

(Authority: 43 CFR 2711.1–2)

Dated: February 6, 2009.

Wendy Reynolds,

Upper Snake Field Manager.

[FR Doc. E9–4487 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAKA01300–14300000.ER0000; AA–091143]

Notice of Realty Action: Recreation and Public Purposes Lease, Anchorage, AL

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of realty action.

SUMMARY: This Notice of Realty Action is being issued in response to a Recreation and Public Purposes (R&PP) lease application received from the State of Alaska, Department of Fish and Game (ADF&G), Division of Sport Fisheries. ADF&G is proposing to construct a new fish hatchery on approximately 15 acres of public lands, in Anchorage, Alaska.

DATES: Interested parties may submit comments regarding the ADF&G R&PP fish hatchery lease application until April 17, 2009.

ADDRESSES: Documents pertaining to this proposal may be obtained from: Bureau of Land Management, Anchorage Field Office, 4700 BLM Road, Anchorage, Alaska 99507.

FOR FURTHER INFORMATION CONTACT: Realty Specialist Harrison Griffin by phone at (907) 267–1246 or (800) 478–1263, or by e-mail at *hgriffin@blm.gov*.

SUPPLEMENTARY INFORMATION: ADF&G is currently authorized to operate and maintain a fish hatchery and associated facilities within the proposed lease area. The new lease would replace the current R&PP lease AA–9596, FLPMA right-of-way AA–85927, and encompass approximately 9 acres of new development. The Bureau of Land Management (BLM) will review ADF&G's application prior to considering a 25-year R&PP lease for the hatchery. The Department of Fish and Game would ultimately be responsible for the maintenance and operation of the proposed hatchery for the term of the lease.

In response to the Recreation and Public Purposes (R&PP) lease application submitted by the Alaska Department of Fish and Game (ADF&G), Sport Fisheries, to the BLM Anchorage Field Office on February 2, 2009, the BLM has examined and found the requested parcel suitable for classification for lease, but not conveyance, under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*), 43 CFR 2912 and Public Land Order (PLO) 2676. This parcel of land lies within the Municipality of Anchorage, on Elmendorf Air Force Base along Ship Creek, and described below:

A parcel of land located within SW ¼, SW ¼ section 9, T. 13 N., R. 3 W., Seward Meridian, Anchorage Recording District, Municipality of Anchorage, Third Judicial District, State of Alaska, containing 14.76 acres, more or less.

An Environmental Assessment (EA) has been prepared outlining ADF&G's plan of development, subsequent monitoring, and daily operation of the proposed facility. This plan may be viewed at the BLM Anchorage Field Office. As described within the EA, the proposed hatchery would be constructed adjacent to and include the existing facility, currently operating under a valid and existing R&PP lease and right-of-way. BLM has reviewed the EA, found it to be legally sufficient, and issued a Finding of No Significant Impact (FONSI) on February 11, 2009.

Comments submitted to the Anchorage Field Office regarding ADF&G's application must include a reference to this notice. The BLM will make a final determination after completing a thorough review of the application. The lands are not required for any federal purpose. The lease is in conformance with the BLM Ring of Fire Resource Management Plan (RMP) dated March 21, 2008. The RMP has been reviewed and it has been determined the proposed action is in conformance with the land use plan decision I.2.d.

The lease will be subject to the provisions of the R&PP Act, terms of the military withdrawal outlined in PLO 2676, 43 CFR 2912, all valid and existing rights, and any applicable regulations set forth by the Secretary of the Interior. On April 17, 2009, the above described land will be segregated from all other forms of appropriation under the public land laws. The lands within this R&PP lease will not be subject to conveyance at any time. However, the lease term may be renewed upon review and approval.

Classification Comments: Interested parties may submit comments involving the suitability of the land for R&PP sites. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Comments, including names and addresses of respondents, will be available for public review. Interested parties may submit comments regarding the specific use proposed in the applications and plans of development, whether the BLM followed proper administrative procedures in reaching the decision to lease under the R&PP Act or any other factor not directly related to the suitability of the lands for public school sites. Facsimiles, telephone calls, and electronic mails are unacceptable means of notification. 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. Any adverse comments will be reviewed by the BLM Alaska State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification will become effective on April 17, 2009. The land will not be available for lease until after the classification becomes effective.

(Authority: 43 CFR 2741.5)

Dated: February 17, 2009.

Teresa McPherson,

Acting Anchorage Field Manager.

[FR Doc. E9–4488 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 121884 LLNMF02000 L14300000.EU0000]

Notice of Realty Action, Sale of Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes a direct (non-competitive) sale of a parcel of public land, containing 0.27 acres located in Rio Arriba County, New Mexico. The described public land has been examined, and through the public-supported land use planning process, has been determined to be suitable for disposal by direct sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), as amended, at no less than the appraised fair market value. This sale will resolve an inadvertent trespass on public land. An appraisal of the subject parcel's fair market value is being prepared, and when completed, will be available for review at the BLM's Taos Field Office, 226 Cruz Alta Road, Taos, New Mexico 87571. Upon the completion and approval of the appraisal report, a subsequent notice will be published in the local newspaper specifying the fair market value.

DATES: Interested parties may submit comments to the BLM Taos Field Office Manager at the above address. Comments must be received by no later than April 17, 2009. The land will not be offered for sale until at least May 4, 2009.

ADDRESSES: Address all written comments concerning this Notice to Sam DesGeorges, Taos Field Office Manager, 226 Cruz Alta Road, Taos, New Mexico 87571.

FOR FURTHER INFORMATION CONTACT: Francina Martinez, Realty Specialist, at the above address or at (575) 758–8851.

SUPPLEMENTARY INFORMATION: The following described public land in Rio Arriba County, New Mexico, has been determined to be suitable for sale at not less than fair market value under Section 203 of the Federal Land Policy and Management Act of 1976, as

amended (90 Stat. 2750, 43 U.S.C. 1713) and 43 Code of Federal Regulations 2711.3–3(a)(5). The proposed sale would resolve the inadvertent trespass upon the land. It has been determined that resource values will not be affected by the disposal of this parcel of public land.

The parcel is described as:

New Mexico Principal Meridian

T. 23 N., R. 10 E.,
Sec. 28, lot 147.

The area described contains 0.27 acres, more or less, in Rio Arriba County.

The patent, when issued, will contain a reservation to the United States for ditches and canals under the Act of March 30, 1890 and a reservation for all minerals. The parcel is being offered by direct sale to Mr. Frank Rendon of Rio Arriba County New Mexico, based on historic use and added improvements. The parcel has been used as a portion of the residence. Failure or refusal by Frank Rendon to submit the required fair market appraisal amount within 180 days of the sale of the land will constitute a waiver of this preference consideration.

Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the General Mining Laws. The segregation will end upon issuance of the patent or 270 days from the date of publication, whichever occurs first.

Comments must be received by the BLM Taos Field Manager, Taos Field Office, at the address stated above, on or before the date stated above. Only written comments will be accepted. Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comments—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Any adverse comments will be reviewed by the Taos Field Manager, who may sustain, vacate, or modify this realty action. In the absence of any objects, or adverse comments, this proposed realty action will become final determination of the Department of the Interior.

Authority: 43 CFR 2710, subpart 2711–3–3(a)(5).

Sam DesGeorges,

Taos Field Manager.

[FR Doc. E9–4472 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–OW–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDT03000–L14300000.EU0000; IDI–35159]

Notice of Realty Action; Proposed Sale of Public Land, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: A parcel of public land totaling 1.62 acres in Blaine County, Idaho, has been found suitable for direct sale under the provisions of the Federal Land Policy Management Act of 1976 (FLPMA), at no less than the appraised fair market value.

DATES: The land will not be offered for sale until at least 60 days after the date of this notice. Until April 17, 2009 interested parties may submit comments.

ADDRESSES: Address all comments concerning this Notice to Tara Hagen, Realty Specialist, Bureau of Land Management (BLM), Shoshone Field Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Tara Hagen, Realty Specialist, at the above address or phone at (208) 732–7205.

SUPPLEMENTARY INFORMATION: The following described public land in Blaine County, Idaho, has been found suitable for disposal by direct sale to Helios Development, LLC, under the authority of Sections 203 and 209 of the FLPMA:

Boise Meridian

T. 4 N., R. 17 E.,
Section 13: Lot 5.

The area described contains 1.62 acres in Blaine County.

The 1981 BLM Sun Valley Framework Management Plan (MFP) had identified this parcel for potential disposal; thus allowing it to qualify for disposal under the Federal Land Transaction Facilitation Act (FLTFA). The FLTFA directs the revenues generated from the sale or disposal of lands identified for disposal in land use plans as of July 25, 2000, to an account that can be used by the Bureau of Land Management (BLM), the U.S. Forest Service, the National Park Service, and the U.S. Fish and Wildlife Service, to purchase lands located within federally designated areas or with higher resources from willing sellers.

It has been determined that the subject parcel contains no known mineral values; therefore, mineral interests will be conveyed simultaneously. The patent, when issued, will contain a right-of-way thereon for all ditches and canals constructed by the authority of the United States under the Act of August 30, 1890, 43 U.S.C. 945.

On March 3, 2009 the above-described land will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously-filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or March 3, 2011 unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

Public Comments: For a period until April 17, 2009, interested parties and the general public may submit comments to Tara Hagen, Realty Specialist, at the BLM Shoshone Field Office at the address listed above. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior. Comments transmitted via e-mail will not be accepted. Comments, including names and street addresses of respondents, will be available for public review at the BLM Shoshone Field Office during regular business hours, except holidays. Individual respondents may request confidentiality. 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. If you wish to have your name or address withheld from public disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Any determination by the BLM to release or

withhold the names and/or addresses of those who comment will be made on a case-by-case basis. Such requests will be honored to the extent allowed by law. The BLM will make available for public review, in their entirety, all comments submitted by businesses or organizations, including comments by individuals in their capacity as an official or representative of a business or organization.

(Authority: 43 CFR 2711.1–2)

Lori A. Armstrong,

Shoshone Field Manager.

[FR Doc. E9–4489 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

Temporary Concession Contract for Lake Chelan National Recreation Area, WA

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of proposed award of temporary concession contract for the Lake Chelan National Recreation Area, WA.

SUMMARY: Pursuant to 36 CFR 51.24, public notice is hereby given that the National Park Service proposes to award a temporary concession contract for the conduct of certain visitor services within Lake Chelan National Recreation Area, Washington for a term not-to-exceed 3 years. The visitor services include overnight accommodations, food and beverage, retail, fuel, and transportation services. This action is necessary to avoid interruption of visitor services.

DATES: The term of the temporary concession contract will commence (if awarded) no earlier than March 1, 2009.

SUPPLEMENTARY INFORMATION: The temporary concession contract is proposed to be awarded to Stehekin Adventure, LLC, a qualified person. Stehekin Adventure, LLC, also is the incumbent concessioner, who operated all visitor services, after a sale and transfer was completed in 2006, under Concession Contract CC–LACH003–94. The 1998 Concessions Management Improvement Act provides by its terms that, to avoid interruption of services to visitors, the National Park Service may award non-competitively a temporary contract to perform such services for a term not-to-exceed 3 years in aggregate. 16 U.S.C. 5952(11). Because this temporary contract will not exceed 3 years, this action complies with the provisions of this statutory provision.

The National Park Service issued a prospectus on March 21, 2008, closing on June 4, 2008, for solicitation of a new 10-year concession contract; however, no proposals were received. The National Park Service has determined that a temporary contract is necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid an interruption of visitor services.

This action is issued pursuant to 36 CFR 51.24(b). This is not a request for proposals.

Dated: February 3, 2009.

Ernest Quintana,

Acting Deputy Director, Operations.

[FR Doc. E9–4540 Filed 3–2–09; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0071]

Agency Information Collection Activities: Proposed Collection; Comments Requested:

ACTION: 60-Day Notice of Information Collection Under Review: Notification to Fire Safety Authority of Storage of Explosive Materials.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 4, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Debra Satkowiak, Chief, Explosives Industry Programs Branch, Room 6E405, 99 New York Avenue, NE., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Notification to Fire Safety Authority of Storage of Explosive Materials.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Other: Farms, State. Local, or Tribal Government, Individuals or households. The information is necessary for the safety of emergency response personnel responding to fires at sites where explosives are stored. The information is provided both orally and in writing to the authority having jurisdiction for fire safety in the locality in which explosives are stored.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 5,000 respondents will take 30 minutes to complete the notifications..

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 2,500 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry

Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 25, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–4413 Filed 3–2–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Public Comment and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the comment received on the proposed Final Judgment in *United States et al.* v. *Verizon Communications Inc. and Alltel Corporation,* No. 1:08–CV–01878–EGS, which were filed in the United States District Court for the District of Columbia, on February 17, 2009, together with the response of the United States to the comment.

Copies of the comment and the response are available for inspection at the Department of Justice Antitrust Division, 325 Seventh Street, NW., Room 200, Washington, DC 20530, (telephone (202) 514–2481), and at the Office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Patricia Brink,

Deputy Director of Operations, Antitrust Division.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, State of Alabama, State of California, State of Iowa, State of Kansas, State of Minnesota, State of North Dakota, and State of South Dakota, Case No. 1:08–Cv–01878 (Egs), Plaintiffs, v. Verizon Communications Inc. and Alltel Corporation, Defendants

Plaintiff United States's Response to Public Comments

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (''APPA'' or ''Tunney Act''), plaintiff United States hereby responds to the public comment received regarding the proposed Final Judgment in this case. After careful consideration of the comment, plaintiff United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the Complaint. Plaintiff United States will move the Court for entry of the proposed Final Judgment after the public comment and this Response have been published in the **Federal Register**, pursuant to 15 U.S.C. § 16(b), (d).

On October 30, 2008, plaintiff United States and the States of Alabama, California, Iowa, Kansas, Minnesota, North Dakota, and South Dakota filed the Complaint in this matter alleging that the proposed merger of two mobile wireless telecommunications service providers, Verizon Communications Inc. (''Verizon'') and Alltel Corporation (''Alltel''), would violate Section 7 of the Clayton Act, 15 U.S.C. 18 in certain geographic areas of the United States. Simultaneously with the filing of the Complaint, plaintiff United States filed a proposed Final Judgment and a Preservation of Assets Stipulation and Order signed by plaintiff United States, the plaintiff States and the defendants consenting to the entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act. Pursuant to those requirements, plaintiff United States filed a Competitive Impact Statement (''CIS'') in this Court on October 30, 2008; published the proposed Final Judgment and CIS in the **Federal Register** on November 12, 2008, *see* 73 FR 66,922 (2008); and published a summary of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, in the *Washington Post* for seven days beginning on November 19, 2008 and ending on November 25, 2008. The defendants filed the statements required by 15 U.S.C. § 16(g) on November 7, 2008. The 60-day period for public comments ended on January 24, 2009, and one comment was received as described below and attached hereto.

I. Background

As explained more fully in the Complaint and the CIS, the likely effect of this transaction would be to lessen competition substantially for mobile wireless telecommunications services in 94 geographic areas in the states of Alabama, Arizona, California, Colorado, Georgia, Idaho, Illinois, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Utah, Virginia, and Wyoming. To restore competition in these markets, the proposed Final Judgment, if entered, would require defendants to divest (a) Alltel's mobile wireless telecommunications businesses and related assets in 85 Cellular Market Areas (''CMAs''); (b) Verizon's mobile wireless telecommunications businesses and related assets acquired from Rural Cellular Corporation in August 2008 in seven CMAs; and (c) Verizon's mobile wireless telecommunications businesses and related assets (excluding those acquired from Rural Cellular Corporation in August 2008) in two CMAs. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and punish violations thereof.

II. Legal Standard Governing the Court's Public Interest Determination

Upon publication of the public comments and this Response, plaintiff United States will have fully complied with the Tunney Act. It will then ask the court to determine that entry of the proposed Final Judgment would be ''in the public interest,'' and to enter it. 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004,[1] is required to consider:

> (A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A)–(B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1461 (DC Cir.

[1] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for the court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1, 11 (D.D.C. 2007) (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act).

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft*, 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001). Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (citations omitted).[2] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (*quoting United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that plaintiff United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459. Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,''it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that plaintiff United States did not pursue. *Id.* at 1459–60. As this Court recently confirmed in *SBC Commc'ns*, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of using consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). The language codified what the Congress that enacted the Tunney Act in 1974 intended, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns*, 489 F. Supp. 2d at 11.[3]

III. Summary of Public Comment and Plaintiff United States's Response

During the 60-day public comment period, plaintiff United States received one comment, from Public Service Communications, Inc., Public Service Telephone Company, and their related affiliates (collectively ''PST''), which is attached hereto and summarized below. This comment relates primarily to mobile wireless services in the State of Georgia. Upon review, plaintiff United States believes that nothing in the comment warrants a change in the proposed Final Judgment or is sufficient to suggest that the proposed Final Judgment is not in the public interest. Copies of this Response and its attachments have been mailed to PST.

A. Factual Background

The plaintiffs' Complaint alleges that the merger of Verizon and Alltel would tend to lessen competition substantially, in violation of Section 7 of the Clayton Act, in the provision of mobile wireless telecommunications services in geographic areas effectively represented by 94 FCC spectrum licensing areas, including eight CMAs in the state of Georgia.[4] In recognition of the fact that wireless carriers frequently are more

[2] *Cf. BNS*, 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft*, 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the ''reaches of the public interest'').

[3] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.'').

[4] The wireless assets to be be divested in Georgia (collectively, the ''Georgia divestiture assets'') are located in the Albany, GA Metropolitan Statistical Area (''MSA'') and Georgia Rural Service Areas (''RSAs'') 6, 7, 8, 9, 10, 12, and 13.

competitive where they serve contiguous areas, *see* CIS at 16, the proposed Final Judgment requires that all the assets to be divested in the State of Georgia be sold together to a single buyer.[5] Proposed Final Judgment, Section IV.I.

B. Summary of Comment

PST provides wireline telecommunications services (though not, currently, wireless) in the mostly rural area in Georgia between Columbus and Macon. Its service area covers portions of two of the CMAs to be divested in Georgia, including roughly half of Georgia RSA 6 and a small portion of Georgia RSA 9. PST believes that the divestitures contained in the proposed Final Judgment are inadequate.

PST first contends that plaintiffs should have challenged the merger everywhere Verizon and Alltel competed and obtained ''national relief'' in the proposed Final Judgment. In its view, the Verizon/Alltel transaction is national in scope. PST Comment at 2, 4–6. PST recognizes, however, that the relevant markets could be viewed as ''a series of CMA markets,'' in which case ''a different analysis is appropriate.'' PST Comment at 6. Therefore, PST also contends the plaintiffs should have challenged the merger in additional CMAs in Alabama and Georgia not alleged in the Complaint based on the market shares and spectrum holdings in these areas. It notes that plaintiff United States ''has not addressed the CMAs where market shares and concentration are high enough to injure competition, though below the artificial thresholds for divestiture in the proposed final Judgment.'' PST Comment at 7.

Second, PST argues that the wireless assets to be divested in the Georgia CMAs alleged in the Complaint are inadequate to restore competition to premerger levels in these CMAs because they do not contain all the assets necessary for a divestiture purchaser to be a viable long-term competitor. PST Comment at 8. In order to cure the deficiencies it believes exist with respect to the proposed Final Judgment, PST proposes that wireless assets in the Columbus GA–AL MSA, Georgia RSA 5, and Alabama RSAs 5 and 8 be divested.[6] PST Comment at 13. According to PST, the proposed Georgia divestiture areas are likely to be less profitable than those in neighboring urban areas, due to the higher costs of serving sparsely populated regions and the relatively low per-capita income of rural residents. PST Comment at 8–9. In particular, PST believes that a purchaser of the Georgia divestiture assets must obtain wireless assets in the Columbus GA–AL MSA to properly serve customers in the divestiture areas because Columbus is a major economic and cultural center in the region. PST Comment at 9–12.

C. Response to Comment

PST does not object to the divestiture of assets in the 94 CMAs, including the eight Georgia CMAs. Instead PST contends that the remedy should be broader and encompass divestitures of wireless assets in additional CMAs. PST contends that the merger will have an adverse impact on competition nationwide, but notes that no national relief was required. PST Comment at 2, 5. Also, PST claims plaintiff United States should have identified, and alleged, competitive injury in four additional geographic areas: ''Alabama RSAs 5 and 8, Georgia RSA 5, and the Columbus GA–AL MSA'' and remedied harm in these areas in the proposed Final Judgment. PST Comment at 5, 7.

These arguments are not ones that should concern the Court in its public interest inquiry. As the Court of Appeals has warned, the APPA does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case,'' *Microsoft,* 56 F.3d at 1459, and yet, PST invites the Court to do exactly that. The Complaint alleges that the United States ''comprises numerous local geographic markets for mobile wireless telecommunications services,'' Complaint 15, and the ''relevant geographic markets * * * where the transaction would substantially lessen competition for mobile wireless telecommunications services are effectively represented by the 94 FCC spectrum licensing areas specified in Appendix A.'' Complaint 16.[7] Thus, the Complaint does not allege competitive harm in specific CMAs beyond the 94, nor did it allege a ''national market'' or harm in such a market. Absent such allegations, it would be inappropriate for this Court to inquire into the advisability of implementing a remedy to address competitive concerns in geographic areas outside the 94 alleged CMAs.[8] The proposed Final Judgment's lack of a remedy for purported harm in geographic markets that plaintiff United States neither found nor alleged is not a flaw, but rather a perfectly appropriate tailoring of relief to the alleged violation.[9]

PST's second argument is that the divestiture of wireless assets in additional geographic areas in Georgia and Alabama is necessary because the Georgia divestiture assets contained in the proposed Final Judgment are insufficient to permit a divestiture buyer to fully replace the competition that would otherwise be lost in the CMAs where harm is alleged. PST Comment at 8. According to PST, a purchaser of the Georgia assets cannot be a viable long-term competitor unless it also obtains the assets of neighboring areas of Georgia and Alabama, in particular the Columbus GA–AL MSA. PST Comment at 9–12. However, the information reviewed by plaintiff United States suggests that this contention regarding

[5] Section IV.I of the proposed Final Judgment allows plaintiff United States, in its sole discretion, upon consultation with the relevant plaintiff State, to allow the sale of less than all the wireless assets in Georgia to facilitate a prompt divestiture to an acceptable buyer. In addition, if an acceptable buyer is not found for the mobile wireless businesses, plaintiff United States, in its sole discretion, upon consultation with the relevant plaintiff State, can require defendants to include additional assets, for example, in order to attract an acceptable buyer. Proposed Final Judgment, Section V.E.

[6] These CMAs are adjacent to three of the eight CMAs in Georgia and the two CMAs in Alabama where wireless assets are to be divested pursuant to the proposed Final Judgment. *See* Attachment 1, Map, Alabama and Georgia: Divested CMAs and PST Proposed Divestitures.

[7] Plaintiff United States investigated all areas of the United States in which Verizon and Alltel compete, including whether the proposed merger would impact mobile wireless telecommunications services nationwide. The 100 CMAs listed in the Complaint and related decree modifications are the only areas where plaintiff United States concluded the merger was likely to substantially lessen competition.

[8] As this Court has held, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15. Plainly, with allegations of competitive harm in 94 geographic license areas covering millions of potential subscribers, the Complaint in this matter is not so narrowly drafted.

[9] Plaintiff United States's determination of which areas to allege in the Complaint was based on a thorough investigation of each area that included consideration of: the number of mobile wireless providers and their competitive strengths and weaknesses; market shares and concentration; the availability of new spectrum; whether any providers are spectrum constrained or otherwise limited in their ability to add customers; the breadth and depth of coverage by different providers (including coverage in relation to population density); the retail presence of each provider; local wireless number portability data; and the likelihood of new entry or expansion. CIS at 10. PST's allegations of harm are based simply on unreliable guesses about market shares and information about total spectrum holdings. Shares and spectrum holdings are just two of many factors that need to be considered, not a complete competitive analysis. *United States* v. *Baker Hughes, Inc.,* 908 F.2d 981, 984 (D.C. Cir. 1990) (stating that evidence of market concentration ''simply provides a convenient starting point for a broader inquiry into future competitiveness''); *FTC* v. *Arch Coal, Inc.,* 329 F. Supp. 2d 109, 130 (D.D.C. 2004) (recognizing that ''this circuit has cautioned against relying too heavily on a statistical case of market concentration alone'').

the sufficiency of the remedy is ultimately without merit.

Plaintiff United States has substantial expertise in constructing remedies and reviewing potential buyers of mobile wireless assets.[10] Plaintiff United States carefully considers all relevant factors before agreeing to a divestiture settlement taking into account that the ability of a divestiture buyer to succeed in a particular area will depend on the specific nature of the area, the assets it is acquiring, and what other businesses and expertise the buyer already possesses. Plaintiff United States also carefully reviews the qualifications and business plans of proposed purchasers before approving divestitures.[11] Divestiture packages are not tailored to favor one potential buyer over another.[12] Instead, plaintiff United States seeks to ensure that the collection of assets will allow the purchaser to adequately compete. In order to replace the competition lost as a result of the merger, the buyer need not be the preferred provider of every customer but only be attractive to a large enough number of potential customers so as to be a viable competitor.

Plaintiff United States recognizes that there are efficiencies of scale associated with serving a broad, contiguous geographic area, and it is largely for this reason that the proposed Final Judgment requires the Georgia divestiture assets to be sold together to a single acquirer.[13] *See* CIS at 16–17; proposed Final Judgment, Section IV.I. The divestitures in Georgia required by the proposed Final Judgment include not only Georgia RSAs 6 and 9, PST's existing service areas, but five other RSAs and the metropolitan area of Albany, GA. *See* proposed Final Judgment, Section IV.I.

PST's comment suggests that the assets being sold are insufficient to allow the purchaser to be a long-term viable competitor given the rural nature of the area. PST Comments at 8. However, the Georgia mobile wireless business assets cover a large portion of the state of Georgia, serving a population of more than 1.3 million people.[14] The purchaser will acquire approximately 200,000 subscribers and a business that generates annual revenues of over $150 million. The asset package also includes a substantial amount of cellular spectrum which has significant advantages in serving rural areas, *see* CIS at 5–6, and the potential to not only provide mobile wireless services to local residents but also to sell roaming services to other providers who do not have networks in these areas of the state. Given the extent of the assets being sold, plaintiff United States believes that a buyer will be found that can effectively compete in the long term.

Moreover, there are a number of viable wireless businesses in the United States that operate in a small number of license areas with similar revenues and subscriber counts. For example, Bluegrass Cellular offers service in approximately 10 license areas and has approximately 130,000 subscribers, and Alaska Communications Systems provides service in approximately seven license areas, has approximately 144,000 subscribers and its 2007 wireless revenues were approximately $137 million.

PST's other argument for additional divestitures hinges in large part on its belief that a wireless carrier seeking to provide service to the Georgia divestiture areas needs to be able to serve the Columbus GA–AL MSA as well because two of the Georgia divestiture RSAs (Georgia RSA 6 and 9) are economically interconnected with the Columbus GA–AL MSA.[15] But plaintiff United States found insufficient evidence to support the contention that a buyer needs wireless assets in Columbus in order to successfully serve the proposed Georgia divestiture areas.[16] For example, less than 1% of the residents of the eight CMAs in Georgia where wireless assets are to be divested commute to Columbus to work.[17] Even if only Georgia RSAs 6 and 9 are considered, less than 3% of residents commute to Columbus.[18] The addition of the Columbus GA–AL MSA to the divestiture package would therefore have little, if any, impact on the buyer's ability to serve customers in the divestiture area at their homes and workplaces. Moreover, to the extent the divestiture buyer needs coverage of the Columbus GA–AL MSA for some small percentage of its minutes, it can likely achieve that via a roaming agreement, which wireless carriers routinely enter to expand their coverage to areas where they own no wireless facilities.[19]

This Court has held that the United States need not prove that the settlement represents a ''perfect'' remedy of the harms alleged in the Complaint. Rather, it needs to provide ''a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17. In addition, the DC Court of Appeals has held that district courts should be ''deferential to the government's predictions as to the effect of the proposed remedies.'' *Microsoft,* 56 F.3d at 1461. There is no basis to believe that divestitures in the Columbus GA–AL MSA, or any other CMAs mentioned by PST, are necessary to ensure the success of the divested business, either because of a particularly strong nexus between Columbus and the divestiture properties, or because of a need to achieve greater scale.[20]

[10] This is the sixth case in which plaintiff United States has required such a divestiture in the last five years. *United States et al.* v. *Cingular Wireless Corp., SBC Communications Inc., BellSouth Corp. and AT&T Wireless Services, Inc.,* Civ. No. 1:04CV01850 (RBW) (D.D.C. filed Oct. 24, 2004); *United States* v. *Alltel Corp. and Western Wireless Corp.,* Civ. No. 1:05CV01345 (RCL) (D.D.C. filed July 6, 2005); *United States* v. *Alltel Corp. and Midwest Wireless Holdings, L.L.C.,* Civ. No. 06–3631 (PJS/AJB) (D. Minn. filed Sept. 7, 2006); *United States* v. *AT&T Inc. and Dobson Communications Corp.,* Civ. No. 1:07CV01952 (RMC) (D.D.C. filed Oct. 30, 2007); and *United States et al.* v. *Verizon Communications Inc. and Rural Cellular Corp.,* Civ. No. 1:08CV00993 (EGS) (D.D.C. filed June 10, 2008).

[11] The proposed Final Judgment states that plaintiff United States, in its sole discretion, upon consultation with the relevant plaintiff State, must be satisfied that the purchaser has the managerial, operational, technical and financial capability to compete effectively with the divested assets. Proposed Final Judgment, Section IV.H.

[12] Although PST may wish to have the combination of wireless assets that is most attractive to its existing wireline customers in portions of Georgia RSAs 6 and 9 (close to the Columbus GA–AL MSA), plaintiff United States needs to consider what assets are necessary for a buyer, in general, to effectively compete.

[13] It is not, however, always necessary or appropriate to divest multiple CMAs in a state as a single group. *See* Proposed Final Judgment, Section IV.I (providing that three CMAs in Virginia, one CMA in Arizona, one CMA in California, and one CMA in New Mexico can be sold separately).

[14] See *http://wireless.fcc.gov/auctions/data/maps/cntysv2000_census.xls.*

[15] PST Comment at 9–10. For instance, PST claims that Columbus is connected with Georgia RSAs 6 and 9 because of the colleges, hospitals, and cultural attractions located in Columbus. *Id.*

[16] Plaintiff United States also found insufficient evidence to suggest that the proposed merger would cause competitive harm in the Columbus GA–AL MSA itself.

[17] *See http://wireless.fcc.gov/auctions/data/maps/cntysv2000_census.xls* (population of each county in 2000); *http://www.census.gov/population/www/cen2000/commuting/index.html* (number of residents per county commuting to other counties for work in 2000).

[18] *Id.*

[19] There are reasons to question whether the purchaser will need to be ''unduly dependent on roaming.'' PST Comment at 9. First, the purchaser may already own a wireless network that serves the surrounding area or other major portions of the country. Second, the purchaser may be able to offer carriers in the surrounding metropolitan areas of Macon, Columbus and Atlanta roaming services in the rural portions of the state in exchange for an agreement to allow its customers to roam in these metropolitan areas.

[20] Although plaintiff United States does not expect there to be a lack of bidders for the Georgia divestiture assets, if no acceptable purchaser was proposed, plaintiffs could reconsider, under Section V.E of the proposed Final Judgment whether to require defendants to add additional assets to the divestiture package.

The settlement contained in the proposed Final Judgment ensures that a buyer of the proposed Georgia divestiture assets will have the assets necessary to establish a viable competitor in each of the CMAs alleged in plaintiffs' Complaint. Accordingly, the settlement is within the reaches of the public interest and the proposed Final Judgment should be entered by this Court.

IV. Conclusion

After careful consideration of this public comment, plaintiff United States still concludes that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is, therefore, in the public interest. Pursuant to Section 16(d) of the Tunney Act, plaintiff United States is submitting the public comment and its Response to the **Federal Register** for publication. After the comments and its Response are published in the **Federal Register**, plaintiff United States will move this Court to enter the proposed Final Judgment.

Respectfully submitted,

/s/ Hillary B. Burchuk

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Certificate of Service

I hereby certify that on February 17, 2009, a copy of the foregoing Plaintiff United States's Response to Public Comments was mailed via first class mail, postage prepaid, upon counsel for Public Service Communications, Inc., addressed as follows:

David U. Fierst, Esq., Stein, Mitchell & Muse L.L.P., 1100 Connecticut Ave., NW., Suite 1100, Washington, DC 20036.

/s/

Hillary B. Burchuk (D.C. Bar No. 366755)

Telecommunications & Media Enforcement Section, Antitrust Division, U.S. Department of Justice, City Center Building, 1401 H Street, NW., Suite 8000, Washington, DC 20530 (202) 514–5621, Facsimile: (202) 514–6381.

January 12, 2009
HAND DELIVERED
Nancy M. Goodman
Telecommunications & Media
Enforcement Section
Antitrust Division
U.S. Department of Justice
1401 H Street N.W., Suite 8000
Washington D.C. 20530
Re: *United States et al* v. *Verizon Communications, Inc. and Alltel Corp.* Case No. 1:08–cv–01878–EGS

Dear Ms. Goodman:

This comment is submitted on behalf of Public Service Communications, Inc., Public Service Telephone Company, and their related affiliates (collectively ''PST''), in response to the Competitive Impact Statement filed with the United States District Court for the District of Columbia on October 30, 2008 by the Plaintiff United States of America in the above referenced case. The Impact Statement was published in the **Federal Register** on November 12, 2008. PST respectfully submits that the proposed acquisition by Verizon Wireless of Alltel Corporation will injure competition among wireless mobile telephone service providers nationwide and in multiple CMAs in Georgia and adjacent Alabama. The United States Department of Justice also concluded that the acquisition will injure competition in many CMAs around the country.

We contend that the Department should modify the proposed settlement with the Defendants Verizon Communications, Inc. (''Verizon'') and Alltel Corporation (''Alltel''), by requiring them to divest overlapping cellular systems in four Georgia and Alabama CMAs, namely CMA 153 (Columbus, GA MSA), CMA 375 (Georgia 5—Haralson RSA), CMA 311 (Alabama 5—Cleburne RSA) and CMA 314 (Alabama 8—Lee RSA).

As we will explain, the central flaw in the proposed Consent Judgment is that it does not adequately ameliorate the competitive injury found by the Department, and lacks any reasoned analysis why the relief obtained is limited.

More specifically, the Department recognized that this acquisition will combine the second and fifth ranked competitors in a highly concentrated national market, but did not require any national relief. The Department also recognized that the acquisition will cause injury in many CMAs, but required divestitures only in 94 CMAs where the combined post-acquisition market share for Verizon and Alltel exceeds 55% and the post-acquisition Herfindahl-Hirschman Index (HHI) exceeds 4000. We do not object to the requirement that overlapping assets in these 94 CMAs be divested. We object to the failure to require divestiture in CMAs where post-acquisition shares do not reach these astronomical levels but nonetheless exceed normal thresholds. In other words, according to the competitive impact statement, no divestiture is required where the combined share is less than 55% or the post-acquisition HHI is less than 4000 even though normal merger analysis finds competitive injury at much lower levels.

The Department also failed to consider whether it is practicable to divest mobile phone assets in rural CMAs with small populations without also divesting neighboring urban areas. Entry costs in the mobile telephone industry are steep, and entry is not feasible without a significant population base in a defined geographic area.

Description of PST

PST is a family-owned telecommunications company providing wireline telephone, cable television and internet services in 1,050 square miles of territory between Macon and Columbus, Georgia. Its headquarters is in Reynolds, a small town with a population of slightly more than 1,000 persons.

The service area covered by PST is mostly rural, with a number of small mostly farming communities. It is sparsely populated. PST serves a total of 10,724 wireline customers in the following counties: Bibb (1,829 lines), Crawford (3,169 lines), Macon (108 lines), Marion (64 lines), Monroe (288 lines), Muscogee (20 lines), Talbot (1,590 lines), Taylor (3,492 lines), and Upson (164 lines). PST is interested in entering the mobile cellular market in its current service area, and in surrounding, more populous areas. However, as described below, PST does not believe that the proposed divestiture of cellular markets in the State of Georgia, as presently endorsed by the Department, will yield a viable competitive operation, unless the Columbus market and certain adjoining properties are added.

Description of Acquisition

Verizon Wireless, a joint venture of Verizon Communications, Inc. and Vodafone, has entered into an agreement to acquire Alltel. Verizon is paying $5.9 billion, and will become responsible for debt of $22.2 billion. The total value of the acquisition is therefore approximately $28.1 billion. Verizon is the second largest mobile wireless service provider in the United States. It has recently acquired the 10th largest service provider. Alltel is the fifth largest mobile wireless service provider. The Competitive Impact Statement indicates (at p. 4) that the combined entity will control approximately 36 percent of all revenues generated in the United States

from mobile wireless communications services.

This is the second major wireless acquisition by Verizon in recent months. On June 10, 2008, Verizon and the Department entered into a consent Judgment as a result of the acquisition of Rural Cellular Corporation (''RCC''). According to the Competitive Impact Statement filed in that case, prior to that acquisition, Verizon was the second largest provider of mobile wireless telecommunications services in the United States. At the time that acquisition was announced (mid 2007), Verizon had more than 65 million subscribers, and annual revenues of $43 billion. According to the FCC's Twelfth Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services (January 28, 2008), Verizon, with 59 million subscribers, was second only to AT&T, which had 60.9 million subscribers. The Competitive Impact Statement (at p. 3) indicates that Verizon's subscriber count has now grown to 70 million.

In the State of Georgia, the proposed Final Judgment would require that Verizon and Alltel divest the following markets:

Albany MSA (CMA 261)
GA RSA 6 (CMA 376)
GA RSA 7 (CMA 377)
GA RSA 8 (CMA 378)
GA RSA 9 (CMA 379)
GA RSA 10 (CMA 380)
GA RSA 12 (CMA 382)
GA RSA 13 (CMA 383)

In the State of Alabama, the proposed Final Judgment would require that Verizon and Alltel divest the following markets:

Dothan MSA (CMA 246)
AL RSA 7 (CMA 313)

PSC is on record asking the Federal Communications Commission (''FCC'') and the Department to order the divestiture of the following additional markets, in order to ensure the creation of a viable competitor within the States of Georgia and Alabama:

Columbus MSA (CMA 153)
GA RSA 5 (CMA 375)
AL RSA 5 (CMA 311)
AL RSA 8 (CMA 314)

PST notes that the Albany MSA and GA RSA 6 were not included in the original divestiture proposal formulated by Verizon and Alltel, but were added only upon review by the Department, following comments by PST showing the need to add these (and other) markets to the divestiture list.

Injury to Competition

It is generally accepted that the relevant product market for analyzing an acquisition of mobile wireless service providers is mobile wireless telecommunications. See, for example, *United States* v. *Verizon Communications, Inc. and Rural Cellular Corporation,* (D.D.C. 2008), Competitive Impact Statement at 4 (''there are no cost-effective alternatives to mobile wireless telecommunications services'') (RCC Impact Statement). See also *In the Matter of AT&T Inc. and Dobson Communications Corp.,* WT Docket #07–153 (11/15/07) at ¶ 21 (''mobile telephony service,'' including both voice and data over mobile wireless telephones).

Geographic markets in mobile telephone acquisitions are generally based on the FCC spectrum licensing areas, called Cellular Market Areas (CMAs), consisting of Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs). See, e.g., RCC Impact Statement at 4.

In this case, Verizon in its application with the FCC for approval of the acquisition described wireless competition as being national in scope. Description of Transaction, *In re Applications of Atlantis Holdings LLC and Cellco Partnership d/b/a Verizon Wireless,* June 13, 2008 at 29. Verizon's expert report submitted to the FCC addressed only the national markets, not the CMAs. Declaration of Dennis Carlton, Allan Shampine, and Hal Sider, June 13, 2008 at 4, 20. The Department noted the nationwide impact (Competitive Impact Statement at 3) but ordered divestitures only at the CMA level.

If the market is viewed as nationwide, the acquisition will clearly have an adverse impact on competition. Market shares and concentration are high. According to the FCC, the HHI was nearly 2700 at the end of 2006, and the market has become more concentrated since then. FCC's Twelfth Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services (January 28, 2008) (''Twelfth Annual Report'') at 6. It is not possible to calculate the post-acquisition HHI without knowing more about Alltel's volume in the 94 CMAs to be divested and the CMAs to be retained, but the increase is highly likely to exceed the thresholds in the merger guidelines. According to the Twelfth Annual Report at 17, Verizon's nationwide share in 2006 was about 26%. Thus, any non-negligible acquisition of Alltel will necessarily cause the HHI to increase by more than 50, and a very small acquisition will cause an increase of 100.

As noted in the Competitive Impact Statement (at page 4), the Department found in the case of this mega-merger that ''the proposed transaction, as initially agreed to by the defendants, would lessen competition substantially for mobile wireless telecommunications services in a large number of CMAs,'' including CMAs in the States of Georgia and Alabama. Pursuant to their analysis of the merger, the Plaintiffs United States of America and several individual states (including Georgia and Alabama) have ''concluded that Verizon's proposed acquisition of Alltel likely would substantially lessen competition, in violation of Section 7 of the Clayton Act, in the provision of mobile wireless telecommunications services in the relevant geographic areas alleged in the Complaint.'' The primary remedy for this impending adverse affect on competition is the proposed requirement that Verizon divest the affected markets.

As discussed below, it is not clear from the Competitive Impact Statement that competition will not be harmed within the CMA 153 (Columbus, GA MSA), CMA 375 (Georgia 5—Haralson RSA), CMA 311 (Alabama 5—Cleburne RSA) and CMA 314 (Alabama 8—Lee RSA) markets. However, even if it is assumed *arguendo* that these individual markets will not be adversely affected, divestiture of these markets is necessary to ensure that the competitor to be created in the State of Georgia is a viable one, and will be able to continue effective operations as necessary to offset the harms caused by the combination of two of the biggest competitors in the state.

Competitive Harm in Columbus and Surrounding CMAs

If the market is viewed as a nationwide market, then limited divestitures in smaller geographic markets scattered around the country may be insufficient to restore competitive vigor. Given that the pre-acquisition nationwide HHI is already approximately 2700,[1] it is a fair assumption that the post-acquisition HHI, even assuming some divestitures, will still be very high, and that the increase will exceed the recognized benchmarks for injury to competition.

If the market is viewed as a series of CMA markets, a different analysis is

[1] FCC's Twelfth Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services (January 28, 2008) at 6, There have been a number of significant acquisitions since the 12th Annual Report, including Verizon's acquisition of RCC, AT&T's acquisition of Dobson, and the T-Mobile acquisition of SunCom. As a result of these acquisitions, concentration is likely to be higher than it was at the time of the 12th Annual Report, but that information is not available to the public.

appropriate. As noted above, the Department has found 94 CMAs where the acquisition will result in concentration that far exceeds normal thresholds, but the Department has not addressed whether there are other CMAs where the acquisition will lead to concentration that exceeds threshold levels, though not by such gross amounts.

Nationwide HHI, according to the FCC, was 2674 at the end of 2006. 12th Annual Report at 6. According to the 1997 Horizontal Merger Guidelines, a market is considered highly concentrated when its HHI exceeds 1800, which this does by a substantial amount. According to the FCC figures for year end 2006, the Verizon acquisition of Alltel (assuming no divestitures) will increase the HHI by about 260.[2] According to the Merger Guidelines, in a highly concentrated market, an increase in the HHI of 50 or more points potentially raises significant competitive concerns. Increases of more than 100 points are presumptively likely to create or enhance market power or facilitate its exercise.

Thus, on a nationwide basis, the market is highly concentrated, and this acquisition will increase concentration significantly. It is not possible for a party other than the Department or the FCC to compute HHI in any particular CMA. However, the post-acquisition HHI on a nationwide basis is highly likely to exceed 2800 with an increase well in excess of 100. Moreover, the nationwide increase in HHI is likely to exceed 250. Thus, it is a fair inference that in individual CMAs the post-acquisition HHI will exceed acceptable levels. The Department is requiring divestitures only where the post-acquisition HHI exceeds 4000. No divestitures are required where the post-acquisition HHI is between 2800 and 4000, although by any realistic analysis, an acquisition resulting in such high concentrations is likely to injure competition. The Department has not addressed the CMAs where market shares and concentration are high enough to injure competition, though below the artificial thresholds for divestiture in the proposed final Judgment.

There is another way to identify CMAs where the acquisition will lead to injury. The FCC finds likely injury to competition where, in any particular CMA, there is either (1) a post-acquisition HHI of 2800 with an increase of 100,[3] or (2) an increase of 250 regardless of the HHI, or (3) the acquiring party will hold a 10 percent or greater interest in 95 MHz of cellular, PCS, SMR and 700 MHz spectrum. *In the Matter of AT&T, Inc. and Dobson Communications Corp.*, WT Docket, 07–153 (11/19/07) at ¶ 40. It is possible to measure Verizon's and Alltel's spectrum in specific CMAs. For example, in CMA 153, the Verizon/Alltel combination will hold 104 MHz in each of the three constituent counties (one in Alabama and two in Georgia); and in CMA 314, covering 5 counties in adjacent Alabama, the combination will hold 107 MHz in one county, and varying amounts ranging from 72 to 92 in the other four.[4]

Despite PST's comments raising concerns about the above additional markets in Georgia and Alabama, the Competitive Impact Statement does not furnish an HHI analysis for, or otherwise specifically address, these markets. PST respectfully requests that the Department amend the Competitive Impact Statement to do so. However, as discussed below, even if the HHI for the additional divestiture markets does not surpass the anticompetitive level, the relationship of these markets to the areas that will suffer harm must be evaluated.

Divestitures

The proposed divestitures must also be evaluated from the perspective of what is necessary to restore competition. As the Department recognizes in the Antitrust Division Policy Guide to Merger Remedies, a divestiture will be ineffective to restore competition unless it includes all assets necessary for the purchaser to be an effective long-term competitor. Indeed, the Competitive Impact Statement confirms (at p. 13) that the States of Georgia and Alabama have an interest in, and consultation right to, ensure that the purchaser of the divested Alltel assets in their states will be ''a viable, ongoing business that can compete effectively in each relevant area.''

In this instance, the proposed divestitures in Georgia will not include necessary assets. The inadequacy flows from the fact that the divestiture in Georgia will be restricted to certain CMAs, and those CMAs do not include the high density urban areas and corridors of commerce (including neighboring portions of Alabama) needed for successful operation of a wireless network. The CMAs where the proposed divestitures will occur are generally populated by lower income residents than in the CMAs to be retained. Consequently, the residents of the to-be-divested CMAs are less likely to have mobile devices and more likely to be price conscious. In other words, profits in those areas are likely to be lower than in the CMAs in which Verizon seeks to retain assets and customers of Alltel. Moreover, the CMAs in Georgia where assets will be divested are sparsely populated in relation to the areas to be retained by Verizon, resulting in increased operational costs.

PST analyzed the counties included in the six Georgia CMAs in which Verizon originally proposed to divest overlapping properties. PST compared them to the counties in the additional CMAs the overlapping assets of which PST contended should also be divested. This analysis was provided to the Department. The analysis showed that in the Verizon-chosen CMAs, populations are generally lower than in the CMAs proposed by PST. As recognized in the Remedies Guide, where an installed base of customers is required in order to operate at an effective scale, the divested assets should convey that base, or quickly enable the purchaser to obtain an installed customer base. The mobile wireless market requires significant infrastructure or it will be unduly dependent on roaming, which under the best of circumstances will not be profitable.

In CMA 377, where Verizon agreed to divest overlapping properties, there are six counties. Two of them (as of the 2000 census) had populations of about 45,000, one had 21,000, and the other three were in the 8,000–10,000 range. By contrast, Muscogee County in CMA 153, where Verizon and Alltel cumulatively hold 104 MHz of spectrum but which Verizon is not required to divest, the 2000 population was about

[2] The Department will have access to more recent market share information. We believe that the market will have grown more concentrated in the last year and a half, and the Verizon share (post-acquisition of RCC) will be larger than it was in December 2006.

[3] The Department does not address the possibility of a CMA with a post-acquisition HHI in excess of 2800 but less than 4000. In any such CMA, the FCC would find an injury to competition, as would the normal Department merger analysis, but no divestiture will be required.

[4] In the six Georgia CMAs where the proposed Final order requires divestitures, the overlap is typically less. In CMA 377 (6 Georgia counties) there is no overlap in two of the counties, and an overlap of 82 in the other four. In CMA 378 (10 Georgia counties), the overlap is 72 MHz in 9 of the counties and 82 in the tenth. In CMA 379 (12 Georgia counties), the overlap is 82 in 6 counties and 92 in the other 6. In CMA 380 (12 Georgia counties), the overlap is 102 in one county, 82 in 9 and 72 in two. In CMA 382 (6 Georgia counties), the overlap ranges from 72 to 112. In CMA 383 (9 Georgia counties), the overlap is 102 MHz in two counties and 82 in the other 7. Combined spectrum is therefore likely to indicate a competitive problem in the CMAs to be divested and even more so in the adjoining CMAs Verizon wants to retain.

186,000. The adjacent Russell County, Alabama (also in CMA 153) had a 2000 population of about 50,000.

The size disparity is important for reasons other than the obvious need for a customer base large enough to earn a fair return. One aspect of the competition among the wireless service providers is the availability of attractive cell phone devices. For example, AT&T's ability to offer its customers the iPhone was a major competitive benefit for AT&T. The smaller wireless carriers are disadvantaged in obtaining attractive devices, and the population disparity between the CMAs Verizon will be permitted to retain and those it is will be obligated to divest will make it that much more difficult for any new entrant to obtain the customer base necessary to gain access to the more desirable telephones. There are also certain mandates imposed by the FCC. For example, there must be a system of automatic tracking of cell phones used to call 911. These mandates involve substantial fixed costs, which will constitute a significant barrier to entry by any small provider of wireless service, but will not be a major problem if the costs can be spread among a large enough customer base. For this reason also, the proposed consent judgment allowing Verizon to keep mobile phone assets in the more populous areas of Georgia while divesting the less populous areas will not restore the competition lost as a result of the acquisition.

Moreover, the average household income in the CMAs chosen for divestiture by Verizon is lower than in the state as a whole or in the CMAs where we contend additional divestitures should be ordered. Median household income in Georgia in 2004 was $42,600. In the 6 counties in CMA 377, the median household income in 2004 ranged from about $24,000 to $33,500. In CMA 153, median household income in 2004 was $35,100 in Muscogee, nearly $35,500 in Chattahoochie, and $29,600 in Russell County, Alabama.

The inclusion of CMA 261 and CMA 376 in the divestiture markets, following PST's showing that these markets should be included, constituted a step in the right direction. However, this step does not go far enough, because the linchpin for the areas to be divested in Georgia is the Columbus CMA, and surrounding suburban areas. In this regard, Columbus furnishes the residents of markets such as the GA 6 RSA and GA 9 RSA with the following:

a. Nine colleges, including Columbus State University, Columbus Technical College, Beacon College, Meadows Junior College, Calvary Christian Life Ministries, the Medical Center, Inc. School of Radiologic Technology, and others. It is well-known that college students are prime users of mobile telephones, and often use only mobile phones rather than landlines.

b. Columbus Georgia Convention and Trade Center provides access to 182,000 sq. ft. usable floor space, 27 breakout rooms, Ballrooms and Exhibit Halls.

c. RiverCenter for the Performing Arts provides regional access to the Columbus Symphony Orchestra, Broadway performances, comedy, and musical entertainment.

d. Multiple hospitals, including the St. Francis Hospital; Columbus Doctors Hospital; Hughston Orthopedic Hospital; and Columbus Regional Medical Center, among other medical facilities.

More importantly, Columbus is where the residents of the more rural markets go for jobs, major medical procedures, and to market their produce and goods. This fact is confirmed by both pre-existing private sector analyses of the commercial and societal factors impacting areas to be divested in Georgia, performed by Rand-McNally.

The FCC uses the CMA in analyzing regulatory aspects of cellular service transactions, because long ago, cellular licenses were awarded along CMA boundaries. However, these boundaries do not necessarily reflect the realities of the marketplace. In this regard, the FCC has recognized that Rand McNally's Major Trading Areas (MTAs) and Basic Trading Areas (BTAs) as more indicative of real-world marketplace factors. Thus, the FCC decided to use the Rand-McNally areas for certain mobile telecommunications spectrum auctions, stating:

> We conclude that a combination of MTA and BTA service areas would promote the rapid deployment and ubiquitous coverage of PCS and a variety of services and providers. We recognize that the majority of parties express support for MSA/RSAs as the definition of PCS service areas. We conclude, however, that using MSAs/RSAs likely would result in unnecessary fragmentation of natural markets. MTAs and BTAs were designed by Rand McNally based on the natural flow of commerce. Specifically, the trading area ''boundaries have been drawn on a county-line basis because most statistics relevant to marketing are published in terms of whole counties. The boundaries have been determined after an intensive study of such factors as physiography, population distribution, newspaper circulation, economic activities, highway facilities, railroad service, suburban transportation, and field reports of experienced analysts [citing Rand McNally 1992 Commercial Atlas & Marketing Guide at 39].

See Amendment of the Commission's Rules to Establish New Personal Communications Services, Second Report and Order, 73 RR 2d 1477, 8 FCC Rcd 7700, 7732 [1993 FCC LEXIS 6517] (October 22, 1993).

Rand McNally also rates cities individually based on their economic function. Columbus is a 3–AA or ''major significant local business center,'' meaning it is the most important city in the area for purposes of local business. Rand McNally's formulation of its MTAs and BTAs, and the designation of business centers, takes into consideration whether a city or town is a natural center for shopping-goods purchases, entertainment, education and medical care. See Rand McNally Atlas, ''Economic Data for the United States'', p. 48 (1984). As shown above, Columbus serves as the center of shopping, entertainment, education and medical care for the Western Georgia-Eastern Alabama area.

Significantly, the Columbus BTA includes the following counties:

Barbour	AL
Russell	AL
Chattahoochee	GA
Harris	GA
Marion	GA
Muscogee	GA
Quitman	GA
Schley	GA
Stewart	GA
Sumter	GA
Talbot	GA
Webster	GA

Of the above counties, two (Harris and Talbot) are part of the GA 6 RSA area that the proposed Final Judgment proposes to divest. And six of the counties (Marion, Quitman, Schley, Stewart, Sumter and Webster) are part of the GA 9 RSA area that would be divested. Another county (Barbour) is part of the AL 8 RSA. The remaining three counties (Russell, Chattahoochee and Muscogee) make up the Columbus MSA. Thus, Rand-McNally's analysis of key economic, health and social factors indicates that a significant part of the Columbus Basic Trading Area includes areas that are to be divested. The proposed divestiture will not only create a gap in coverage, but will leave the purchaser without the socio-economic heart of the market it is trying to serve. This is a formula for failure as a competitor: Without the population contained in the Columbus MSA and surrounding suburbs such as the AL 5 and 8 RSAs and the GA 5 RSA, it will be difficult if not impossible for the purchaser to achieve the efficiencies recognized by the Department as important to a viable operation. See

Competitive Impact Statement at p. 16. And without this high density, low cost population area, it will be more expensive and difficult for the purchaser to meet the FCC's E911 and other regulatory mandates, because there will be far fewer customers over which to spread the fixed costs of such compliance. Moreover, without coverage into Columbus, the area where a large part of the population of the divested area travel for economic, health, entertainment and other reasons, customers will see little benefit in keeping their service with the purchaser.[5] As a result, the purchaser will fail as a competitor in a relatively short period of time; and all of the competitive harms to consumers that the Plaintiffs have concluded could happen in the absence of another source of competition will indeed happen.

The need to provide a fair opportunity to succeed is particularly necessary given the current economic climate. Credit is tight, and consumers are resistant to spending of all kinds. Prospective purchasers (other than the major carriers, a purchase by which would also increase concentration) will have a difficult time making an acquisition in Georgia and Alabama and making it work. Excluding the Columbus area from any divestiture will make it that much more difficult to restore competition.

Conclusion

For these reasons, we urge on behalf of PST that the Department modify the proposed Final Judgment, to require that Verizon divest the acquired assets in CMA 153, 311, 314 and 375, as well as the other Georgia and Alabama CMAs listed in Competitive Impact Statement.

Sincerely,

David U. Fierst

cc: Hillary B. Burchuk, DOJ, Lawrence M. Frankel, DOJ, Jared A. Hughes, DOJ

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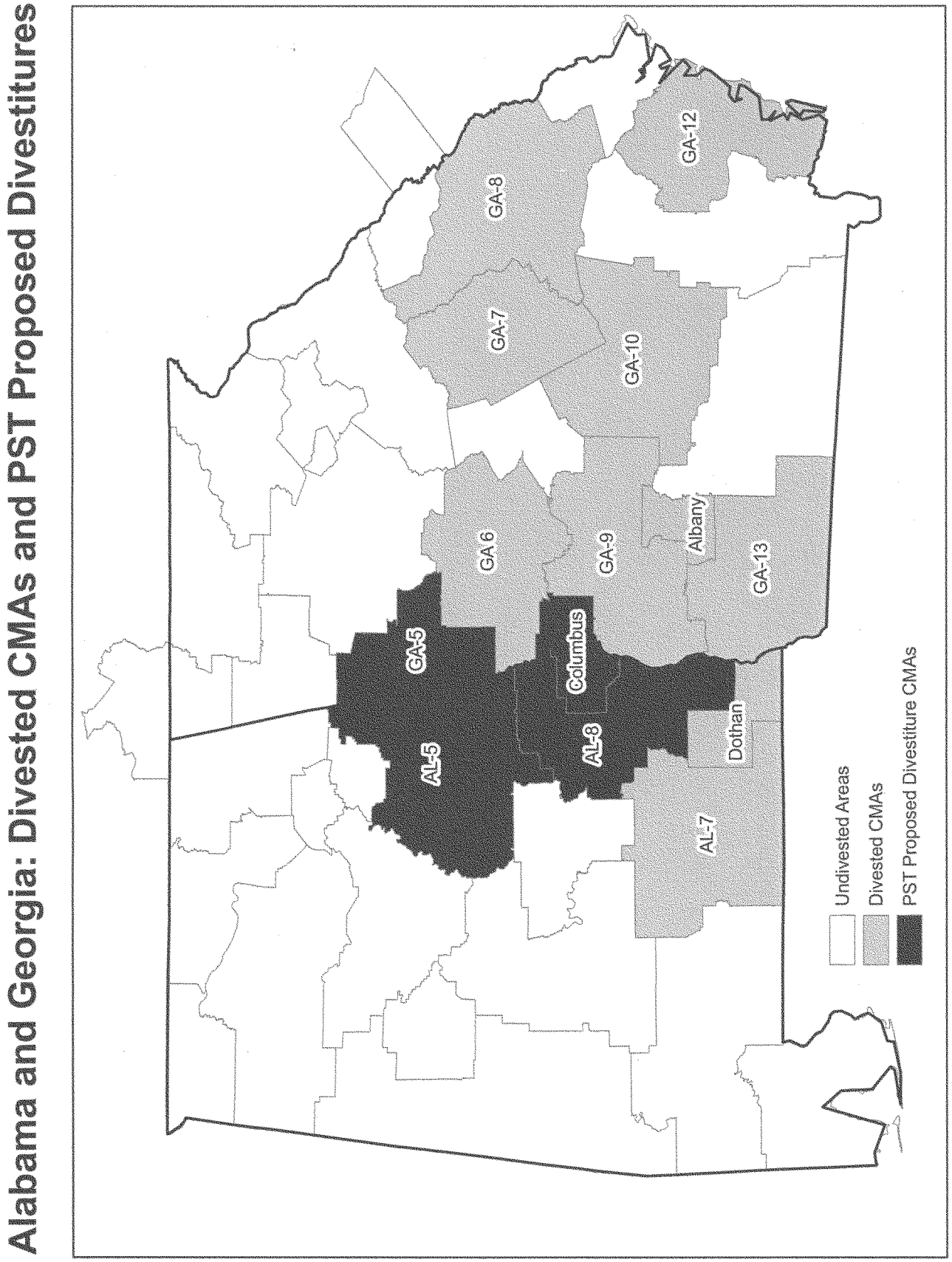
[5] The possibility of reaching a roaming agreement for coverage of the Columbus MSA is of little comfort. A provider's only significant protection against unreasonably high roaming fees is the ability to comparison shop among multiple service providers in other geographic areas. Thus, any acquisition that removes a significant potential supplier of roaming services may increase roaming fees to other, smaller competitors. That is the potential problem here. Alltel provides service primarily in rural areas where roaming alternatives may be limited. Removing it from the market enhances Verizon's market power to raise roaming rates. Verizon reassured the FCC that it will honor all existing roaming contracts. That is a meaningless gesture. Of course it will honor existing contracts; failure to do so is breach and exposes Verizon to litigation. The real question is whether the acquisition will affect Verizon's incentives to enter into future roaming contracts at a reasonable price. Where one potential alternative source of roaming service is removed from an already-highly concentrated market, the answer is obvious. Verizon will have less incentive to offer low roaming fees for future contracts.


Alabama and Georgia: Divested CMAs and PST Proposed Divestitures
GA-8
GA-12
GA-7
GA-10
GA-6
GA-9
Albany
GA-13
GA-5
Columbus
AL-5
AL-8
Dothan
AL-7
Undivested Areas
Divested CMAs
PST Proposed Divestiture CMAs

[FR Doc. E9–4341 Filed 3–2–09; 8:45 am]
BILLING CODE 4410–11–C

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *February 9 through February 13, 2009.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–64,881; Dalmar Precision, Inc., Saegertown, PA: January 13, 2008.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,278; Purcell Systems, Spokane Valley, WA: October 13, 2007.

TA–W–64,584; Master Brand Cabinets, Leased Workers from Express Personnel, Grants Pass, OR: November 24, 2007.

TA–W–64,922; International Staple & Machine Co., Butler, PA: January 18, 2009.

TA–W–64,924; Phelps Dodge Chino, Inc., Freeport-McMoran Corp, Hurley, NM: January 15, 2008.

TA–W–65,106; Wilson Sporting Goods, Team Sports Division, Sparta, TN: January 26, 2008.

TA–W–65,090; eGene, Inc., A QianGen Company, Irvine, CA: January 9, 2008.
TA–W–64,501; Masterbrand Cabinets, Fortune Brands, Richmond, IN: October 26, 2007.
TA–W–64,610; Synthetics Finishing Div., Longview Plant, TSG, Inc, Hickory, NC: December 1, 2007.
TA–W–64,659; Crane Composites, Grand Junction, TN: December 11, 2007.
TA–W–64,697; Tower Automotive Operations USA III, Inc., Peoplelink, Traverse City, MI: December 15, 2007.
TA–W–64,700; W.K. Industries, Inc., Sterling Heights, MI: December 11, 2007.
TA–W–64,807; Versa Die Cast, Inc., ASSAP Staffing, Golden Employment & Award, New Hope, MN: December 31, 2007.
TA–W–64,816; Northwest Aluminum Specialties, The Dalles, OR: December 19, 2009.
TA–W–64,854; United Knitting LP, Mallen Industries, Optimum Staffing, Cleveland, TN: January 9, 2008.
TA–W–64,915; Mahle Clevite, Inc., Churubusco, IN: December 17, 2007.
TA–W–64,935; Baker Hosiery, Inc., Fort Payne, AL: January 20, 2008.
TA–W–65,007; Herringbone Shirt Manufacturing Co., LLC, Fall River, MA: January 26, 2008.
TA–W–65,037; Chrysler LLC, Warren Truck Assembly Plant, Warren, MI: January 21, 2008.
TA–W–65,067; Lite-Foot Hosiery, Inc., Fort Payne, AL: January 30, 2008.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,568; JCIM, US-LLC, Formerly Known as Engineered Products, Chicago, IL: November 7, 2007.
TA–W–64,654; Viasystems Milwaukee, Inc., 1st ST NW., Aerotek, Argus Tech, Custom Staffing, etc, Oak Creek, WI: December 10, 2007.
TA–W–64,873; Rohm and Haas Company, Louisville, KY: January 7, 2008.
TA–W–64,887; Pall Life Sciences, A Division of Gelman Sciences, Ann Arbor, MI: March 3, 2009.
TA–W–64,888; Schaeffler Group USA, Inc., Industrial Segment, Spartanburg, SC: January 13, 2008.
TA–W–64,914; M&Q Plastic Products, North Wales, PA: January 12, 2008.
TA–W–64,945; InterMetro Industries Corp., A Subsidiary of Emerson Electric Company, Wilkes-Barre, PA: January 21, 2008.
TA–W–64,946; AbitibiBowater, Inc., Calhoun Operations, Calhoun, TN: January 2, 2008.
TA–W–64,951; Daimler Trucks North America, Portland Truck Plant, Portland, OR: January 21, 2008.
TA–W–64,966; Camera Dynamics, Inc., A Division of Oconner Engineering, Costa Mesa, CA: January 20, 2009.
TA–W–64,973; Elcom, Inc., Yazaki International Corp, El Paso, TX: February 22, 2009.
TA–W–64,975; Shell Sands, Inc., Cleveland, OH: January 5, 2008.
TA–W–64,987; Veyance Technologies, Inc., Formerly Goodyear Tire and Rubber, Engineered Prod, Lincoln, NE: February 24, 2009.
TA–W–65,025; A.O. Smith Corporation, Electrical Products Division, Mebane, NC: January 10, 2009.
TA–W–65,134; Key Safety Restraint Systems, Knoxville Division, Knoxville, TN: February 3, 2008.
TA–W–64,701; Atmel Corporation, Test Department, Colorado Springs, CO: December 3, 2007.
TA–W–64,860; The Modesto Bee Newspaper, AD Production Group, Modesto, CA: January 7, 2008.
TA–W–64,942; Bestop, Inc., Broomfield, CO: January 24, 2009.
TA–W–65,027; Davis-Standard LLC, Pawcatuck, CT: January 27, 2008.
TA–W–65,119; Whatman, A Subsidiary of GE Healthcare, Sanford, ME: February 3, 2008.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,642; Johnstown Wire Technologies, Johnstown, PA: December 9, 2007.
TA–W–64,713; Frontier Yarns, LLC, Manufacturing Facility #81, Wetumpka, AL: December 16, 2007.
TA–W–64,790; Futaba Indiana of America, Vincennes, IN: December 29, 2007.
TA–W–64,831A; ATC Panels, Inc., Corporate Office, Greenwood, IN: January 7, 2008.
TA–W–64,831B; ATC Panels, Inc., Corporate Office, Hickory, NC: January 7, 2008.
TA–W–64,831C; ATC Panels, Inc., Corporate Office, Lititz, PA: January 7, 2008.
TA–W–64,831D; ATC Panels, Inc., Corporate Office, Granger, IN: January 7, 2008.
TA–W–64,831E; ATC Panels, Inc., Corporate Office, Berkley Heights, NJ: January 7, 2008.
TA–W–64,831F; ATC Panels, Inc., Corporate Office, Gainesville, GA: January 7, 2008.
TA–W–64,831; ATC Panels, Inc., Corporate Office, Morrisville, NC: January 7, 2008.
TA–W–65,022; HS Spring of Ohio, Jefferson, OH: January 27, 2008.
TA–W–65,088; Snoke Special Products Co., Inc., Jacksonville, TX: February 2, 2008.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

TA–W–64,881; Dalmar Precision, Inc., Saegertown, PA.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline)

and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–64,647; Trane US, Inc., Residential Systems Divisions, Tyler, IN.
TA–W–64,730; Chrysler LLC, Conner Avenue Assembly Plant, Detroit, OR.
TA–W–64,840; International Paper, Cleveland Container Plant, Container The Americas Division, Cleveland, TN.
TA–W–64,872; Trinity North American Freightcar, Inc., On-Site Workers from Human Resources Staffing, Springfield, MI.
TA–W–64,957; Kyocera Wireless Corporation, San Diego, MI.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–64,366; Hewlett Packard Company, Design Delivery Organization, San Diego, WA.
TA–W–64,832; Photronics, Boise, NC.
TA–W–64,965; Honeywell International Systems, Turbo Technologies Division, Plymouth, MN.
TA–W–64,997; Los Angeles Times Communications, Advertising Financial Services, Los Angeles, OR.
TA–W–65,104; Spectrum Industrial Services, Inc., Minneapolis, TN.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of *February 9 through February 13, 2009.* Copies of these determinations are available for inspection in Room N–5428, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 23, 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4387 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 13, 2009.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 13, 2009.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 20th day of February 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX—110 TAA PETITIONS INSTITUTED BETWEEN 2/2/09 AND 2/6/09

TA–W	Subject firm (Petitioners)	Location	Date of institution	Date of petition
65056	BIE Aerospace, Inc., FSI (Wkrs)	Marysville, WA	02/02/09	01/02/09
65057	Dana Holding Corporation, Sealing products Group (Comp)	McKenzie, TN	02/02/09	01/30/09
65058	Swan Finishing Company, Inc. (UNITE)	Fall River, MA	02/02/09	01/21/09
65059	Core Molding Technologies (Wkrs)	Colombus, OH	02/02/09	01/26/09
65060	International Automotive Components (Comp)	Sidney, OH	02/02/09	02/01/09
65061	Gemeinhardt, LLC (IBT)	Elkhart, IN	02/02/09	01/29/09
65062	Sequa Coatings, dba Precoat Metals (Wkrs)	McKeesport, PA	02/02/09	01/29/09
65063	Stabilus, Inc. (State)	Gastonia, NC	02/02/09	01/23/09
65064	Cypress Semiconductor Corporation (83704)	Boise, ID	02/02/09	01/30/09
65065	Yazaki North America (Wkrs)	Canton, MI	02/02/09	01/30/09
65066	Maxim Integrated Products (Comp)	Beaverton, OR	02/02/09	01/30/09
65067	Lite-Foot Hosiery, Inc. (Comp)	Fort Payne, AL	02/02/09	01/30/09
65068	Littlefuse, Inc. (State)	Arcola, IL	02/02/09	01/30/09
65069	PVH Superba/Insignia Neckwear, Inc. (Comp)	Los Angeles, CA	02/02/09	01/30/09
65070	Seco-Warwick Corporation (Wkrs)	Meadville, PA	02/02/09	01/29/09
65071	Frito Lay/Pepsi Co (Comp)	San Antonio, TX	02/02/09	01/05/09
65072	Eaton Hydraulics (Wkrs)	Greenwood, SC	02/02/09	01/30/09
65073	Yorktowne Cabinetry (Wkrs)	Mifflinburg, PA	02/02/09	01/23/09
65074	Dynamerica Manufacturing, LLC (Wkrs)	West Milton, OH	02/02/09	01/29/09
65075	Senco Products, Inc. (Comp)	Cincinnati, OH	02/02/09	01/30/09
65076	Pentair Water (Wkrs)	Delavan, WI	02/02/09	01/15/09
65077	Canesville Acoustics (Wkrs)	Norwalk, OH	02/02/09	01/26/09
65078	Thomas Lighting (Wkrs)	Hopkinsville, KY	02/02/09	01/30/09

APPENDIX—110 TAA PETITIONS INSTITUTED BETWEEN 2/2/09 AND 2/6/09—Continued

TA–W	Subject firm (Petitioners)	Location	Date of institution	Date of petition
65079	Bowser Manufacturing Co., Inc. (Wkrs)	Montoursville, PA	02/02/09	01/28/09
65080	Santoku America, Inc. (Comp)	Tolleson, AZ	02/02/09	01/26/09
65081	LeSueur, Inc. (State)	LeSueur, MN	02/03/09	02/02/09
65082	Panel Crafters, Inc. (97503)	White City, OR	02/03/09	01/30/09
65083	HDM Showroom and Office (Comp)	High Point, NC	02/03/09	02/02/09
65084	Modine Manufacturing (Union)	Pemberville, OH	02/03/09	02/02/09
65085	Colorite Specialty Resins (USW)	Burlington, NJ	02/03/09	01/30/09
65086	Penn Racquet Sports, Inc. (State)	Phoenix, AZ	02/03/09	02/02/09
65087	Industrial Minerals, Inc. (Wkrs)	Blacksburg, SC	02/03/09	01/28/09
65088	Snoke Special Products Co., Inc. (Comp)	Jacksonville, TX	02/03/09	02/02/09
65089	Brunswick (Lund Crestliner) (State)	Little Falls, MN	02/03/09	02/02/09
65090	eGene, Inc. (Wkrs)	Irvine, CA	02/03/09	01/09/09
65091	WestPoint Home/Calhoun Falls Plant (29628)	Calhoun Falls, SC	02/03/09	02/02/09
65092	Detroit Diesel Specialty Tool Co. (Comp)	Cambridge, OH	02/03/09	02/02/09
65093	GKN (Comp)	Salem, IN	02/03/09	02/02/09
65094	Plastic Packaging, Inc. (Wkrs)	Aberdeen, NC	02/03/09	01/15/09
65095	Commercial Carving Company (Comp)	Thomasville, NC	02/03/09	02/02/09
65096	Tyco Electronics (Rep)	Emigsville, PA	02/03/09	02/02/09
65097	Admart Custom Signage (Wkrs)	Danville, KY	02/03/09	02/02/09
65098	Lineage Power Corporation (Comp)	Mesquite, TX	02/03/09	02/02/09
65099	McMurray Fabrics, Inc. (Wkrs)	Aberdeen, NC	02/03/09	01/08/09
65100	Kimball Electronics, Inc. (Comp)	Jasper, IN	02/04/09	02/02/09
65101	Kelsey Hayes Company (Comp)	Fowlerville, MI	02/04/09	02/03/09
65102	Kelsey Hayes Company (Comp)	Fenton, MI	02/04/09	02/03/09
65103	Dan Drexlmaier (Wkrs)	Duncan, SC	02/04/09	01/29/09
65104	Spectrum Industrial Services, Inc. (State)	Minneapolis, MN	02/04/09	01/29/09
65105	Safer Holding Corporation (Comp)	Newark, NJ	02/04/09	02/03/09
65106	Wilson Sporting Goods (Wkrs)	Sparta, TN	02/04/09	01/26/09
65107	Hol-Mac Corporation (Comp)	Bay Springs, MS	02/04/09	02/03/09
65108	Ingersoll Rand/Trans La Crosse (IAMAW)	La Crosse, WI	02/04/09	02/02/09
65109	Fortis Plastics, LLC (State)	Fort Smith, AR	02/04/09	02/03/09
65110	Keystone Powdered Metal Company (Comp)	St. Marys, PA	02/04/09	02/02/09
65111	BASF Corporation (Wkrs)	Wilmington, NC	02/04/09	02/03/09
65112	Vesuvius USA—Fisher IL Manufacturing Facility (Comp)	Fisher, IL	02/04/09	02/03/09
65113	Maine Woods Company, LLC (Comp)	Portage Lake, ME	02/04/09	01/29/09
65114	SPS Technology (Wkrs)	Waterford, MI	02/04/09	02/03/09
65115	TLD Ace Corporation (State)	Windsor, CT	02/04/09	02/03/09
65116	Oak Lawn Packaging, Inc. (Comp)	Fort Smith, AR	02/04/09	02/03/09
65117	Sonoco CIN-Made (USW)	Cincinnati, OH	02/04/09	01/21/09
65118	Vanity Fair Brands Knitting Facility (Comp)	Jackson, AL	02/04/09	01/29/09
65119	Whatman (State)	Sanford, ME	02/04/09	02/03/09
65120	Santee Print Works (Comp)	Sumter, SC	02/04/09	02/03/09
65121	Custom Screens, Inc. (Comp)	Madison, NC	02/04/09	02/03/09
65122	Greenbrier Rail Service (Wkrs)	Chicago Heights, IL	02/04/09	02/02/09
65123	Keytronic (Wkrs)	Spokane Valley, WA	02/04/09	01/28/09
65124	Stanley Works (State)	New Britain, CT	02/04/09	02/03/09
65125	RMKI (Wkrs)	Rochester Hills, MI	02/04/09	01/20/09
65126	Regal Beliot (MO)	Lebanon, MO	02/04/09	02/02/09
65127	MWV Calmar (Union)	Washington Courthouse, OH	02/04/09	02/02/09
65128	Longview Fibre Paper and Packaging, Inc. (Wkrs)	Twin Falls, ID	02/05/09	01/19/09
65129	Wilson-Hurd Manufacturing Co. (Wkrs)	Berlin, WI	02/05/09	02/04/09
65130	Leggett and Platt, Inc. (Comp)	Simpsonville, KY	02/05/09	01/13/09
65131	Circuit City Stores (Wkrs)	Muncy, PA	02/05/09	02/04/09
65132	Blount, Inc. (Comp)	Milwaukie, OR	02/05/09	02/04/09
65133	Chromalox/Odgen Manufacturing Company (Comp)	Edinboro, PA	02/05/09	02/04/09
65134	Key Safety Restraint Systems (Comp)	Knoxville, TN	02/05/09	02/03/09
65135	Leggett & Platt (Comp)	Ennis, TX	02/05/09	02/04/09
65136	Cummins Power Generation (State)	Fridley, MN	02/05/09	02/05/09
65137	New Page Corporation/Rumford Paper Co. (IBB)	Rumford, ME	02/05/09	02/04/09
65138	Sierra Pine Rocklin (Comp)	Rocklin, CA	02/05/09	02/04/09
65139	Weather Shield Manufacturing, Inc. (Wkrs)	Medford, WI	02/05/09	01/28/09
65140	Fred Whitaker Company (Comp)	Roanoke, VA	02/05/09	02/04/09
65141	Seagate Technology (State)	Bloomington, MN	02/05/09	02/04/09
65142	Nylon Craft of Michigan (Comp)	Jonesville, MI	02/05/09	01/29/09
65143	Goulds Pumps/ITT Industries (3561)	Ashland, PA	02/05/09	01/21/09
65144	Delphi Corporation,Electronic & Safety Division (Wkrs)	Auburn Hills, MI	02/05/09	01/29/09
65145	Hubbell Power Systems, Inc. (Wkrs)	Centralia, MO	02/05/09	01/23/09
65146	Computer Aid, Inc. (Wkrs)	Allentown, PA	02/05/09	01/26/09
65147	Bradington-Young, LLC (Wkrs)	Woodleaf, NC	02/06/09	02/05/09
65148	W. Y. Shugart & Sons, Inc. (Comp)	Fort Payne, AL	02/06/09	02/05/09
65149	HDM/Drexel Plant #7 (Comp)	Hickory, NC	02/06/09	02/02/09

APPENDIX—110 TAA PETITIONS INSTITUTED BETWEEN 2/2/09 AND 2/6/09—Continued

TA–W	Subject firm (Petitioners)	Location	Date of institution	Date of petition
65150	Electrolux Central Vaccum Systems (Comp)	Webster City, IA	02/06/09	02/05/09
65151	Illume, aka Starlume (Comp)	Bloomington, MN	02/06/09	02/04/09
65152	CCL Container (Comp)	Hermitage, PA	02/06/09	02/05/09
65153	Rockwell Automation (Wkrs)	Richland Center, WI	02/06/09	02/05/09
65154	CME, LLC (Wkrs)	Mt. Pleasant, MI	02/06/09	02/05/09
65155	Bledsoe Construction, Inc. (Comp)	Boise, ID	02/06/09	02/05/09
65156	Friction, LLC (Comp)	Greenwood, MS	02/06/09	02/06/09
65157	Alcoa, Tennessee Operations (AFLCIO)	Alcoa, TN	02/06/09	02/05/09
65158	Gulistan Carpet (Comp)	Aberdeen, NC	02/06/09	02/05/09
65159	Chrysler Sterling Heights Assembly Plant (UAW)	Sterling Heights, MI	02/06/09	02/04/09
65160	Hutchinson Technology, Inc. (State)	Hutchinson, MN	02/06/09	02/05/09
65161	TG Missouri Corporation (Comp)	Perryville, MO	02/06/09	02/05/09
65162	Dana Holding Corporation (AFLCIO)	Humboldt, TN	02/06/09	02/05/09

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BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of February 2 through February 6, 2009.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section

222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,751; Leon Max, Inc., Pasadena, CA: December 16, 2007.

TA–W–64,842; American and Efird, Inc., Nelson Plant 2, Mount Holly, NC: January 8, 2008.

TA–W–64,882; Amphenol TCS Microtech and Triton Staffing, Nashua, NH: January 5, 2008.

TA–W–65,054; GE Security Supply Chain Tualatin Div. of GE Security, Inc., Tualatin, OR: January 29, 2008.

TA–W–65,055; National Copper Products, Inc. National Tube Holding, Dowagiac, MI: January 27, 2008.

TA–W–65,079; Bowser Manufacturing Co., Inc., Montoursville, PA: January 28, 2008.

TA–W–64,198; Cranston Print Works Company Webster Division, Webster, MA: August 23, 2008.

TA–W–64,496; Hatteras Yachts Brunswick Corporation, New Bern, NC: November 20, 2007.

TA–W–64,626; Moldex Corporation, Meadville, PA: December 5, 2007.

TA–W–64,678; Washers, Inc., Specialty Processing, dba Alpha Stamping, Livonia, MI: December 11, 2007.

TA–W–64,800; Flex Y Plan Industries, Inc., Fairview, PA: December 30, 2007.

TA–W–64,953A; Bloomsburg Mills, Inc., Monroe Div., Staffing Solutions, Monroe, NC: January 6, 2009.

TA–W–64,953; Bloomsburg Mills, Inc., Bloomsburg Div., Staffing Solutions, Bloomsburg, PA: January 6, 2009.

TA–W–64,506; International Paper Company Weyerhaeuser Co, Containerboard Div., Valliant, OK: November 14, 2007.

TA–W–64,786; Schott Gemtron, Vincennes, IN: December 22, 2007.

TA–W–64,619; Chrysler LLC, Twinsburg Stamping Plant, Twinsburg, OH: December 2, 2007.

TA–W–64,736; True Textiles, Inc., Formerly Knows As Interface Fabric, Guilford, ME: December 15, 2007.

TA–W–64,779; Diversified Contract Services Line Logistics, Fenton, MO: December 10, 2007.

TA–W–65,040; New N&W Sewing Company, San Francisco, CA: January 16, 2008.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,468; MRV Communications Boston Division, Littleton, MA: November 17, 2007.

TA–W–64,534; Siemens Energy and Automation, Inc., Residential Products Division, El Paso, TX: November 19, 2007.

TA–W–64,554; Winchester Electronics Corporation Corporate Office, leased workers Talent Tree and Outsource, Wallingford, CT: November 26, 2007.

TA–W–64,587; Allen Edmonds Shoe Company Allen Edmonds, Port Washington, WI: December 3, 2009.

TA–W–64,628; Kelsey-Hayes Company TRW Automotive Holdings Corp, Livonia, MI: December 8, 2007.

TA–W–64,777; Adgraphics USA Taylor Corporation, Hugo, MN: December 23, 2007.

TA–W–64,829; Cooper Tire and Rubber Company, Albany, GA: January 5, 2008.

TA–W–64,830; Philips Lumileds Lighting Company Wafer Fabrication Div., San Jose, CA: January 7, 2008.

TA–W–64,845; Reach Road Manufacturing Corp., Williamsport, PA: March 15, 2008.

TA–W–64,883; Celestica Adecco, Aerotek, Purchasing Professionals, Arden Hills, MN: January 13, 2008.

TA–W–64,884; White Rodgers Emerson, Batesville, AR: February 9, 2009.

TA–W–64,931; INVISTA S.A.R.L. Mundy Maintenance, Services and Operations Clearwater Loaders, Seaford, DE: January 13, 2008.

TA–W–64,938; Sonoco Products Company, Rockton, IL: January 14, 2008.

TA–W–65,024; Printronix, including Temploy and Select Staffing, Irvine, CA: January 27, 2008.

TA–W–65,117; Sonoco CIN-Made Rigid Paper and Plastics, Cincinnati, OH: January 21, 2008.

TA–W–64,740; LSP Products Group NCH Corp., Carson City, NV: December 18, 2007.

TA–W–64,750; Bush Industries, Inc. Express and Labor Ready, Erie, PA: January 26, 2009.

TA–W–64,778; Hamilton Sundstrand Aerospace Propulsion Systems Div., Windsor Locks, CT: December 23, 2007.

TA–W–64,803; Fort Worth Star Telegram AD Design Division, McClatchy Company, Fort Worth, TX: December 26, 2007.

TA–W–64,813; Gerber Scientific, Inc., Tolland, CT: January 5, 2008.

TA–W–64,857; Huhtamaki Flexibles, Inc., Malvern, PA: January 9, 2008.

TA–W–64,897; Sanford Holland Employment, Lewisburg, TN: January 15, 2008.

TA–W–64,936; Casco Products Sequa Carlyle Group Division, Marks, MS: January 20, 2008.

TA–W–64,941; Southworth International Group Southworth Products, Welders & Assemblers, Manila, AR: January 20, 2008.

TA–W–64,943; Versa-Matic Pump Inc. Robert Half, Account Temps, Callos, Carol Harris etc, Export, PA: January 16, 2008.

TA–W–64,954; ZF Boge Elastametall, LLC Rubber-Metal Technology Div., Trillium Staffing, Paris, IL: January 21, 2008.

TA–W–64,976; General Building Corporation, Aerotek, Action Temps, Paramount Staffing, Addison, IL: January 22, 2008.

TA–W–65,026; ADO Corporation, Spartanburg, SC: January 26, 2008.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,564; Brose Chicago, People Link, Chicago, IL: November 7, 2007.

TA–W–64,696; Emcon Technologies Dexter, MO: December 15, 2007.

TA–W–64,715A; Cadence Innovation, LLC Metrology Location Including Michigan Staffing, Modern Professional and TAC

Transportation, Chesterfield Township, MI: December 15, 2007.

TA–W–64,715B; Cadence Innovation, LLC, Chesterfield Plant Including Michigan Staffing, Modern Professional and TAC Transportation, Chesterfield Township, MI: December 15, 2007.

TA–W–64,715C; Cadence Innovation, LLC, Information Systems Technology, Including Michigan Staffing, Modern Professional and TAC Transportation, Chesterfield Township, MI: December 15, 2007.

TA–W–64,715D; Cadence Innovation, LLC, Hillsdale Plant and Including Michigan Staffing, Modern Professional and TAC Transportation, Hillsdale, MI: December 15, 2007.

TA–W–64,715E; Cadence Innovation, LLC, Hartford Plant and Including Michigan Staffing, Modern Professional and TAC Transportation, Hartford City, MI: December 15, 2007.

TA–W–64,715F; Cadence Innovation, LLC, 17400 Malyn Street, Including Michigan Staffing, Modern Professional and TAC Transportation, Fraser, MI: December 15, 2007.

TA–W–64,715G; Cadence Innovation, LLC, 17350 Malyn Street, Including Michigan Staffing, Modern Professional and TAC Transportation, Fraser, MI: December 15, 2007.

TA–W–64,715H; Cadence Innovation, 17300 Malyn Street, Including Michigan Staffing, Modern Professional and TAC Transportation, Fraser, MI: December 15, 2007.

TA–W–64,715I; Cadence Innovation, LLC, Processing Center, Including Michigan Staffing, Modern Professional and TAC Transportation, Fraser, MI: December 15, 2007.

TA–W–64,715J; Cadence Innovation, LLC, Commerce Location, Including Michigan Staffing, Modern Professional and TAC Transportation, Fraser, MI: December 15, 2007.

TA–W–64,715; Cadence Innovation, LLC, Groesbeck Plant, Including Michigan Staffing, Modern Professional and TAC Transportation, Clinton Township, MI: December 15, 2007.

TA–W–64,761A; Swift Spinning, Inc., Blackstreet Capital Partners, CYD Plant, Columbus, GA: December 3, 2007.

TA–W–64,761; Swift Spinning, Inc., Blackstreet Capital Partners, East Columbus, Columbus, GA: December 3, 2007.

TA–W–64,904A; R.L. Stowe Mills, Inc., Helms Plant, Belmont, NC: January 13, 2008.

TA–W–64,904B; R.L. Stowe Mills, Inc., Chattanooga Plant, Chattanooga, TN: January 13, 2008.

TA–W–64,904; R.L. Stowe Mills, Inc., National Plant, Belmont, NC: January 13, 2008.

TA–W–64,920; Heritage Products, Inc., Crawfordsville, IN: January 15, 2008.

TA–W–65,042; Craftwood, Inc., High Point, NC: January 29, 2008.

TA–W–65,053; Tenneco, Inc., NAOERC Division, Hartwell, GA: January 29, 2008.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–64,636; Future Electronics Corporation, Golden, CO.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–64,795; Appleton Papers, Inc., Appleton, WI.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–64,360; Mead Westvaco Corporation, Consumer and Office Products Division, Enfield, CT.

TA–W–64,462; Foamex, LP, Corry, PA.

TA–W–64,492; GTP Greenville, Inc., Greenville, SC.

TA–W–64,525; Stamford Industrial Group, dba Concord Steele, Warren, OH.

TA–W–64,548; Stuart Flooring Corporation, Stuart, VA.

TA–W–64,658; Fleetwood Motor Homes of Pennsylvania, Inc., Fleetwood Enterprises, Paxinos, PA.

TA–W–64,772A; East Tennessee Zinc Company, Coy Mine, Jefferson City, TN.

TA–W–64,772B; East Tennessee Zinc Company, Immel Mine, Mascot, TN.

TA–W–64,772; East Tennessee Zinc Company, Young Mine and Corp. Office, Strawberry Plains, TN.

TA–W–64,810; Legere Group, Ltd., Avon, CT.

TA–W–64,858; Wabash Alloys, LLC, Aleris International, Tipton, IN.

TA–W–64,947; Philip Morris USA, Cabarrus Manufacturing Plant, Altria Group, Concord, NC.

TA–W–64,220; Oddi Atlantic LLC, Princess Ann, MD.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–64,591; Gensym Corporation, Versata Enterprises, Inc., Burlington, MA.

TA–W–64,687; Delaware Valley Financial Services, Allianz Life Insurance Company of North America, Berwyn, PA.

TA–W–64,703; 5R Processors, Ltd, Ladysmith, WI.

TA–W–64,785; Wallenius Wilhelmsen Logistics America, Woodcliff Lake, NJ.

TA–W–64,809; S & B Industry Technologies, L.P., Fort Worth, TX.

TA–W–64,822; Pulaski Furniture Corporation, A Division of Home

Meridian International, Pulaski, VA.

TA–W–64,893; Dreamer Design, Yakima, WA.

TA–W–64,940; Long Equipment Company, Division of Farmtrac North America, LLC, Tarboro, ND.

TA–W–64,995; Alleghany Warehouse Company, Richmond, VA.

TA–W–64,998; Oce Business Services, Records Compliance and Legal Solutions, Bountiful, UT.

TA–W–64,999; Twin Hills, Inc., Hickory, KY.

TA–W–65,011; Chase Auto Finance Corporation, Customer Services, JP Morgan Chase and Co., Garden City, NY.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

TA–W–64,384; Timken Company, Dahlonega, GA.

I hereby certify that the aforementioned determinations were issued during the period of February 2 through February 6, 2009. Copies of these determinations are available for inspection in Room N–5428, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 23, 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4388 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,965]

Eaton Aviation Corporation, Aviation and Aerospace Components, Including On-Site Leased Workers From Aorist Enterprises, Inc. and Aerotek, Inc., Aurora, CO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on May 1, 2007, applicable to workers of Eaton Aviation Corporation, Aviation and Aerospace Components, Aurora, Colorado. The notice was published in the **Federal Register** on May 17, 2007 (72 FR 27854). The certification was amended on July 15, 2008 to include on-site leased workers from Aorist Enterprises. The notice was published in the **Federal Register** on July 28, 2008 (73 FR 43788)

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of aviation and aerospace parts and components.

New information shows that workers leased from Aerotek, Inc. were employed on-site at the Aurora, Colorado location of Eaton Aviation Corporation, Aviation and Aerospace Components. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Aerotek, Inc. working on-site at the Aurora, Colorado location of the subject firm.

The intent of the Department's certification is to include all workers employed at Eaton Aviation Corporation, Aviation and Aerospace Components who were adversely affected by a shift in production of aviation and aerospace parts and components to Mexico.

The amended notice applicable to TA–W–60,965 is hereby issued as follows:

All workers producing aviation and aerospace parts and components at Eaton Aviation Corporation, Aurora, Colorado, or engaged in the support of such production including on-site leased workers of Aorist Enterprises, Inc. and Aerotek, Inc. (TA–W–60,965), who became totally or partially separated from employment on or after February 13, 2006, through May 1, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4390 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,811]

Micron Technology, Inc., Research and Development and Manufacturing, Including Onsite Leased Workers From Kelly Services, SOS, Manpower, Vot, Volt Technical, Fujitsu, Aerotek, Tek Systems and Bledsoe Construction, Inc., Boise, ID; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 13, 2007, applicable to workers of Micron Technology, Inc., Research and Development and Manufacturing, Boise, Idaho. The notice was published in the **Federal Register** on September 27, 2007 (72 FR 54939).

New information shows that workers leased workers from Bledsoe Construction, Inc. were employed on-site at the Boise, Idaho location of Micron Technology, Inc., Research and Development and Manufacturing, Boise, Idaho. The Department has determined that these workers were sufficiently under the control of Micron Technology, Inc., Research and Development and Manufacturing, Boise, Idaho to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Bledsoe Construction, Inc. working on-site at the Boise, Idaho location of the subject firm.

The intent of the Department's certification is to include all workers employed at Micron Technology, Inc., Research and Development and Manufacturing, Boise, Idaho who were adversely affected by increased imports of memory chips.

The amended notice applicable to TA–W–61,811 is hereby issued as follows:

All workers of Micron Technology, Inc., Research and Development and Manufacturing, Boise, Idaho, including on-site leased workers of Kelly Services, SOS, Manpower, Volt, Vot Technical, Fujitsu, Aerotek, Tek Systems and Bledsoe Construction, Inc., who became totally or partially separated from employment on or

after July 9, 2006, through September 13, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

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

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4392 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,880]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Cequent Electrical Products, Inc., Formerly Known as Tekonsha Towing, Tekonsha, Michigan; Including Employees in Support of Cequent Electrical Products, Inc., Formerly Known as Tekonsha Towing, Tekonsha, Michigan, Working in the Following Locations:

TA–W–63,880A, Washougal, Washington.
TA–W–63,880B, West Linn, Oregon.
TA–W–63,880C, Temecula, California.
TA–W–63,880D, Urbandale, Iowa.
TA–W–63,880E, Weston, Wisconsin.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on November 26, 2008, applicable to workers of Cequent Electrical Products, Inc., Tekonsha, Michigan. The notice was published in the **Federal Register** on December 10, 2008 (73 FR 75137). The certification was amended on December 24, 2008 to include employees in support of the subject firm working in Washougal, Washington, West Linn, Oregon, Temecula, California, Urbandale, Iowa and Weston, Wisconsin. The notice was published in the **Federal Register** on January 2, 2009 (74 FR 465–466).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of brake controls, breakaway kits and lights for the automotive and trailer industries.

New information received from a company official shows that workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Tekonsha Towing.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of brake controls, breakaway knits and lights.

The amended notice applicable to TA–W–63,880, TA–W–63,880A, TA–W–63,880B, TA–W–63,880C, TA–W–63,880D and TA–W–63,880E are hereby issued as follows:

All workers of Cequent Electrical Products, Inc., formerly known as Tekonsha Towing, Tekonsha, Michigan, including employees in support of Cequent Electrical Products, Inc., formerly known as Tekonsha Towing, Tekonsha, Michigan working out of Washougal, Washington (TA–W–63,880A), West Linn, Oregon (TA–W–63,880B), Temecula, California (TA–W–63,880C), Urbandale, Iowa (TA–W–63,880D), and Weston, Wisconsin (TA–W–63,880E), who became totally or partially separated from employment on or after August 6, 2007, through November 26, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 18th day of February 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4395 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,971]

Trim Masters, Inc., Automotive Technology Systems Division, Including On-Site Leased Workers From Employment Plus and Modern Personnel, Lawrenceville, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 22, 2008, applicable to workers of Trim Masters, Inc., Automotive Technology Systems Division Lawrenceville, Illinois. The notice was published in the **Federal Register** on October 8, 2008 (73 FR 58981).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of automotive interior door panels and seats.

New information shows that workers leased from Employment Plus and Modern Personnel were employed on-site at the Lawrenceville, Illinois location of Trim Masters, Inc., Automotive Technology Systems Division. The Department has determined that these workers were sufficiently under the control of Trim Masters, Inc., Automotive Technology Systems Division to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Employment Plus and Modern Personnel working on-site at the Lawrenceville, Illinois location of the subject firm.

The intent of the Department's certification is to include all workers employed at Trim Masters, Inc., Automotive Technology Systems Division, Lawrenceville, Illinois who were secondarily affected by increased imports of automotive interior door panels and seats.

The amended notice applicable to TA–W–63,971 is hereby issued as follows:

All workers of Trim Masters, Inc., Automotive Technology Systems Division, including on-site leased workers from Employment Plus and Modern Personnel, Lawrenceville, Illinois, who became totally or partially separated from employment on or after September 2, 2007 through September 22, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 18th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4396 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,129]

Broyhill Furniture Industries, Inc., Lenoir Chair #5, aka Taylorsville Plant, Including On-Site Leased Workers From Onin Staffing, Formerly Mulberry Group, Quick Temps/Temps USA and ESI Employment Staffing, Taylorsville, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on November 19, 2008, applicable to workers of Broyhill Furniture Industries, Inc., Lenoir Chair #5, aka Taylorsville Plant, Taylorsville, North Carolina. The notice was published in the **Federal Register** on December 10, 2008 (73 FR 75135).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of residential upholstered furniture.

New information shows that workers leased from Onin Staffing, formerly Mulberry Group, Quick Temps/Temps USA and ESI Employment Staffing were employed on-site at the Taylorsville, North Carolina location of Broyhill Furniture Industries, Inc., Lenoir Chair #5, aka Taylorsville Plant. The Department has determined that these workers were sufficiently under the control of Broyhill Furniture Industries, Inc., Lenoir Chair #5, aka Taylorsville Plant to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Onin Staffing formerly Mulberry Group, Quick Temps/Temps USA and ESI Employment Staffing working on-site at the Taylorsville, North Carolina location of the subject firm.

The intent of the Department's certification is to include all workers employed at Broyhill Furniture Industries, Inc., Lenoir Chair #5, aka Taylorsville Plant who were adversely affected by increased imports of residential upholstered furniture.

The amended notice applicable to TA–W–64,129 is hereby issued as follows:

All workers of Broyhill Furniture Industries, Lenoir Chair #5, aka Taylorsville Plant, including on-site leased workers from Onin Staffing, formerly Mulberry Group, Quick Temps/Temps USA and ESI Employment Staffing, Taylorsville, North Carolina, who became totally or partially separated from employment on or after September 26, 2007 through November 19, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 18th day of February 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4399 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,478]

Broyhill Furniture Industries, Inc. Corporate Office, a Subsidiary of Furniture Brands International, Inc., Including On-Site Leased Workers From Onin Staffing, Formerly Mulberry Group, Foothills Temp Employment and Accountemps, Lenoir, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 2, 2008, applicable to workers of Broyhill Furniture Industries, Inc., Corporate Office, a subsidiary of Furniture Brands International, Inc., Lenoir, North Carolina. The notice was published in the **Federal Register** on December 18, 2008 (73 FR 77067).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in support activities related to the production of residential upholstered furniture.

New information shows that workers leased from Onin Staffing, formerly Mulberry Group, Foothills Temp Employment and Accountemps were employed on-site at the Lenoir, North Carolina location of Broyhill Furniture Industries, Inc., Corporate Office, a subsidiary of Furniture Brands International, Inc. The Department has determined that these workers were sufficiently under the control of Broyhill Furniture Industries, Inc., Corporate Office, a subsidiary of Furniture Brands International, Inc. to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Onin Staffing formerly Mulberry Group, Foothills Temp Employment and Accountemps working on-site at the Lenoir, North Carolina location of the subject firm.

The intent of the Department's certification is to include all workers employed at Broyhill Furniture Industries, Inc., Corporate Office, a subsidiary of Furniture Brands International, Inc. who were adversely affected by increased imports of residential upholstered furniture.

The amended notice applicable to TA-W–64,478 is hereby issued as follows:

All workers of Broyhill Furniture Industries, Inc., Corporate Office, a subsidiary of Furniture Brands International, Inc., including on-site leased workers from Onin Staffing, formerly Mulberry Group, Foothills Temp Employment and Accountemps, Lenoir, North Carolina, who became totally or partially separated from employment on or after November 18, 2007 through December 2, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 18th day of February 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4400 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,226]

Delphi Corporation, Automotive Holding Group, Instrument Cluster Plant, Currently Known as General Motors Corporation, Including On-Site Leased Workers From Securitas, EDS, Bartech and Mays Chemicals, Flint, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and

Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on May 15, 2007, applicable to workers of Delphi Corporation, Automotive Holding Group, Instrument Cluster Plant, including on-site leased workers from Securitas, EDS, Bartech and Mays Chemicals, Flint, Michigan. The Department's Notice of determination was published in the **Federal Register** on May 30, 2007 (72 FR 30033).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Workers produced instrumentation displays.

New information shows that January 1, 2009, workers at the subject firm became employees of General Motors Corporation. Some of the workers' wages are being reported under the Unemployment Insurance (UI) tax account for General Motors Corporation.

The intent of the Department's certification is to include all workers of Delphi Corporation, Automotive Holding Group, Instrument Cluster Plant, Flint, Michigan, who were adversely affected by increased imports of instrumentation displays. Therefore, the Department is amending the certification to include workers whose wages are reported to General Motors Corporation.

The amended notice applicable to TA–W–61,226 is hereby issued as follows:

All workers of Delphi Corporation, Automotive Holding Group, Instrument Cluster Plant, currently known as General Motors Corporation, including on-site leased workers from Securitas, EDS, Bartech, and Mays Chemicals, Flint, Michigan, who became totally or partially separated from employment on or after March 30, 2006 through May 15, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of February 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4391 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,069; TA–W–62,069A]

Delphi Corporation, Automotive Holding Group, Plant 6, Currently Known as General Motors Corporation, Including On-Site Leased Workers From Securitas, EDS, Bartech and Mays Chemicals, Flint, MI; Delphi Corporation, Automotive Holding Group, Plant 2, Currently Known as General Motors Corporation, Including On-Site Leased Workers From Securitas, EDS, Bartech and Mays Chemicals, Flint, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 1, 2007, applicable to workers of Delphi Corporation, Automotive Holding Group, Plant 6, including on-site leased workers from Securitas, EDS, Bartech and Mays Chemicals, Flint, Michigan and Delphi Corporation, Automotive Holding Group, Plant 2, including on-site leased workers from Securitas, EDS, Bartech and Mays Chemicals, Flint, Michigan. The Department's Notice of determination was published in the **Federal Register** on October 17, 2007 (72 FR 58899).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Workers at Plant 6 produced automotive air induction products and workers at Plant 2 produced automotive modular reservoir assemblies and sub components.

New information shows that on January 1, 2009, workers at the subject firm became employees of General Motors Corporation. Some of the workers' wages are being reported under the Unemployment Insurance (UI) tax account for General Motors Corporation.

The intent of the Department's certification is to include all workers of Delphi Corporation, Automotive Holding Group, Plant 6, and Delphi Corporation, Automotive Holding Group, Plant 2, who were adversely affected by a shift in production of automotive air induction products and automotive modular reservoir assemblies and sub components to Mexico. Therefore, the Department is amending these certifications to include workers whose wages are being to General Motors Corporation.

The amended notice applicable to TA–W–62,069 and TA–W–62,069A is hereby issued as follows:

All workers of Delphi Corporation, Automotive Holding Group, Plant 6, currently known as General Motors Corporation, including on-site leased workers from Securitas, EDS, Bartech, and Mays Chemicals, Flint, Michigan (TA–W–62,069) and Delphi Corporation, Automotive Holding Group, Plant 2, currently known as General Motors Corporation, including on-site leased workers from Securitas, EDS, Bartech and Mays Chemicals, Flint, Michigan (TA–W–62,069A), who became totally or partially separated from employment on or after August 27, 2006 through October 1, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of February 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4393 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,019]

Whittier Wood Products Company Including On-Site Leased Workers From Employers Overload, Oregon Temporary Services and Selectemp Corporation, Eugene, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 2, 2008, applicable to workers of Whittier Wood Products Company, Eugene, Oregon. The Department's Notice of determination was published in the **Federal Register** on October 20, 2008 (73 FR 62322).

At the request of a firm official, the Department reviewed the certification for workers of the subject firm. Subject

firm workers produce wood household furniture and are not separately identifiable by product line.

New information shows that workers leased from Employers Overload, Oregon Temporary Services, and Selectemp Corporation were working on-site at the Eugene, Oregon location of the subject firm. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to leased workers of Employers Overload, Oregon Temporary Services, and Selectemp Corporation working on-site at the Eugene, Oregon location of the subject firm.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift of production to a foreign country followed by increased imports of articles like or directly competitive with the wood household furniture produced by the subject firm.

The amended notice applicable to TA–W–64,019 is hereby issued as follows:

All workers of Whittier Wood Products Company, Eugene, Oregon, including on-site leased workers from Employers Overload, Oregon Temporary Services, and Selectemp Corporation, who became totally or partially separated from employment on or after October 20, 2008, through October 2, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 13th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4397 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,093]

Seamless Sensations, Incorporated Including On-Site Leased Workers From American Pacific, Chester, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 20, 2008, applicable to workers of Seamless Sensations, Incorporated, Chester, South Carolina. The notice was published in the **Federal Register** on November 10, 2008 (73 FR 66676).

On its own motion, the Department reviewed the certification for workers of Seamless Sensations, Inc., Chester, South Carolina. The workers are engaged in the production of quilt comforters and blow pillows.

New information shows that workers leased from American Pacific were employed on-site at the Chester, South Carolina location of the subject firm. The Department has determined that these workers were sufficiently under the control of Seamless Sensations, Incorporated to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from American Pacific working on-site at the Chester, South Carolina location of the subject firm.

The intent of the Department's certification is to include all workers employed at Seamless Sensations, Incorporated, Chester, South Carolina who were adversely affected by increased imports of quilt comforters and blow pillows.

The amended notice applicable to TA–W–64,093 is hereby issued as follows:

All workers of Seamless Sensations, Incorporated, including on-site leased workers from American Pacific, Chester, South Carolina, who became totally or partially separated from employment on or after September 19, 2007 through October 20, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 13th day of February 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4398 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,529]

Broyhill Furniture Industries, Inc., Lenoir Chair #3, aka Lenoir Plant, Including On-Site Leased Workers From Onin Staffing, Formerly Mulberry Group, Quick Temps/Temps USA, Foothills Tem Employment and ESI Employment Staffing, Lenoir, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 5, 2008, applicable to workers of Broyhill Furniture Industries, Inc., Lenoir Chair #3, aka Lenoir Plant, Lenoir, North Carolina. The notice was published in the **Federal Register** on December 18, 2008 (73 FR 77067).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of residential upholstered furniture.

New information shows that workers leased from Onin Staffing, formerly Mulberry Group, Quick Temps/Temps USA, Foothills Temp Employment and ESI Employment Staffing were employed on-site at the Lenoir, North Carolina location of Broyhill Furniture Industries, Inc., Lenoir Chair #3, aka Lenoir Plant. The Department has determined that these workers were sufficiently under the control of Broyhill Furniture Industries, Inc., Lenoir Chair #3, aka Lenoir Plant to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Onin Staffing formerly Mulberry Group, Quick Temps/Temps USA, Foothills Temp Employment and ESI Employment Staffing working on-site at the Lenoir, North Carolina location of the subject firm.

The intent of the Department's certification is to include all workers employed at Broyhill Furniture Industries, Inc., Lenoir Chair #3, aka Lenoir Plant who were adversely affected by increased imports of residential upholstered furniture.

The amended notice applicable to TA–W–64,529 is hereby issued as follows:

All workers of Broyhill Furniture Industries, Lenoir Chair #3, aka Lenoir Plant, including on-site leased workers from Onin Staffing, formerly Mulberry Group, Quick Temps/Temps USA, Foothills Temp Employment and ESI Employment Staffing, Lenoir, North Carolina, who became totally or partially separated from employment on or after November 17, 2007 through December 5, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 18th day of February 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4401 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,801; TA–W–64,801A]

Cequent Electrical Products, Inc., Formerly Known as Tekonsha Towing, Angolia, IN; Cequent Electrical Products, Inc., Formerly Known as Tekonsha Towing, McAllen, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 15, 2009, applicable to workers of Cequent Electrical Products, Inc., Angolia, Indiana and Cequent Electrical Products, Inc., McAllen, Texas. The notice was published in the **Federal Register** on February 2, 2009 (74 FR 5870).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to warehousing and distribution supporting Cequent Electrical Products, Inc., Tekonsha, Michigan, a currently TAA-certified worker group.

Information also shows that some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Tekonsha Towing.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of brake controls, breakaway kits and lights produced at the Tekonsha, Michigan location of the subject firm.

The amended notice applicable to TA–W–64,801 and TA–W–64,801A are hereby issued as follows:

All workers of Cequent Electrical Products, Inc., formerly known as Tekonsha Towing, Angola, Indiana (TA–W–64,801) and Cequent Electrical Products, Inc., formerly known as Tekonsha Towing, McAllen, Texas (TA–W–64,801A), who became totally or partially separated from employment on or after December 30, 2007 through January 15, 2011, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 18th day of February 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4402 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,291]

Bassett Furniture Outlet; Bassett, VA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 10, 2009 in response to a worker petition filed on behalf of workers of Bassett Furniture Outlet, Bassett, Virginia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 23rd day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4385 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,805]

International Paper Company, Pensacola Mill, Cantonment, FL; Notice of Negative Determination on Reconsideration

On December 3, 2008, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on December 15, 2008 (73 FR 76057).

The initial investigation, which was filed on behalf of workers at International Paper Company, Pensacola Mill, Cantonment, Florida engaged in the production of linerboard and fluff pulp, was denied because criteria (1)(2)(A)(I.B) and (1)(2)(A)(II.A) had not been met. The subject firm did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974.

In the request for reconsideration, the petitioner stated that workers of the subject firm used to produce uncoated freesheet (copy paper) products. The petitioner also stated that in 2006 the subject firm discontinued production of uncoated freesheet paper and was certified eligible for Trade Adjustment Assistance (TAA). The petitioner requested an extension of TAA certification for workers of the subject firm who lost employment or would be terminated from the subject facility after the expiration date of the previous certification, based on the same evidence revealed in the investigation in 2006. The petitioner seems to allege that because the subject firm was previously certified eligible for TAA, the workers of the subject firm should be granted another TAA certification.

The investigation revealed that the workers of the subject firm were certified eligible for TAA (TA–W–59,338) on May 8, 2006 based on increased imports of uncoated freesheet paper. The investigation also revealed that production of uncoated freesheet paper at the subject firm ceased in May 2007. At that time, the subject facility was converted to manufacture linerboard and fluff pulp.

When assessing eligibility for TAA, the Department exclusively considers employment, sales, production and import impact during the relevant period (from one year prior to the date of the petition). Therefore, events

occurring prior to July 31, 2007 are outside of the relevant period and are not relevant in this investigation as established by the petition date of July 31, 2008. The investigation revealed that there was no production of uncoated freesheet paper at the subject facility during the relevant period.

The petitioner also provided additional information regarding employment and layoffs at the subject firm.

Upon further review of the employment data provided by the company official of the subject firm, it was determined that employment at the subject firm declined during the relevant period.

In order to establish import impact and whether imports contributed importantly to worker separations, the Department must consider imports that are like or directly competitive with those produced at the subject firm (linerboard and fluff pulp) during the relevant period. The ''contributed importantly'' test is generally demonstrated through a survey of customers of the workers' firm regarding their import purchases.

On reconsideration the Department conducted a survey of the subject firm's domestic customers regarding their purchases of linerboard and fluff pulp during 2006, 2007, January through July, 2007 and January through July, 2008. The survey revealed that the customers did not increase their imports of linerboard and fluff pulp while decreasing purchases from the subject firm during the relevant period.

Furthermore, as stated in the initial investigation sales and production of linerboard and fluff pulp did not decline during the relevant period through July 2008.

If conditions have changed since July 2008, the company is encouraged to file a new petition on behalf of the worker group which will encompass an investigative period that will include these changing conditions.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of International Paper Company, Pensacola Mill, Cantonment, Florida.

Signed at Washington, DC, this 18th day of February 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4394 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,517]

Advanced Electronics, Inc., Boston, MA; Notice of Negative Determination on Remand

On November 18, 2008, the U.S. Court of International Trade (USCIT) remanded to the Department of Labor (Department) for further investigation *Former Employees of Advanced Electronics, Inc.* v. *United States Secretary of Labor* (Court No. 06–00337).

On July 18, 2006, the Department issued a Negative Determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) applicable to workers and former workers of Advanced Electronics, Inc., Boston, Massachusetts (subject firm). The Department's Notice of determination was published in the **Federal Register** on August 4, 2006 (71 FR 44320). Prior to separation, the subject workers produced printed circuit board assemblies.

The negative determination was based on the Department's findings that, during the relevant period, the subject firm did not shift production of printed circuit board assemblies to a foreign country, that the subject firm did not import printed circuit board assemblies (or like or directly competitive articles), and that the subject firm's major declining customers did not import printed circuit board assemblies (or like or directly competitive articles). Further, the Department determined that a portion of the decline in company sales of printed circuit board assemblies is attributed to declining purchases from a foreign customer during the relevant period.

Administrative reconsideration was not requested by any of the parties pursuant to 29 CFR section 90.18.

On October 23, 2007, the USCIT granted the Department's request for voluntary remand to conduct further investigation to determine whether, during the relevant period, any of the foreign customer's facilities located in the United States received printed circuit boards produced by the subject firm and, if so, whether the facility(s) had imported articles like or directly competitive with the printed circuit board assemblies produced by the subject firm.

Based on information obtained during the first remand investigation (that the subject firm sent the articles purchased by the foreign customer to a facility located outside of the United States), the Department determined that the foreign customer did not import articles like or directly competitive with the printed circuit board assemblies produced by the subject firm. On December 17, 2007, the Department issued a Notice of Negative Determination on Remand. The Department's Notice of negative determination was published in the **Federal Register** on December 31, 2007 (72 FR 74340).

Although the USCIT stated in its November 18, 2008 opinion that substantial evidence supported the Department's finding that increasing imports of like or directly competitive articles did not contribute importantly to the subject firm's decreased sales to domestic customers, the USCIT also stated that it ''declines to adopt a construction of the Act under which Labor need never consider, in any circumstances, whether increased imports of a like or directly competitive article contributed importantly to a plaintiff's separation by causing the employer to lose business from a customer outside of the United States.''

The USCIT, in its November 18, 2008 order, directs the Department during the second remand investigation to ''determine whether, and to what extent, an increase in imports into the United States of articles like or directly competitive with the Company's printed circuit boards caused the Company to lose business from its foreign customer.''

On second remand, the Department conducted an investigation to determine whether the foreign customer switched its order from the subject firm to another domestic firm that imported some or all of the printed circuit boards it supplied to the subject firm's foreign customer.

In order to apply for TAA based on increased imports, the subject worker group must meet the group eligibility requirements under Section 222(a) of the Trade Act of 1974, as amended. Under Section 222(a)(2)(A), the following criteria must be met:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; *and*

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; *and*

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in

sales or production of such firm or subdivision.

The Department has previously determined that because the subject firm closed on September 2005, criteria (A) and (B) have been met. Therefore, the only issue at hand is whether criterion (C) has been met.

29 CFR Section 90.16(b)—Requirements for determinations—states, in part, that ''the certifying officer shall make findings of fact concerning whether * * * (3) increases (absolute or relative) of imports of articles like or directly competitive with articles like or directly competitive with articles produced by such workers' firm or appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.''

The corollary to the regulation is that if the certifying officer finds no such increased imports, whether or not the absent factor ''contributed importantly'' to ''such total or partial separation, or threat thereof, and to such decline in sales or production'' is moot.

29 CFR Section 90.2—Definitions—states that ''Increased imports means that imports have increased either absolutely or relative to domestic production compare to a representative base period. The representative base period shall be one year consisting of the four quarters immediately preceding the date which is twelve months prior to the date of the petition.''

Because the date of the petition is June 5, 2006, the investigatory period is June 2005 through May 2006 and the representative base period is June 2004 through May 2005.

During the second remand investigation, the Department obtained new information that shows that when the subject firm ceased operations in 2005, the foreign customer replaced printed circuit boards produced by the subject firm with those produced by a preferred vendor. The preferred vender is another domestic company. The new information also shows that the printed circuit boards supplied by the preferred vendor was produced outside the United States and shipped from the foreign production facility to the foreign customer.

The Department determines that while the foreign customer did switch its order from the subject firm to another domestic vendor, the domestic vendor that replaced the subject firm did not import into the United States any of the printed circuit boards it sold to the subject firm's foreign customer.

Because there was no finding of increased imports of article like or directly competitive with the printed circuit boards produced by the subject firm, it is moot whether or not the ''contributed importantly'' portion of the regulation has been satisfied. Therefore, the Department determines that TAA criterion (C) has not been met.

In order for the Department to issue a certification of eligibility to apply for ATAA, the subject worker group must be certified eligible to apply for TAA. Since the subject workers are not eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

Conclusion

After careful reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Advanced Electronics, Inc., Boston, Massachusetts.

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

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4389 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,018]

National Vacuum Equipment, Traverse City, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 29, 2009 in response to a worker petition filed by a company official on behalf of workers of National Vacuum Equipment, Traverse City, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 18th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4403 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,091]

Westpoint Home, Calhoun Falls, SC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 3, 2009 in response to a worker petition filed by a company official, on behalf of workers of WestPoint Home, Calhoun Falls, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4404 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,164]

Bradington-Young, LLC, Cherryville, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 9, 2009 in response to a petition filed by a company official on behalf of workers of Bradington-Young, LLC, Cherryville, North Carolina.

The workers at the subject facility are covered by an earlier petition (TA–W–65,147) filed on February 5, 2009 that is the subject of an ongoing investigation for which a determination has not been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC, this 18th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4407 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,187]

Hallmark Cards, Inc., Kansas City, MO; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 10, 2009 in response to a petition filed on behalf of the workers at Hallmark Cards, Inc., Kansas City, Missouri.

The petition regarding the investigation has been deemed invalid because the petitioners were not employed by the firm indicated on the petition. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 13th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4408 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,238]

Allied Air Enterprises, Inc.; Blackville, SC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 19, 2009 in response to a petition filed by a company official on behalf of the workers at Allied Air Enterprises, Inc., Blackville, South Carolina.

The petitioner has requested that the petition be withdrawn, but indicated he would reapply when circumstances change. Consequently, this investigation has been terminated.

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

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4409 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,155]

Bledsoe Construction, Inc., Boise, ID; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 6, 2009 in response to a petition filed by a company official on behalf of workers of Bledsoe Construction, Inc., Boise, Idaho.

The petitioning group of workers is covered by an active certification, (TA–W–61,811) which expires on September 13, 2009. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 18th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4406 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,132]

Blount, Inc., Milwaukie, OR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 5, 2009 in response to a worker petition filed by a company official, on behalf of workers of Blount, Inc., Milwaukie, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–4405 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance 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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR Sections 56.3203(a), 57.3203(a), and 75.204(a); Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines.

DATES: Submit comments on or before May 4, 2009.

ADDRESSES: Send comments to Debbie Ferraro, Management Services Division, 1100 Wilson Boulevard, Room 2141, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on computer disk, or via e-mail to *Ferraro.Debbie@DOL.GOV.* Ms. Ferraro can be reached at (202) 693–9821 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

30 CFR 56/57.3203 and 75.204 address the quality of rock fixtures and their installation. Roof and rock bolts and accessories are an integral part of ground control systems and are used to prevent the fall of roof, face, and ribs. These standards require that metal and nonmetal and coal mine operators obtain a certification from the manufacturer that rock bolts and accessories are manufactured and tested in accordance with the 1995 American

Society for Testing and Materials (ASTM) publication ''Standard Specification for Roof and Rock Bolts and Accessories'' (ASTM F432–95).

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **ADDRESSES** section of this notice, or viewed on the internet by accessing the MSHA home page (*http://www.msha.gov/*) and selecting ''Rules & Regs'', and then selecting ''FedReg. Docs''. On the next screen, select ''Paperwork Reduction Act Supporting Statement'' to view documents supporting the **Federal Register** Notice.

III. Current Actions

MSHA is seeking to continue the requirement for mine operators to obtain certification from the manufacturer that roof and rock bolts and accessories are manufactured and tested in accordance with the applicable American Society for Testing and Materials (ASTM) specifications and make that certification available to an authorized representative of the Secretary.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines.

OMB Number: 1219–0121.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Respondents: 833.

Responses: 3,292.

Total Burden Hours: 165 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

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

Dated at Arlington, Virginia, this 25th day of February, 2009.

John Rowlett.

Director, Management Services Division.

[FR Doc. E9–4417 Filed 3–2–09; 8:45 am]

BILLING CODE 4510–43–P

LIBRARY OF CONGRESS

Copyright Office

Notification of Agreements Under the Webcaster Settlement Act of 2008

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of agreement.

SUMMARY: The Copyright Office is publishing three agreements which set rates and terms for the reproduction and performance of sound recordings made by certain specified webcasters, under two statutory licenses. Webcasters who meet the eligibility requirements may choose to operate under the statutory licenses in accordance with the rates and terms set forth in the agreements published herein rather than the rates and terms of any determination by the Copyright Royalty Judges.

FOR FURTHER INFORMATION CONTACT: Stephen Ruwe, Attorney Advisor, or Tanya M. Sandros, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366. See the final paragraph of the **SUPPLEMENTARY INFORMATION** for information on where to direct questions regarding the rates and terms set forth in the agreement.

SUPPLEMENTARY INFORMATION: On October 16, 2008, President Bush signed into law the Webcaster Settlement Act of 2008 (''WSA''), Public Law 110–435, 122 Stat. 4974, which amends Section 114 of the Copyright Act, title 17 of the United States Code, as it relates to webcasters. The WSA allows SoundExchange, the Receiving Agent designated by the Librarian of Congress in his June 20, 2002, order for collecting royalty payments made by eligible nonsubscription transmission services under the Section 112 and Section 114 statutory licenses, see 67 FR 45239 (July 8, 2002), to enter into agreements on behalf of all copyright owners and performers to set rates, terms and conditions for webcasters operating under the Section 112 and Section 114 statutory licenses for a period of not more than 11 years beginning on January 1, 2005. The authority to enter into such settlement agreements expired on February 15, 2009.

Unless otherwise agreed to by the parties to an agreement, the rates and terms set forth in such agreements apply only to the time periods specified in the agreement and have no precedential value in any proceeding concerned with the setting of rates and terms for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings. To make this point clear, Congress included language expressly addressing the precedential value of such agreements. Specifically, Section 114(f)(5)(C), as added by the WSA, states that: ''Neither subparagraph (A) nor any provisions of any agreement entered into pursuant to subparagraph (A), including any rate structure, fees, terms, conditions, or notice and recordkeeping requirements set forth therein, shall be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral recordings or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice and recordkeeping requirements by the Copyright Royalty Judges under paragraph (4) or Section 112(e)(4). It is the intent of Congress that any royalty rates, rate structure, definitions, terms, conditions, or notice and recordkeeping requirements, included in such agreements shall be considered as a compromise motivated by the unique business, economic and political circumstances of small webcasters, copyright owners, and performers rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller, or otherwise meet the objectives set forth in Section 801(b). This subparagraph shall not apply to the extent that the receiving agent and a webcaster that is party to an agreement entered into pursuant to subparagraph (A) expressly authorize the submission of the agreement in a proceeding under this subSection.'' 17 U.S.C. 114(f)(5)(C) (2009).

On February 13, 2009, SoundExchange and the Corporation for Public Broadcasting (''CPB'') notified the Copyright Office that they had negotiated an agreement for the reproduction and performance of sound

recordings by small commercial webcasters under the Section 112 and Section 114 statutory licenses and requested that the Copyright Office publish the Rates and Terms in the **Federal Register**, as required under Section 114(f)(5)(B) of the Copyright Act, as amended by the WSA.

On February 15, 2009, SoundExchange and the National Association of Broadcasters (''NAB'') notified the Copyright Office that they had negotiated an agreement for the reproduction and performance of sound recordings by small commercial webcasters under the Section 112 and Section 114 statutory licenses and requested that the Copyright Office publish the Rates and Terms in the **Federal Register**, as required under Section 114(f)(5)(B) of the Copyright Act, as amended by the WSA.

On February 15, 2009, SoundExchange and the Small Webcasters [1] notified the Copyright Office that they had negotiated an agreement for the reproduction and performance of sound recordings by small commercial webcasters under the Section 112 and Section 114 statutory licenses and requested that the Copyright Office publish the Rates and Terms in the **Federal Register**, as required under Section 114(f)(5)(B) of the Copyright Act, as amended by the WSA.

Thus, in accordance with the requirement set forth in amended Section 114(f)(5)(B), the Copyright Office is publishing the submitted agreements, as Appendix A (Agreement made between SoundExchange and CPB); Appendix B (Agreement made between SoundExchange and NAB); and Appendix C (Agreement made between SoundExchange and Small Webcasters), thereby making the rates and terms in the agreements available to any webcasters meeting the respective eligibility conditions of the agreements as an alternative to the rates and terms of any determination by the Copyright Royalty Judges.

The Copyright Office has no responsibility for administering the rates and terms of the agreement beyond the publication of this notice. For this reason, questions regarding the rates and terms set forth in the agreement should be directed to SoundExchange (for contact information, see *http://www.soundexchange.com*).

Dated: February 24, 2009.

Marybeth Peters,

Register of Copyrights.

Note: The following Appendices will not be codified in the Code of Federal Regulations.

Appendix A

Agreement Concerning Rates and Terms

This Agreement Concerning Rates and Terms (''*Agreement*''), dated as of January 13, 2009 (''*Execution Date*''), is made by and between SoundExchange, Inc. (''*SoundExchange*'') and the Corporation for Public Broadcasting (''*CPB*''), on behalf of all Covered Entities (SoundExchange, and CPB each a ''*Party*'' and, jointly, the ''*Parties*''). Capitalized terms used herein are defined in Article 1 below.

Whereas, SoundExchange is the ''receiving agent'' as defined in 17 U.S.C. 114(f)(5)(E)(ii) designated for collecting and distributing statutory royalties received from Covered Entities for their Web Site Performances;

Whereas, the Webcaster Settlement Act of 2008 (codified at 17 U.S.C. 114(f)(5)) authorizes SoundExchange to enter into agreements for the reproduction and performance of Sound Recordings under Sections 112(e) and 114 of the Copyright Act that, once published in the **Federal Register**, shall be binding on all Copyright Owners and Performers, in lieu of any determination by the Copyright Royalty Judges;

Whereas, in view of the unique business, economic and political circumstances of CPB, Covered Entities, SoundExchange, Copyright Owners and Performers at the Execution Date, the Parties have agreed to the royalty rates and other consideration set forth herein for the period January 1, 2005 through December 31, 2010;

Now, therefore, pursuant to 17 U.S.C. 114(f)(5), and in consideration of the mutual promises contained in this Agreement and for other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

Article 1

Definitions

The following terms shall have the meanings set forth below:

1.1 ''*Agreement*'' shall have the meaning set forth in the preamble.

1.2 ''*ATH*'' or ''*Aggregate Tuning Hours*'' means the total hours of programming that Covered Entities have transmitted during the relevant period to all listeners within the United States from all Covered Entities that provide audio programming consisting, in whole or in part, of Web Site Performances, less the actual running time of any sound recordings for which the Covered Entity has obtained direct licenses apart from this Agreement. By way of example, if a Covered Entity transmitted one hour of programming to ten (10) simultaneous listeners, the Covered Entity's Aggregate Tuning Hours would equal ten (10). If three (3) minutes of that hour consisted of transmission of a directly licensed recording, the Covered Entity's Aggregate Tuning Hours would equal nine (9) hours and thirty (30) minutes. As an additional example, if one listener listened to a Covered Entity for ten (10) hours (and none of the recordings transmitted during that time was directly licensed), the Covered Entity's Aggregate Tuning Hours would equal 10.

1.3 ''*Authorized Web Site*'' means any Web Site operated by or on behalf of any Covered Entity that is accessed by Web Site Users through a Uniform Resource Locator (''*URL*'') owned by such Covered Entity and through which Web Site Performances are made by such Covered Entity.

1.4 ''*CPB*'' shall have the meaning set forth in the preamble.

1.5 ''*Collective*'' shall have the meaning set forth in 37 CFR 380.2(c).

1.6 ''*Copyright Owners*'' are Sound Recording copyright owners who are entitled to royalty payments made pursuant to the statutory licenses under 17 U.S.C. 112(e) and 114(f).

1.7 ''*Covered Entities*'' means NPR, American Public Media, Public Radio International, and Public Radio Exchange, and, in calendar years 2005 through 2007, up to four-hundred and fifty (450) Originating Public Radio Stations as named by CPB. CPB shall notify SoundExchange annually of the eligible Originating Public Radio Stations to be considered Covered Entities hereunder (subject to the numerical limitations set forth herein). The number of Originating Public Radio Stations considered to be Covered Entities is permitted to grow by no more than 10 Originating Public Radio Stations per year beginning in calendar year 2008, such that the total number of Covered Entities at the end of the Term will be less than or equal to 480. The Parties agree that the number of Originating Public Radio Stations licensed hereunder as Covered Entities shall not exceed the maximum number permitted for a given year without SoundExchange's express written approval, except that CPB shall have the option to increase the number of Originating Public Radio Stations that may be considered Covered Entities as provided in Section 4.4.

1.8 ''*Ephemeral Phonorecord*'' shall have the meaning set forth in Section 3.1(b).

1.9 ''*Execution Date*'' shall have the meaning set forth in the preamble.

1.10 ''*License Fee*'' shall have the meaning set forth in Section 4.1.

1.11 ''*Music ATH*'' means ATH of Web Site Performances of Sound Recordings of musical works.

1.12 ''*NPR*'' shall mean National Public Radio, with offices at 635 Massachusetts Avenue, NW., Washington, DC 20001.

1.13 ''*Originating Public Radio Stations*'' shall mean a noncommercial terrestrial radio broadcast station that (i) is licensed as such by the Federal Communications Commission; (ii) originates programming and is not solely a repeater station; (iii) is a member or affiliate of NPR, American Public Media, Public Radio International, or Public Radio Exchange, a member of the National Federation of Community Broadcasters, or

[1] The ''Small Webcasters'' that negotiated the agreement are Attention Span Radio; Blogmusik (Deezer.com); Born Again Radio; Christmas Music 24/7; Club 80's Internet Radio; Dark Horse Productions; Edgewater Radio; Forever Cool (Forevercool.us); Indiwaves (Set YourMusicFree.com); Ludlow Media (MandarinRadio.com); Musical Justice; My Jazz Network; PartiRadio; Playa Cofi Jukebox (Tropicalglen.com); Soulsville Online; taintradio; Voice of Country; and Window To The World Communications (WFMT.com).

another public radio station that is qualified to receive funding from the Corporation for Public Broadcasting pursuant to its criteria; (iv) qualifies as a ''noncommercial webcaster'' under 17 U.S.C. 114(f)(5)(E)(i); and (v) either (a) offers Web Site Performances only as part of the mission that entitles it to be exempt from taxation under Section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), or (b) in the case of a governmental entity (including a Native American tribal governmental entity), is operated exclusively for public purposes.

1.14 ''*Party*'' shall have the meaning set forth in the preamble.

1.15 ''*Performers*'' means the independent administrators identified in 17 U.S.C. 114(g)(2)(B) and (C) and the individuals and entities identified in 17 U.S.C. 114(g)(2)(D).

1.16 ''*Person*'' means a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, any governmental authority or any other entity or organization.

1.17 ''*Phonorecords*'' shall have the meaning set forth in 17 U.S.C. 101.

1.18 ''*Side Channel*'' means any Internet-only program available on an Authorized Web Site or an archived program on such Authorized Web Site that, in either case, conforms to all applicable requirements under 17 U.S.C. 114.

1.19 ''*SoundExchange*'' shall have the meaning set forth in the preamble and shall include any successors and assigns to the extent permitted by this Agreement.

1.20 ''*Sound Recordin*g'' shall have the meaning set forth in 17 U.S.C. 101.

1.21 ''*Term*'' shall have the meaning set forth in Section 7.1.

1.22 ''*Territory*'' means the United States, its territories, commonwealths and possessions.

1.23 ''*URL*'' shall have the meaning set forth in Section 1.3.

1.24 ''*Web Site*'' means a site located on the World Wide Web that can be located by a Web Site User through a principal URL.

1.25 ''*Web Site Performances*'' means all public performances by means of digital audio transmissions of Sound Recordings, including the transmission of any portion of any Sound Recording, made through an Authorized Web Site in accordance with all requirements of 17 U.S.C. 114, from servers used by a Covered Entity (*provided that* the Covered Entity controls the content of all materials transmitted by the server), or by a sublicensee authorized pursuant to Section 3.2, that consist of either (a) the retransmission of a Covered Entity's over-the-air terrestrial radio programming or (b) the digital transmission of nonsubscription Side Channels that are programmed and controlled by the Covered Entity. This term does not include digital audio transmissions made by any other means.

1.26 ''*Web Site Users*'' means all those who access or receive Web Site Performances or who access any Authorized Web Site.

Article 2

Agreement Pursuant to Webcaster Settlement Act of 2008

2.1 *General.* This Agreement is entered into pursuant to the Webcaster Settlement Act of 2008 (Pub. L. 110–435; to be codified at 17 U.S.C. 114(f)(5)).

2.2 *Eligibility Conditions.* The only webcasters (as defined in 17 U.S.C. 114(f)(5)(E)(iii)) eligible to avail themselves of the terms of this Agreement as contemplated by 17 U.S.C. 114(f)(5)(B) are the Covered Entities, as expressly set forth herein. The terms of this Agreement shall apply to the Covered Entities in lieu of other rates and terms applicable under 17 U.S.C. 112 and 114.

2.3 *Agreement Nonprecedential.* Consistent with 17 U.S.C. 114(f)(5)(C), this Agreement, including any rate structure, fees, terms, conditions, and notice and recordkeeping requirements set forth therein, is nonprecedential and shall not be introduced nor used by any Person, including the Parties and any Covered Entities, admissible as evidence or otherwise taken into account in any administrative, judicial, or other proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements by the Copyright Royalty Judges under 17 U.S.C. 114(f)(4) or 112(e)(4), or any administrative or judicial proceeding pertaining to rates, terms or reporting obligations for any yet-to-be-created right to collect royalties for the performance of Sound Recordings by any technology now or hereafter known. Any royalty rates, rate structure, definitions, terms, conditions and notice and recordkeeping requirements included in this Agreement shall be considered as a compromise motivated by the unique business, economic and political circumstances of webcasters, copyright owners, and performers, and the pending appeal of the decision of the Copyright Royalty Judges by NPR on behalf of itself and its member stations, rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller, or otherwise meet the objectives set forth in Section 801(b) of the Copyright Act.

2.4 *Reservation of Rights.* The Parties agree that the entering into of this Agreement shall be without prejudice to any of their respective positions in any proceeding with respect to the rates, terms or reporting obligations to be established for the making of Ephemeral Phonorecords or the digital audio transmission of Sound Recordings after the Term of this Agreement on or by Covered Entities under 17 U.S.C. 112 and 114 and their implementing regulations. The Parties further acknowledge and agree that the entering of this Agreement, the performance of its terms, and the acceptance of any payments and reporting by SoundExchange (i) do not express or imply any acknowledgement that CPB, Covered Entities, or any other persons are eligible for the statutory license of 17 U.S.C. 112 and 114, and (ii) shall not be used as evidence that CPB, the Covered Entities, or any other persons are acting in compliance with the provisions of 17 U.S.C. 114(d)(2)(A) or (C) or any other applicable laws or regulations.

Article 3

Scope of Agreement

3. *General.*

(a) *Public Performances.* In consideration for the payment of the License Fee by CPB, SoundExchange agrees that Covered Entities that publicly perform under Section 114 all or any portion of any Sound Recordings through an Authorized Web Site, within the Territory, by means of Web Site Performances, may do so in accordance with and subject to the limitations set forth in this Agreement; *provided that:* (i) Such transmissions are made in strict conformity with the provisions of 17 U.S.C. 114(d)(2)(A) and (C); and (ii) such Covered Entities comply with all of the terms and conditions of this Agreement and all applicable copyright laws. For clarity, there is no limit to the number of Web Site Performances that a Covered Entity may transmit during the Term under the provisions of this Section 3.1(a), if such Web Site Performances otherwise satisfy the requirements of this Agreement.

(b) *Ephemeral Phonorecords.* In consideration for the payment of the License Fee by CPB, SoundExchange agrees that Covered Entities that make and use solely for purposes of transmitting Web Site Performances as described in Section 3.1(a), within the Territory, Phonorecords of all or any portion of any Sound Recordings (''*Ephemeral Phonorecords*''), may do so in accordance with and subject to the limitations set forth in this Agreement; *provided that:* (i) Such Phonorecords are limited solely to those necessary to encode Sound Recordings in different formats and at different bit rates as necessary to facilitate Web Site Performances licensed hereunder; (ii) such Phonorecords are made in strict conformity with the provisions set forth in 17 U.S.C. 112(e)(1)(A)–(D); and (iii) the Covered Entities comply with 17 U.S.C. 112(a) and (e) and all of the terms and conditions of this Agreement.

3.2 *Limited Right to Sublicense.* Rights under this Agreement are not sublicensable, except that a Covered Entity may employ the services of a third Person to provide the technical services and equipment necessary to deliver Web Site Performances on behalf of such Covered Entity pursuant to Section 3.1, but only through an Authorized Web Site. Any agreement between a Covered Entity and any third Person for such services shall (i) contain the substance of all terms and conditions of this Agreement and obligate such third Person to provide all such services in accordance with all applicable terms and conditions of this Agreement, including, without limitation, Articles 3, 5 and 6; (ii) specify that such third Person shall have no right to make Web Site Performances or any other performances or Phonorecords on its own behalf or on behalf of any Person or entity other than a Covered Entity through the Covered Entity's Authorized Web Site by

virtue of this Agreement, including in the case of Phonorecords, pre-encoding or otherwise establishing a library of Sound Recordings that it offers to a Covered Entity or others for purposes of making performances, but instead must obtain all necessary licenses from SoundExchange, the copyright owner or another duly authorized Person, as the case may be; (iii) specify that such third Person shall have no right to grant any further sublicenses; and (iv) provide that SoundExchange is an intended third-party beneficiary of all such obligations with the right to enforce a breach thereof against such third party.

3.3 *Limitations.*

(a) *Reproduction of Sound Recordings.* Except as provided in Section 3.2, nothing in this Agreement grants Covered Entities, or authorizes Covered Entities to grant to any other Person (including, without limitation, any Web Site User, any operator of another Web Site or any authorized sublicensee), the right to reproduce by any means, method or process whatsoever, now known or hereafter developed, any Sound Recordings, including, but not limited to, transferring or downloading any such Sound Recordings to a computer hard drive, or otherwise copying the Sound Recording onto any other storage medium.

(b) *No Right of Public Performance.* Except as provided in Section 3.2, nothing in this Agreement authorizes Covered Entities to grant to any Person the right to perform publicly, by means of digital transmission or otherwise, any Sound Recordings.

(c) *No Implied Rights.* The rights granted in this Agreement extend only to Covered Entities and grant no rights, including by implication or estoppel, to any other Person, except as expressly provided in Section 3.2. Without limiting the generality of the foregoing, this Agreement does not grant to Covered Entities (i) any copyright ownership interest in any Sound Recording; (ii) any trademark or trade dress rights; (iii) any rights outside the Territory; (iv) any rights of publicity or rights to any endorsement by SoundExchange or any other Person; or (v) any rights outside the scope of a statutory license under 17 U.S.C. 112(e) and 114.

(d) *Territory.* The rights granted in this Agreement shall be limited to the Territory.

(e) *No Syndication Rights.* Nothing in this Agreement authorizes any Web Site Performances to be accessed by Web Site Users through any Web Site other than an Authorized Web Site.

3.4 *Effect of Non-Performance by any Covered Entity.* In the event that any Covered Entity breaches or otherwise fails to perform any of the material terms of this Agreement it is required to perform (including any obligations applicable under Section 112 or 114), or otherwise materially violates the terms of this Agreement or Section 112 or 114 or their implementing regulations, the remedies of SoundExchange shall be specific to that Covered Entity only, and shall include, without limitation, (i) termination of that Covered Entity's rights hereunder upon written notice to CPB, and (ii) the rights of SoundExchange and Copyright owners under applicable law. SoundExchange's remedies for such a breach or failure by an individual Covered Entity shall not include termination of this Agreement in its entirety or termination of the rights of other Covered Entities, except that if CPB breaches or otherwise fails to perform any of the material terms of this Agreement, or such a breach or failure by a Covered Entity results from CPB's inducement, and CPB does not cure such breach or failure within thirty (30) days after receiving notice thereof from SoundExchange, then SoundExchange may terminate this Agreement in its entirety, and a prorated portion of the License Fee for the remainder Term shall, after deduction of any damages payable to SoundExchange by virtue of the breach or failure, be credited to statutory royalty obligations of Covered Entities to SoundExchange for the Term as specified by CPB.

Article 4

Consideration

4.1 *License Fee.* The total license fee for all Web Site Performances and Ephemeral Phonorecords made during the Term shall be one million eight hundred and fifty thousand dollars ($1,850,000) (the *''License Fee''*), unless additional payments are required as described in Section 4.3 or 4.4. The Parties acknowledge that CPB has paid SoundExchange two hundred and fifty thousand dollars ($250,000) of such amount prior to the Execution Date. Within ten (10) business days after publication of this Agreement in the **Federal Register**, CPB shall pay SoundExchange the balance of one million six hundred thousand dollars ($1,600,000).

4.2 *Calculation of License Fee.* The Parties acknowledge that the License Fee includes: (i) An annual minimum fee of five hundred dollars ($500) for each Covered Entity for each year during the Term, except that the annual minimum fee was calculated at two hundred and fifty dollars ($250) per year for each Covered Entity substantially all of the programming provided by which is reasonably classified as news, talk, sports or business programming; (ii) additional usage fees calculated in accordance with the royalty rate structure applicable to noncommercial webcasters under the Small Webcaster Settlement Act of 2002 (see 68 FR 35,008 (June 11, 2003)); and (iii) a discount that reflects the administrative convenience to SoundExchange of receiving one payment that covers a large number of separate entities for six (6) calendar years, as well as the ''time value'' of money and protection from bad debt that arises from being paid in advance for calendar years 2009 and 2010.

4.3 *Total Music ATH True-Up:* If the total Music ATH for all Covered Entities, in the aggregate for calendar years 2008, 2009 and 2010 combined, as estimated in accordance with the methodology described in Attachment 1, is greater than seven hundred sixty four million six hundred thousand (764,600,000) (approximately the amount that would result from 10% year-over-year Music ATH growth in 2008, 2009 and 2010), CPB shall make an additional payment to SoundExchange for all such Music ATH in excess of seven hundred sixty four million six hundred thousand (764,600,000) for all Covered Entities in the aggregate at the rate of $0.00251 per ATH. Such payment shall be due no later than March 1, 2011.

4.4 *Station Growth True-Up:* If the total number of Originating Public Radio Stations that wish to make Web Site Performances in any of calendar year 2008, 2009 and 2010 exceeds the number of such Originating Public Radio Stations considered Covered Entities in the relevant year, and the excess Originating Public Radio Stations do not wish to pay royalties for such Web Site Performances apart from this Agreement, CPB may elect by written notice to SoundExchange to increase the number of Originating Public Radio Stations considered Covered Entities in the relevant year effective as of the date of the notice. To the extent of any such elections for all or any part of calendar year 2008, 2009 or 2010, CPB shall make an additional payment to SoundExchange for each calendar year or part thereof it elects to have an additional Originating Public Radio Station considered a Covered Entity, in the amount of five hundred dollars ($500) per Originating Public Radio Station per year. Such payment shall accompany the notice electing to have an additional Originating Public Radio Station considered a Covered Entity.

4.5 *Late Fee.* The Parties hereby agree to the terms set forth in 37 CFR 380.4(e) as if that Section (and the applicable definitions provided in 37 CFR 380.2) were set forth herein.

4.6. *Payments to Third Persons.*

(a) SoundExchange and CPB agree that, except as provided in Section 4.6(b), all obligations of, *inter alia,* clearance, payment or attribution to third Persons, including, by way of example and not limitation, music publishers and performing rights organizations (PROs) for use of the musical compositions embodied in Sound Recordings, shall be solely the responsibility of CPB and the Covered Entities.

(b) SoundExchange and CPB agree that all obligations of distribution of the License Fee to Copyright Owners and Performers in accordance with 37 C.F.R 380.4(g) shall be solely the responsibility of SoundExchange. In making such distribution, SoundExchange has discretion to allocate the License Fee between Section 112 and 114 in the same manner as the majority of other webcasting royalties.

Article 5

Reporting, Auditing and Confidentiality

5.1 *Reporting.* CPB and Covered Entities shall submit reports of use concerning Web Site Performances as set forth in Attachments 1 and 2.

5.2 *Verification of Information.* The Parties hereby agree to the terms set forth in 37 CFR 380.4(h) and 380.6 as if those Sections (and the applicable definitions provided in 37 CFR 380.2) were set forth herein. The exercise by SoundExchange of any right under this Section 5.2 shall not prejudice any other rights or remedies of SoundExchange.

5.3 *Confidentiality.* The Parties hereby agree to the terms set forth in 37 CFR § 380.5 as if that Section (and the applicable definitions provided in 37 CFR § 380.2) were set forth herein, except that:

(a) The following shall be added to the end of the first sentence of § 380.5(b): ''or documents or information that become publicly known through no fault of SoundExchange or are known by SoundExchange when disclosed by CPB'';

(b) The following shall be added at the end of § 380.5(c): ''and enforcement of the terms of this Agreement''; and

(c) The following shall be added at the end of § 380.5(d)(4): ''subject to the provisions of Section 2.3 of this Agreement''

Article 6

Non-Participation In Further Proceedings

CPB and any Covered Entity making Web Site Transmissions in reliance on this Agreement shall not directly or indirectly participate as a party, *amicus curiae* or otherwise, or in any manner give evidence or otherwise support or assist, in any further proceedings to determine royalty rates and terms for digital audio transmission or the reproduction of Ephemeral Phonorecords under Section 112 or 114 of the Copyright Act for all or any part of the Term, including any appeal of the Final Determination of the Copyright Royalty Judges, published in the **Federal Register** at 72 FR 24084 (May 1, 2007), any proceedings on remand from such an appeal, or any other related proceedings, unless subpoenaed on petition of a third party (without any action by CPB or a Covered Entity to encourage such a petition) and ordered to testify in such proceeding. Notwithstanding anything to the contrary herein, any entity that is eligible to be treated as a ''Covered Entity'' but that that does not elect to be treated as a Covered Entity may elect to participate in such proceedings.

Article 7

Term and Termination

7.1 *Term.* The term of this Agreement commenced as of January 1, 2005, and ends as of December 31, 2010 *(''Term'').* As conditions precedent to reliance on the terms of this Agreement by any Covered Entity, (a) CPB must pay the License Fee as and when specified in Section 4.1, and (b) NPR must withdraw its appeal of the Final Determination of the Copyright Royalty Judges, published in the **Federal Register** at 72 FR 24084 (May 1, 2007), which it has agreed to do within ten (10) days after the publication of this Agreement in the **Federal Register**.

7.2 *Mutual Termination.* This Agreement may be terminated in writing upon mutual agreement of the Parties.

7.3 *Consequences of Termination.*

(a) *Survival of Provisions.* In the event of the expiration or termination of this Agreement for any reason, the terms of this Agreement shall immediately become null and void, and cannot be relied upon for making any further Web Site Performances or Ephemeral Phonorecords, except that (i) Articles 6 and 8 and Sections 2.3, 5.2 and 7.3 shall remain in full force and effect; and (ii) Article 4 and Section 5.1 shall remain in effect after the expiration or termination of this Agreement to the extent obligations under Article 4 or Section 5.1 accrued prior to any such termination or expiration.

(b) *Applicability of Copyright Law.* Any Web Site Performances made by a Covered Entity or other Originating Public Radio Station in violation of the terms of this Agreement or Section 112 or 114 or their implementing regulations (except to the extent such implementing regulations are inconsistent with this Agreement), outside the scope of this Agreement, or after the expiration or termination of this Agreement for any reason shall be fully subject to, among other things, the copyright owners' rights under 17 U.S.C. 106(6), the remedies in 17 U.S.C. 501 *et seq.*, the provisions of 17 U.S.C. 112(e) and 114, and their implementing regulations unless the Parties have entered into a new agreement for such Web Site Performances.

Article 8

Miscellaneous

8.1 *Applicable Law and Venue.* This Agreement shall be governed by, and construed in accordance with, the laws of the District of Columbia (without giving effect to conflicts of law principles thereof). All actions or proceedings arising directly or indirectly from or in connection with this Agreement shall be litigated only in the United States District Court for the District of Columbia located in Washington, DC. The Parties and Covered Entities, to the extent permitted under their state or tribal law, consent to the jurisdiction and venue of the foregoing court and consent that any process or notice of motion or other application to said court or a judge thereof may be served inside or outside the District of Columbia by registered mail, return receipt requested, directed to the Person for which it is intended at its address set forth in this Agreement (and service so made shall be deemed complete five (5) days after the same has been posted as aforesaid) or by personal service or in such other manner as may be permissible under the rules of that court.

8.2 *Rights Cumulative.* The remedies provided in this Agreement and available under applicable law shall be cumulative and shall not preclude assertion by any Party of any other rights or the seeking of any other remedies against the other Party hereto. This Agreement shall not constitute a waiver of any violation of Section 112 or 114 or their implementing regulations (except to the extent such implementing regulations are inconsistent with this Agreement). No failure to exercise and no delay in exercising any right, power or privilege shall operate as a waiver of such right, power or privilege. Neither this Agreement nor any such failure or delay shall give rise to any defense in the nature of laches or estoppel. No single or partial exercise of any right, power or privilege granted under this Agreement or available under applicable law shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No waiver by either Party of full performance by the other Party in any one or more instances shall be a waiver of the right to require full and complete performance of this Agreement and of obligations under applicable law thereafter or of the right to exercise the remedies of SoundExchange under Section 3.4.

8.3 *Severability.* Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

8.4 *Amendment.* This Agreement may be modified or amended only by a writing signed by the Parties.

8.5 *Entire Agreement.* This Agreement expresses the entire understanding of the Parties and supersedes all prior and contemporaneous agreements and undertakings of the Parties with respect to the subject matter hereof.

8.6 *Headings.* The titles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

In witness whereof, the Parties hereto have executed this Agreement as of the date first above written.

Attachment 1

Reporting

1. *Definitions.* The following terms shall have the meaning set forth below for purposes of this Attachment 1. All other capitalized terms shall have the meaning set forth in Article 1 of the Agreement.

(a) *''Content Logs''* shall have the meaning set forth in Section 4(a)(ii) of this Attachment 1.

(b) *''Current Period''* shall mean the period commencing with the first day after the end of the Historic Period and continuing to the end of the Term.

(c) *''Historic Period''* shall mean the period from April 1, 2004 through the last day of the month of the Execution Date.

(d) *''Major Format Group''* shall mean each of the following format descriptions characterizing the programming offered by various Covered Entities: (i) Classical; (ii) jazz; (iii) music mix; (iv) news and information; (v) news/classical; (vi) news/jazz; (vii) news/music mix; and (viii) adult album alternative. A Covered Entity's Major Format Group is determined based on the format description best describing the programming of the principal broadcast service offered by the Covered Entity and will include all channels streamed.

(e) *''Reporting Data''* shall mean, for each Sound Recording for which Reporting Data is to be provided, (1) the relevant Covered Entity (including call sign and community of license of any terrestrial broadcast station and any Side Channel(s)); (2) the title of the song or track performed; (3) the featured recording artist, group, or orchestra; (4) the title of the commercially available album or other product on which the Sound Recording is found; (5) the marketing label of the commercially available album or other product on which the sound recording is found; and (6) play frequency.

(f) *''Specified Reports''* are reports that provide Reporting Data concerning over-the-air performances of Sound Recordings that are also Web Site Performances by an

Originating Public Radio Station. The Parties agree that such reports will initially be the ones provided by Mediaguide, Inc. or a successor thereto (''Mediaguide''). In the event that Mediaguide, or other agreed-upon source of Specified Reports, should cease to provide Reporting Data that satisfy the function of such reports hereunder, the Parties shall promptly identify and agree upon an alternative vendor of reports, or an alternative approach to providing Reporting Data to SoundExchange, provided that such alternative reports or approaches are available on commercial terms comparable to Mediaguide reports.

2. *General.*

All data required to be provided hereunder shall be provided to SoundExchange electronically in the manner provided in 37 CFR 370.3(d), except to the extent the parties agree otherwise. CPB shall consult with SoundExchange in advance concerning the content and format of all data to be provided hereunder, and shall provide data that is accurate, to the best of CPB's and the relevant Covered Entity's knowledge, information and belief. The methods used to make estimates, predictions and projections of data shall be subject to SoundExchange's prior written approval, which shall not be unreasonably withheld.

3. *Data for the Historic Period.*

(a) *For 2004.* CPB and SoundExchange shall use reasonable efforts to obtain available Specified Reports regarding Covered Entities for the period April 1, 2004 through December 31, 2004. NPR has previously provided SoundExchange with all available Music ATH data from the Music Webcasting Report dated September, 2004, in the form of an Excel spreadsheet. CPB represents that such data includes Music ATH data for all Major Format Groups.

(b) *For 2005–2008.*

(i) If Covered Entities have Reporting Data, or other information reportable under 37 CFR Part 370, with respect to Web Site Performances during the Historic Period, such Covered Entities shall provide such information to CPB, which shall provide the same to SoundExchange, as soon as practicable, and in any event by no later than sixty (60) days after the end of the Historic Period. Such data shall be provided in a format consistent with Attachment 2.

(ii) CPB and SoundExchange shall use reasonable efforts to obtain available Specified Reports regarding Covered Entities for the Historic Period. CPB and SoundExchange shall each pay one-half of the costs for such Specified Reports.

(iii) CPB has previously provided SoundExchange with the Streaming Census Report dated October 18, 2007 which SoundExchange has accepted which includes estimates of total Music ATH during the Historic Period, and of the allocation thereof to Major Format Groups, Covered Entities and applicable period.

4. *Data Collection and Reporting for the Current Period.* CPB shall provide data regarding Web Site Performances during the Current Period to SoundExchange, and Covered Entities shall provide such data to CPB, consistent with the following terms:

(a) *ATH and Content Logs.* For each calendar quarter during the Current Period:

(i) *Music ATH Reporting.* CPB shall provide reports (the ''ATH Reports'') of Music ATH by Covered Entities reasonably representative of all Major Format Groups, having relatively high Music ATH among the set of Covered Entities, and representing at least 60% of the total Music ATH by the Covered Entities in 2009 and at least 80% of the total Music ATH by the Covered Entities in 2010. Such ATH reports shall be accompanied by the Content Logs described in Section 4(a)(ii) for the periods described therein for all Covered Entities for which ATH Reports are provided. All ATH Reports and Content Logs for a quarter shall be provided by CPB together in one single batch, but all data shall be broken out by Covered Entity and identify each Covered Entity's Major Format Group. The ATH Reports shall be in a form similar to the Streaming Census Report dated October 18, 2007, which reported two hundred ten million (210,000,000) total Music ATH for all Covered Entities for calendar year 2007, except as otherwise provided in this Section 4(a)(i). If the ATH Reports satisfy the requirements set forth above in this Section 4(a)(i), all Covered Entities shall be deemed in compliance with the terms of this Section 4(a)(i).

(ii) *Reporting Period and Data.* The information about Music ATH referenced in Section 4(a)(i) shall be collected from Covered Entities for two 7-consecutive-day reporting periods per quarter in 2009 and 2010. The first ATH Report shall be provided no later than 180 days after the Execution Date. Thereafter, the ATH Reports shall be provided within thirty (30) days of the end of each calendar quarter. During these reporting periods, Covered Entities described in Section 4(a)(i) above shall prepare logs containing Reporting Data for all their Web Site Performances *(''Content Logs'').* These Content Logs shall be compared with server-based logs of Music ATH throughout the reporting period before the ATH Report is submitted to SoundExchange.

(iii) *Additional Data Reporting.* Each quarter, CPB shall, for Covered Entities representing the highest 20% of reported Music ATH in 2009 and the highest 30% of reported Music ATH in 2010, provide SoundExchange Reporting Data collected continuously during each 24 hour period for the majority of their Web Site Performances, along with the Covered Entity's Music ATH, for the relevant quarter. If during any calendar quarter of the Current Period, additional Covered Entities, in the ordinary course of business, collect Reporting Data continuously during each 24 hour period for the majority of their Web Site Performances, CPB shall provide SoundExchange such data, along with each such Covered Entity's Music ATH, for the relevant quarter.

(b) *ATH and Format Surveys.* CPB shall semiannually survey all Covered Entities to ascertain the number, format and Music ATH of all channels (including but not limited to Side Channels) over which such Covered Entities make Web Site Performances. CPB shall provide the results of such survey to SoundExchange within sixty (60) days after the end of the semiannual period to which it pertains.

(c) *Consolidated Reporting.* Each quarter, CPB shall provide the information required by this Section 4 in one delivery to SoundExchange, with a list of all Covered Entities indicating which are and are not reporting for such quarter.

(d) *Timing.* Except as otherwise provided above, all information required to be provided to SoundExchange under this Section 4 shall be provided as soon as practicable, and in any event by no later than sixty (60) days after the end of the quarter to which it pertains. Such data shall be provided in a format consistent with Attachment 2.

5. *Development of Technological Solutions.* During the Term, CPB and Covered Entities shall cooperate in good faith with efforts by SoundExchange to develop and test a technological solution that facilitates reporting.

Attachment 2

Reporting Format

1. *Format for Reporting Data.* All Reporting Data provided under Attachment 1, Sections 3(b)(i) and 4(a)(ii) shall be delivered to SoundExchange in accordance with the following format:

Column 1	Station or Side Channel
Column 2	Sound Recording Title
Column 3	Featured Artist, Group or Orchestra
Column 4	Album
Column 5	Marketing Label
Column 6	Play Frequency

2. *Format for Music ATH.* All Music ATH reporting by Covered Entities under the following provisions of Attachment 1 shall be delivered to SoundExchange in accordance with the following format:

a. Section 3(b)(i) (the ''Historic Period'')

Column 1	Station or Side Channel
Column 2	Major Format Group
Column 3	ATH
Column 4	2004 and 2007

b. Section 4(a)(i) (the ''Current Period'')

Column 1	Station or Side Channel
Column 2	Major Format Group
Column 3	ATH
Column 4	Reporting Period

3. *Major Format Groups.* All requirements to provide ''Major Format Group'' as that term is defined in Attachment 1, Section 1(d), shall correspond with one of the following:

Major format groups
Classical
Jazz
Music Mix
News and Information
News/Classical
News/Jazz
News/Music Mix
Adult Album Alternative

Appendix B—Agreed Rates and Terms for Broadcasters

Article 1—Definitions

1.1 *General.* In general, words used in the rates and terms set forth herein (the ''Rates and Terms'') and defined in 17 U.S.C. 112(e) or 114 or 37 CFR Part 380 shall have the meanings specified in those provisions as in effect on the date hereof, with such exceptions or clarifications set forth in Section 1.2.

1.2 *Additional Definitions*

(a) *''Broadcaster''* shall mean a webcaster as defined in 17 U.S.C. 114(f)(5)(E)(iii) that (i) has a substantial business owning and operating one or more terrestrial AM or FM radio stations that are licensed as such by the Federal Communications Commission; (ii) has obtained a compulsory license under 17 U.S.C. 112(e) and 114 and the implementing regulations therefor to make Eligible Transmissions and related ephemeral recordings; (iii) complies with all applicable provisions of Sections 112(e) and 114 and applicable regulations; and (iv) is not a noncommercial webcaster as defined in 17 U.S.C. 114(f)(5)(E)(i).

(b) *''Broadcaster Webcasts''* shall mean eligible nonsubscription transmissions made by a Broadcaster over the internet that are not Broadcast Retransmissions.

(c) *''Broadcast Retransmissions''* shall mean eligible nonsubscription transmissions made by a Broadcaster over the internet that are retransmissions of terrestrial over-the-air broadcast programming transmitted by the Broadcaster through its AM or FM radio station, including ones with substitute advertisements or other programming occasionally substituted for programming for which requisite licenses or clearances to transmit over the internet have not been obtained. For the avoidance of doubt, a Broadcast Retransmission does not include programming transmitted on an internet-only side channel.

(d) *''Eligible Transmission''* shall mean either a Broadcaster Webcast or a Broadcast Retransmission.

(e) *''Small Broadcaster''* shall mean a Broadcaster that, for any of its channels and stations (determined as provided in Section 4.1) over which it transmits Broadcast Retransmissions, and for all of its channels and stations over which it transmits Broadcaster Webcasts in the aggregate, in any calendar year in which it is to be considered a Small Broadcaster, meets the following additional eligibility criteria: (i) During the prior year it made Eligible Transmissions totaling less than 27,777 aggregate tuning hours; and (ii) during the applicable year it reasonably expects to make Eligible Transmissions totaling less than 27,777 aggregate tuning hours; provided that, one time during the period 2006–2015, a Broadcaster that qualified as a Small Broadcaster under the foregoing definition as of January 31 of one year, elected Small Broadcaster status for that year, and unexpectedly made Eligible Transmissions on one or more channels or stations in excess of 27,777 aggregate tuning hours during that year, may choose to be treated as a Small Broadcaster during the following year notwithstanding clause (i) above if it implements measures reasonably calculated to ensure that that it will not make Eligible Transmissions exceeding 27,777 aggregate tuning hours during that following year. As to channels or stations over which a Broadcaster transmits Broadcast Retransmissions, the Broadcaster may elect Small Broadcaster status only with respect to any of its channels or stations that meet all of the foregoing criteria.

(f) *''SoundExchange''* shall mean SoundExchange, Inc. and shall include its successors and assigns.

Article 2—Agreement Pursuant to

Webcaster Settlement Act of 2008

2.1 *Availability of Rates and Terms.* Pursuant to the Webcaster Settlement Act of 2008, and subject to the provisions set forth below, Broadcasters may elect to be subject to the rates and terms set forth herein (the ''Rates and Terms'') in their entirety, with respect to such Broadcasters' Eligible Transmissions and related ephemeral recordings, for all of the period beginning on January 1, 2006, and ending on December 31, 2015, in lieu of other rates and terms from time to time applicable under 17 U.S.C. 112(e) and 114, by complying with the procedure set forth in Section 2.2 hereof. Any person or entity that does not satisfy the eligibility criteria to be a Broadcaster must comply with otherwise applicable rates and terms.

2.2 *Election Process in General.* To elect to be subject to these Rates and Terms, in lieu of any royalty rates and terms that otherwise might apply under 17 U.S.C. 112(e) and 114, for all of the period beginning on January 1, 2006, and ending on December 31, 2015, a Broadcaster shall submit to SoundExchange a completed and signed election form (available on the SoundExchange Web site at *http://www.soundexchange.com*) by the later of (i) March 31, 2009; (ii) 30 days after publication of these Rates and Terms in the **Federal Register**; or (iii) in the case of a Broadcaster that is not making Eligible Transmissions as of the publication of these Rates and Terms in the **Federal Register** but begins doing so at a later time, 30 days after the Broadcaster begins making such Eligible Transmissions. On any such election form, the Broadcaster must, among other things, identify all its stations making Eligible Transmissions. If, subsequent to making an election, there are changes in the Broadcaster's corporate name or stations making Eligible Transmissions, or other changes in its corporate structure that affect the application of these Rates and Terms, the Broadcaster shall promptly notify SoundExchange thereof. Notwithstanding anything else in these Rates and Terms, a person or entity otherwise qualifying as a Broadcaster that has participated in any way in any appeal of the Final Determination of the Copyright Royalty Judges concerning royalty rates and terms under Sections 112(e) and 114 of the Copyright Act for the period January 1, 2006, through December 31, 2010 published in the **Federal Register** at 72 FR 24084 (May 1, 2007) (the ''Final Determination'') or any proceeding before the Copyright Royalty Judges to determine royalty rates and terms under Sections 112(e) and 114 of the Copyright Act for the period January 1, 2011, through December 31, 2015 (including Docket No. 2009–1 CRB Webcasting III and Docket No. 2009–2 CRB New Subscription II, as noticed in the **Federal Register** at 74 FR 318–20 (Jan. 5, 2009)) shall not have the right to elect to be treated as a Broadcaster or claim the benefit of these Rates and Terms, unless it withdraws from such proceeding prior to submitting to SoundExchange a completed and signed election form as contemplated by this Section 2.2.

2.3 *Election of Small Broadcaster Status.* A Broadcaster that elects to be subject to these Rates and Terms and qualifies as a Small Broadcaster may elect to be treated as a Small Broadcaster for any one or more calendar years that it qualifies as a Small Broadcaster. To do so, the Small Broadcaster shall submit to SoundExchange a completed and signed election form (available on the SoundExchange Web site at *http://www.soundexchange.com*) by no later than January 31 of the applicable year, except that election forms for 2006–2009 shall be due by no later than the date for the election provided in Section 2.2. On any such election form, the Broadcaster must, among other things, certify that it qualifies as a Small Broadcaster; provide information about its prior year aggregate tuning hours and the formats of its stations (e.g., the genres of music they use); and provide other information requested by SoundExchange for use in creating a royalty distribution proxy. Even if a Broadcaster has once elected to be treated as a Small Broadcaster, it must make a separate, timely election in each subsequent year in which it wishes to be treated as a Small Broadcaster.

2.4 *Representation of Compliance and Non-waiver.* By electing to operate pursuant to the Rates and Terms, an entity represents and warrants that it qualifies as a Broadcaster and/or Small Broadcaster, as the case may be. By accepting an election by a transmitting entity or payments or reporting made pursuant to these Rates and Terms, SoundExchange does not acknowledge that the transmitting entity qualifies as a Broadcaster or Small Broadcaster or that it

has complied with the requirements of the statutory licenses under Sections 112(e) and 114 of the Copyright Act (including these Rates and Terms). It is the responsibility of each transmitting entity to ensure that it is in full compliance with applicable requirements of the statutory licenses under Sections 112(e) and 114 of the Copyright Act. SoundExchange is not in a position to, and does not, make determinations as to whether each of the many services that rely on the statutory licenses is eligible for statutory licensing or any particular royalty payment classification, nor does it continuously verify that such services are in full compliance with all applicable requirements. Accordingly, a Broadcaster agrees that SoundExchange's acceptance of its election, payment or reporting does not give or imply any acknowledgment that it is in compliance with the requirements of the statutory licenses (including these Rates and Terms) and shall not be used as evidence that it is in compliance with the requirements of the statutory licenses (including these Rates and Terms). SoundExchange and copyright owners reserve all their rights to take enforcement action against a transmitting entity that is not in compliance with all applicable requirements that are not inconsistent with these Rates and Terms.

Article 3—Scope

3.1 *In General.* In consideration for the payment of royalties pursuant to Article 4 and such other consideration specified herein, Broadcasters that have made a timely election to be subject to these Rates and Terms as provided in Section 2.2 are entitled to publicly perform sound recordings within the scope of the statutory license provided by Section 114 by means of Eligible Transmissions, and to make related ephemeral recordings for use solely for purposes of such Eligible Transmissions within the scope of Section 112(e), in accordance with and subject to the limitations set forth in these Rates and Terms and in strict conformity with the provisions of 17 U.S.C. 112(e) and 114 and their implementing regulations (except as otherwise specifically provided herein or waived by particular copyright owners with respect to their respective sound recordings), in lieu of other rates and terms from time to time applicable under 17 U.S.C. 112(e) and 114, for all of the period beginning on January 1, 2006, and ending on December 31, 2015.

3.2 *Applicability to All Eligible Services Operated by or for a Broadcaster.* If a Broadcaster has made a timely election to be subject to these Rates and Terms as provided in Section 2.2, these Rates and Terms shall apply to all Eligible Transmissions made by or for the Broadcaster that qualify as a Performance under 37 CFR 380.2(i), and related ephemeral recordings. For the avoidance of doubt, a Broadcaster may not rely upon these Rates and Terms for its Eligible Transmissions of one broadcast channel or station and upon different Section 112(e) and 114 rates and terms for its Eligible Transmissions of other broadcast channels or stations.

3.3 *No Implied Rights.* These Rates and Terms extend only to electing Broadcasters and grant no rights, including by implication or estoppel, to any other person or except as specifically provided herein. Without limiting the generality of the foregoing, these Rates and Terms do not grant (i) any copyright ownership interest in any sound recording; (ii) any trademark or trade dress rights; (iii) any rights outside the United States (as defined in 17 U.S.C. 101); (iv) any rights of publicity or rights to any endorsement by SoundExchange or any other person; or (v) any rights with respect to performances or reproductions outside the scope of these Rates and Terms or the statutory licenses under 17 U.S.C. 112(e) and 114.

Article 4—Royalties

4.1 *Minimum Fees.* Each Broadcaster will pay an annual, nonrefundable minimum fee of $500 for each of its individual channels, including each of its individual side channels, and each of its individual stations, through which (in each case) it makes Eligible Transmissions, for each calendar year or part of a calendar year during 2006–2015 during which the Broadcaster is a licensee pursuant to licenses under 17 U.S.C. 112(e) and 114, provided that a Broadcaster shall not be required to pay more than $50,000 in minimum fees in the aggregate (for 100 or more channels or stations). For purposes of these Rates and Terms, each individual stream (e.g., HD radio side channels, different stations owned by a single licensee) will be treated separately and be subject to a separate minimum, except that identical streams for simulcast stations will be treated as a single stream if the streams are available at a single Uniform Resource Locator (URL) and performances from all such stations are aggregated for purposes of determining the number of payable performances hereunder. Upon payment of the minimum fee, the Broadcaster will receive a credit in the amount of the minimum fee against any royalties payable for the same calendar year for the same channel or station. In addition, an electing Small Broadcaster also shall pay a $100 annual fee (the ''Proxy Fee'') to SoundExchange for the reporting waiver discussed in Section 5.1.

4.2 *Royalty Rates.* Royalties for Eligible Transmissions made pursuant to 17 U.S.C. 114, and the making of related ephemeral recordings pursuant to 17 U.S.C. 112(e), shall, except as provided in Section 5.3, be payable on a per-performance basis, as follows:

Year	Rate per performance
2006	$0.0008
2007	0.0011
2008	0.0014
2009	0.0015
2010	0.0016
2011	0.0017
2012	0.0020
2013	0.0022
2014	0.0023
2015	0.0025

4.3 *MFN.* If at any time between publication of this Agreement in the **Federal Register** and December 31, 2015, SoundExchange enters into an agreement with a Broadcaster specifying terms and conditions for the public performance of sound recordings within the scope of the statutory license provided by Section 114 by means of Eligible Transmissions, and the making of related ephemeral recordings within the scope of Section 112(e), upon principal financial or other material terms that are more favorable to such Broadcaster than the principal financial or other material terms set forth in these Rates and Terms, then SoundExchange shall afford electing Broadcasters hereunder the opportunity, in each Broadcaster's sole discretion, to take advantage of the terms and conditions of such agreement, in their entirety, in lieu of these Rates and Terms, with respect to the Broadcaster's Eligible Transmissions, from the date such more favorable terms became effective under such other agreement and continuing until the earlier of (i) the expiration of such other agreement, or (ii) December 31, 2015.

4.4 *Ephemeral Royalty.* The royalty payable under 17 U.S.C. 112(e) for any ephemeral reproductions made by a Broadcaster and covered hereby is deemed to be included within the royalty payments set forth above. SoundExchange has discretion to allocate payments hereunder between the statutory licenses under Sections 112(e) and 114 in the same manner as statutory webcasting royalties for the period 2011–2015, provided that such allocation shall not, by virtue of a Broadcaster's agreement to this Section 4.4, be considered precedent in any judicial, administrative, or other proceeding.

4.5 *Payment.* Payments of all amounts specified in these Rates and Terms shall be made to SoundExchange. Minimum fees and, where applicable, the Proxy Fee shall be paid by January 31 of each year. Once a Broadcaster's royalty obligation under Section 4.2 with respect to a channel or station for a year exceeds the minimum fee it has paid for that channel or station and year, thereby recouping the credit provided by Section 4.1, the Broadcaster shall make monthly payments at the per-performance rates provided in Section 4.2 beginning with the month in which the minimum fee first was recouped.

4.6 *Monthly Obligations.* Broadcasters must make monthly payments where required by Section 4.5, and provide statements of account and reports of use, for each month on the 45th day following the end of the month in which the Eligible Transmissions subject to the payments, statements of account, and reports of use were made.

4.7 *Past Periods.* Notwithstanding anything else in this Agreement, to the extent that a Broadcaster that elects to be subject to these Rates and Terms has not paid royalties for all or any part of the period beginning on January 1, 2006, and ending on February 28, 2009, any amounts payable under these Rates and Terms for Eligible Transmissions during such period for which payment has not previously been made shall be paid by no later than April 30, 2009, including late fees as provided in Section 4.8 from the original due date.

4.8 *Late Fees.* A Broadcaster shall pay a late fee for each instance in which any payment, any statement of account or any report of use is not received by SoundExchange in compliance with these Rates and Terms and applicable regulations by the due date. The amount of the late fee shall be 1.5% of a late payment, or 1.5% of the payment associated with a late statement of account or report of use, per month, compounded monthly, or the highest lawful rate, whichever is lower. The late fee shall accrue from the due date of the payment, statement of account or report of use until a fully-compliant payment, statement of account or report of use is received by SoundExchange, provided that, in the case of a timely provided but noncompliant statement of account or report of use, SoundExchange has notified the Broadcaster within 90 days regarding any noncompliance that is reasonably evident to SoundExchange.

Article 5—Reporting, Auditing and Confidentiality

5.1 *Small Broadcasters.* While SoundExchange's ultimate goal is for all webcasters to provide census reporting, requiring census reporting by the smallest Broadcasters at this time may present undue challenges for them, reduce compliance, and significantly increase SoundExchange's distribution costs. Accordingly, on a transitional basis for a limited time and for purposes of these Rates and Terms only, and in light of the unique business and operational circumstances currently existing with respect to these entities, electing Small Broadcasters shall not be required to provide reports of their use of sound recordings for Eligible Transmissions and related ephemeral recordings. The immediately preceding sentence applies even if the Small Broadcaster actually makes Eligible Transmissions for the year exceeding 27,777 aggregate tuning hours, so long as it qualified as a Small Broadcaster at the time of its election for that year. Instead, SoundExchange shall distribute the aggregate royalties paid by electing Small Broadcasters based on proxy usage data in accordance with a methodology adopted by SoundExchange's Board of Directors. In addition to minimum royalties hereunder, electing Small Broadcasters will pay to SoundExchange a $100 Proxy Fee to defray costs associated with this reporting waiver, including development of proxy usage data. SoundExchange hopes that offering this option to electing Small Broadcasters will promote compliance with statutory license obligations and thereby increase the pool of royalties available to be distributed to copyright owners and performers. SoundExchange further hopes that selection of a proxy believed by SoundExchange to represent fairly the playlists of Small Broadcasters will allow payment to more copyright owners and performers than would be possible with any other reasonably available option. Small Broadcasters should assume that, effective January 1, 2016, they will be required to report their actual usage in full compliance with then-applicable regulations. Small Broadcasters are encouraged to begin to prepare to report their actual usage by that date, and if it is practicable for them to do so earlier, they may wish not to elect Small Broadcaster status.

5.2 *Reporting by Other Broadcasters in General.* Broadcasters other than electing Small Broadcasters covered by Section 5.1 shall submit reports of use on a per-performance basis in compliance with the regulations set forth in 37 CFR Part 370, except that the following provisions shall apply notwithstanding the provisions of applicable regulations from time to time in effect:

(a) Broadcasters may pay for, and report usage in, a percentage of their programming hours on an aggregate tuning hour basis as provided in Section 5.3.

(b) Broadcasters shall submit reports of use to SoundExchange on a monthly basis.

(c) As provided in Section 4.6, Broadcasters shall submit reports of use by no later than the 45th day following the last day of the month to which they pertain.

(d) Except as provided in Section 5.3, Broadcasters shall submit reports of use to SoundExchange on a census reporting basis (i.e., reports of use shall include every sound recording performed in the relevant month and the number of performances thereof).

(e) Broadcasters shall either submit a separate report of use for each of their stations, or a collective report of use covering all of their stations but identifying usage on a station-by-station basis.

(f) Broadcasters shall transmit each report of use in a file the name of which includes (i) the name of the Broadcaster, exactly as it appears on its notice of use, and (ii) if the report covers a single station only, the call letters of the station.

(g) Broadcasters shall submit reports of use with headers, as presently described in 37 CFR 370.3(d)(7).

(h) Broadcasters shall submit a separate statement of account corresponding to each of their reports of use, transmitted in a file the name of which includes (i) the name of the Broadcaster, exactly as it appears on its notice of use, and (ii) if the statement covers a single station only, the call letters of the station.

5.3 *Limited ATH-Based Reporting.* Recognizing the operational challenge of census reporting, Broadcasters generally reporting pursuant to Section 5.2 may pay for, and report usage in, a percentage of their programming hours on an aggregate tuning hours basis, if (a) census reporting is not reasonably practical for the programming during those hours, and (b) if the total number of hours on a single report of use, provided pursuant to Section 5.2, for which this type of reporting is used is below the maximum percentage set forth below for the relevant year:

Year	Maximum percentage
2009	20%
2010	18%
2011	16%
2012	14%
2013	12%
2014	10%
2015	8%

To the extent that a Broadcaster chooses to report and pay for usage on an aggregate tuning hours basis pursuant to this Section 5.3, the Broadcaster shall (i) report and pay based on the assumption that the number of sound recordings performed during the relevant programming hours is 12 per hour; (ii) pay royalties (or recoup minimum fees) at the per-performance rates provided in Section 4.2 on the basis of clause (i) above; (iii) include aggregate tuning hours in reports of use provided pursuant to Section 5.2; and (iv) include in reports of use provided pursuant to Section 5.2 complete playlist information for usage reported on the basis of aggregate tuning hours. SoundExchange may distribute royalties paid on the basis of aggregate tuning hours hereunder in accordance with its generally-applicable methodology for distributing royalties paid on such basis.

5.4 *Verification of Information.* The provisions of applicable regulations for the retention of records and verification of statutory royalty payments (presently 37 CFR 380.4(h) and 380.6) shall apply hereunder. The exercise by SoundExchange of any right under this Section 5.4 shall not prejudice any other rights or remedies of SoundExchange or sound recording copyright owners.

5.5 *Confidentiality.* The provisions of applicable regulations concerning confidentiality (presently 37 CFR 380.5 (and the applicable definitions provided in 37 CFR 380.2)) shall apply hereunder.

Article 6—Additional Provisions

6.1 *Applicable Regulations.* To the extent not inconsistent with the Rates and Terms herein, all applicable regulations, including 37 CFR Parts 370 and 380, shall apply to activities subject to these Rates and Terms.

6.2 *Participation in Specified Proceedings.* A Broadcaster that elects to be subject to these Rates and Terms agrees that it has elected to do so in lieu of any different statutory rates and terms that may otherwise apply during any part of the 2006–2015 period and in lieu of participating at any time in a proceeding to set rates and terms for any part of the 2006–2015 period. Thus, once a Broadcaster has elected to be subject to these Rates and Terms, it shall not at any time participate as a party, intervenor, *amicus curiae* or otherwise, or give evidence or otherwise support or assist, in *Intercollegiate Broadcasting Sys.* v. *Copyright Royalty Board* (D.C. Circuit Docket Nos. 07–1123, 07–1168, 07–1172, 07–1173, 07–1174, 07–1177, 07–1178, 07–1179), *Digital Performance Right in Sound Recordings and Ephemeral Recordings* (Copyright Royalty Judges' Docket No. 2009–1 CRB Webcasting III), *Digital Performance Right in Sound Recordings and Ephemeral Recordings for a New Subscription Service* (Copyright Royalty Judges' Docket No. 2009–2 CRB New Subscription II) or any successor proceedings to determine royalty rates and terms for reproduction of ephemeral phonorecords or digital audio transmission under Section

112(e) or 114 of the Copyright Act for all or any part of the period 2006–2015, including any appeal of the foregoing or any proceedings on remand from such an appeal, unless subpoenaed on petition of a third party (without any action by a Broadcaster to encourage or suggest such a subpoena or petition) and ordered to testify or provide documents in such proceeding.

6.3 *Use of Agreement in Future Proceedings.*

(a) Consistent with 17 U.S.C. 114(f)(5)(C), and except as specifically provided in Section 6.3(b), neither the Webcaster Settlement Act nor any provisions of these Rates and Terms shall be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of musical works or sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements by the Copyright Royalty Judges.

(b) Pursuant to 17 U.S.C. 114(f)(5)(C), submission of these Rates and Terms in a proceeding under 17 U.S.C. 114(f) is expressly authorized. For the avoidance of doubt, this Section 6.3(b) does not authorize participation in a proceeding by an entity that has agreed not to participate in the proceeding (pursuant to Section 6.2 or otherwise).

6.4 *Effect of Direct Licenses.* Any copyright owner may enter into a voluntary agreement with any Broadcaster setting alternative Rates and Terms governing the Broadcasters' transmission of copyrighted works owned by the copyright owner, and such voluntary agreement may be given effect in lieu of the Rates and Terms set forth herein.

6.5 *Default.* A Broadcaster shall comply with all the requirements of these Rates and Terms. If it fails to do so, SoundExchange may give written notice to the Broadcaster that, unless the breach is remedied within 30 days from the date of receipt of notice, the Broadcaster's authorization to make public performances and ephemeral reproductions under these Rates and Terms will be automatically terminated. No such cure period shall apply before termination in case of material noncompliance that has been repeated multiple times so as to constitute a pattern of noncompliance, provided that SoundExchange has given repeated notices of noncompliance. Any transmission made by a Broadcaster in violation of these Rates and Terms or Section 112(e) or 114 or their implementing regulations (except to the extent such implementing regulations are inconsistent with these Rates and Terms), outside the scope of these Rates and Terms, or after the expiration or termination of these Rates and Terms shall be fully subject to, among other things, the copyright owners' rights under 17 U.S.C. 106 and the remedies in 17 U.S.C. 501–506, and all limitations, exceptions and defenses available with respect thereto.

Article 7—Miscellaneous

7.1 *Acknowledgement.*

(a) The parties acknowledge this agreement was entered into knowingly and willingly.

(b) This agreement is limited solely to webcasting royalties, and the parties acknowledge that it shall not be cited in connection with any efforts to obtain, and sets no precedent related to, over-the-air performance royalties.

(c) The parties further agree that the preceding acknowledgement in Section 7.1(a) does not in any way imply Broadcasters' agreement that the royalty rate standard set forth in 17 U.S.C. 114(f)(2)(B) is an appropriate rate standard to apply to Broadcasters. Broadcasters shall never be precluded by virtue of such acknowledgement from arguing in the context of future legislation or otherwise that a different royalty rate standard should apply to them, and SoundExchange shall never rely upon by such acknowledgement as a basis for arguing that the royalty rate standard set forth in 17 U.S.C. 114(f)(2)(B) should apply to Broadcasters.

7.2 *Applicable Law and Venue.* These Rates and Terms shall be governed by, and construed in accordance with, the laws of the District of Columbia (without giving effect to conflicts of law principles thereof). All actions or proceedings arising directly or indirectly from or in connection with these Rates and Terms shall be litigated only in the United States District Court for the District of Columbia located in Washington, DC. SoundExchange and Broadcasters consent to the jurisdiction and venue of the foregoing court and consent that any process or notice of motion or other application to said court or a judge thereof may be served inside or outside the District of Columbia by registered mail, return receipt requested, directed to the person for which it is intended at its last known address (and service so made shall be deemed complete five (5) days after the same has been posted as aforesaid) or by personal service or in such other manner as may be permissible under the rules of that court.

7.3 *Rights Cumulative.* The rights, remedies, limitations, and exceptions provided in these Rates and Terms and available under applicable law shall be cumulative and shall not preclude assertion by any party of any other rights, defenses, limitations, or exceptions or the seeking of any other remedies against another party hereto. These Rates and Terms shall not constitute a waiver of any violation of Section 112 or 114 or their implementing regulations (except to the extent such implementing regulations are inconsistent with these Rates and Terms). No failure to exercise and no delay in exercising any right, power or privilege shall operate as a waiver of such right, power or privilege. No single or partial exercise of any right, power or privilege granted under these Rates and Terms or available under applicable law shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No waiver by any party of full performance by another party in any one or more instances shall be a waiver of the right to require full and complete performance of these Rates and Terms and of obligations under applicable law thereafter.

7.4 *Entire Agreement.* These Rates and Terms represent the entire and complete agreement between SoundExchange and a Broadcaster with respect to their subject matter and supersede all prior and contemporaneous agreements and undertakings of SoundExchange and a Broadcaster with respect to the subject matter hereof.

Appendix C

Agreed Rates and Terms

1. General

(a) *Availability of Rates and Terms.* Pursuant to the Webcaster Settlement Act of 2008, and subject to the provisions of Section 2, Eligible Small Webcasters may elect to be subject to the rates and terms set forth herein (the ''Rates and Terms'') in their entirety, with respect to their eligible nonsubscription transmissions and related ephemeral recordings, in lieu of other rates and terms applicable under 17 U.S.C. 112(e) and 114, by complying with the procedure set forth in Section 2 hereof. Any person or entity that does not satisfy the eligibility criteria to be an Eligible Small Webcaster during any calendar year during the period 2006–2015 must comply with otherwise applicable rates and terms for that year.

(b) *Compliance.* Any Eligible Small Webcaster relying upon the statutory licenses set forth in 17 U.S.C. 112(e) and 114 shall comply with the requirements of those Sections, these Rates and Terms and other applicable regulations.

(c) *Effect of Direct Licenses.* These Rates and Terms are without prejudice to, and subject to, any voluntary agreements that an Eligible Small Webcaster may have entered into with any sound recording copyright owner.

(d) *Precedential Effect of Rates and Terms.* Eligible Small Webcasters agree that these Rates and Terms (including any royalty rates, rate structure, fees, definitions, terms, conditions, or notice and recordkeeping requirements set forth herein), shall not be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding, except as specifically provided in this Section 1(d). This prohibition applies to, but is not limited to, those proceedings involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements. These Rates and Terms shall be considered as a compromise motivated by the unique business, economic and political circumstances of small webcasters, copyright owners, and performers rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller. Eligible Small Webcasters shall not, in any way, seek to use in any way these Rates and Terms in any such proceeding and further agree to take whatever steps are appropriate to prevent use of such rates and terms in those proceedings. SoundExchange may disclose, describe or explain any provision of these Rates and Terms in any proceeding without giving it precedential effect.

2. Election for Treatment as an Eligible Small Webcaster

(a) *Election Process in General.* An Eligible Small Webcaster that wishes to elect to be subject to these Rates and Terms with respect to its eligible nonsubscription transmissions and related ephemeral recordings, in lieu of any royalty rates and terms that otherwise might apply under 17 U.S.C. 112(e) and 114, for any calendar year that it qualifies as an Eligible Small Webcaster during the period beginning on January 1, 2006, and ending on December 31, 2015, shall submit to SoundExchange a completed and signed election form (available on the SoundExchange Web site at *http://www.soundexchange.com*) by no later than the first date on which the webcaster would be obligated under these Rates and Terms to make a royalty payment for such year. An Eligible Small Webcaster that fails to make a timely election shall pay royalties for the relevant year as otherwise provided under 17 U.S.C. 112 and 114.

(b) *Election of Microcaster Status.* An Eligible Small Webcaster that elects to be subject to these Rates and Terms and qualifies as a Microcaster may elect to be treated as a Microcaster for any one or more calendar years that it qualifies as a Microcaster. To do so, the Microcaster shall submit to SoundExchange a completed and signed election form (available on the SoundExchange Web site at *http://www.soundexchange.com*) by no later than the first date on which the Eligible Small Webcaster would be obligated under these Rates and Terms to make a royalty payment for each year it elects to be treated as a Microcaster. On any such election form, the Eligible Small Webcaster must, among other things, certify that it qualifies as a Microcaster; provide its prior year Gross Revenues, Third Party Participation Revenues and Aggregate Tuning Hours; and provide other information requested by SoundExchange for use in creating a royalty distribution proxy. Even if an Eligible Small Webcaster has once elected to be treated as a Microcaster, it must make a separate, timely election in each subsequent year in which it wishes to be treated as a Microcaster.

(c) *Participation in Proceedings.* Notwithstanding anything else in these Rates and Terms, a person or entity otherwise qualifying as an Eligible Small Webcaster that has participated in any way in any appeal of the Final Determination of the Copyright Royalty Judges concerning royalty rates and terms under Sections 112(e) and 114 of the Copyright Act for the period January 1, 2006, through December 31, 2010 published in the **Federal Register** at 72 FR 24084 (May 1, 2007) (the ''Final Determination'') or any proceeding before the Copyright Royalty Judges to determine royalty rates and terms under Sections 112(e) and 114 of the Copyright Act for the period January 1, 2011, through December 31, 2015 (including Docket No. 2009–1 CRB Webcasting III and Docket No. 2009–2 CRB New Subscription II, as noticed in the **Federal Register** at 74 FR 318–20 (Jan. 5, 2009)) shall not have the right to elect to be treated as an Eligible Small Webcaster or claim the benefit of these Rates and Terms, unless it withdraws from such proceeding and submits to SoundExchange a completed and signed election form within thirty (30) days after publication of these Rates and Terms in the **Federal Register**. An Eligible Small Webcaster that elects to be subject to these Rates and Terms for any one or more years agrees that it has elected to do so in lieu of any different statutory rates and terms that may otherwise apply during that year and in lieu of participating at any time in a proceeding to set rates and terms for any part of the 2006–2015 period. Thus, once an Eligible Small Webcaster has elected to be subject to these Rates and Terms it shall not at any time (even if it is no longer eligible, or has no longer elected to be treated, as an Eligible Small Webcaster) directly or indirectly participate as a party, *amicus curiae* or otherwise, or in any manner give evidence or otherwise support or assist, in any further proceedings to determine royalty rates and terms for reproduction of ephemeral phonorecords or digital audio transmission under Section 112(e) or 114 of the Copyright Act for all or any part of the period 2006–2015, including any appeal of the Final Determination, any proceedings on remand from such an appeal, any proceeding before the Copyright Royalty Judges to determine royalty rates and terms applicable to the statutory licenses under Sections 112(e) and 114 of the Copyright Act for the period 2011–2015, any appeal of such proceeding, or any other related proceedings.

(d) *Compliance.* By electing Eligible Small Webcaster and/or Microcaster status, a transmitting entity represents that it is eligible therefor and in compliance with all requirements of the statutory licenses under Sections 112(e) and 114 of the Copyright Act. By accepting an election by a transmitting entity or payments or reporting made pursuant to these Rates and Terms, SoundExchange does not acknowledge that the transmitting entity qualifies as an Eligible Small Webcaster or Microcaster or that it has complied with the requirements of the statutory licenses under Sections 112(e) and 114 of the Copyright Act (including these Rates and Terms). It is the responsibility of each transmitting entity to ensure that it is in full compliance with the requirements of the statutory licenses under Sections 112(e) and 114 of the Copyright Act. SoundExchange is not in a position to, and does not, make determinations as to whether each of the many services that rely on the statutory licenses is eligible for statutory licensing or any particular royalty payment classification, nor does it continuously verify that such services are in full compliance with all applicable requirements. Accordingly, an Eligible Small Webcaster agrees that SoundExchange's acceptance of its election, payment or reporting does not give or imply any acknowledgment that it is in compliance with the requirements of the statutory licenses (including these Rates and Terms) and shall not be used as evidence that it is in compliance with the requirements of the statutory licenses (including these Rates and Terms). SoundExchange and copyright owners reserve all their rights to take enforcement action against a transmitting entity that is not in compliance with those requirements.

3. Royalty Rates for Eligible Small Webcasters

For eligible nonsubscription transmissions made by an Eligible Small Webcaster during the period 2006–2015, except an electing Microcaster, the royalty rate shall be—

(1) On any transmissions not exceeding 5,000,000 Aggregate Tuning Hours per month (equivalent to approximately 6,945 average simultaneous listeners, listening for thirty consecutive days, 24 hours a day), the greater of (i) ten percent (10%) of the Eligible Small Webcaster's first $250,000 in Gross Revenues and twelve percent (12%) of any Gross Revenues in excess of $250,000 during the applicable year; or (ii) seven percent (7%) of the Eligible Small Webcaster's Expenses during the applicable year; and

(2) On any transmissions in excess of 5,000,000 Aggregate Tuning Hours per month, the commercial webcasting rates provided in the Final Determination (for the period 2006–2010) or the then-applicable commercial webcasting rates under Sections 112(e) and 114 (for the period 2011–2015).

4. Minimum Annual Fees

(a) *In General.* For each year from 2006–2015, an Eligible Small Webcaster shall pay annual minimum fees as follows:

(1) $500 for electing Microcasters, which shall constitute the only royalty payable hereunder by an electing Microcaster, except that an electing Microcaster also shall pay a $100 annual fee (the ''Proxy Fee'') to SoundExchange for the reporting waiver discussed in Section 6(a), and the provisions of Section 5(d) shall apply;

(2) $2,000, for Eligible Small Webcasters other than electing Microcasters that had Gross Revenues during the prior year of not more than $50,000 and reasonably expect Gross Revenues of not more than $50,000 during the applicable year; or

(3) $5,000, for Eligible Small Webcasters that had Gross Revenues during the prior year of more than $50,000 or reasonably expect Gross Revenues to exceed $50,000 during the applicable year.

(b) The amounts specified in Section 4(a) shall be paid by January 31 of each year.

(c) All minimum fees (but not the Proxy Fee for the reporting waiver for Microcasters) shall be fully creditable toward royalties due for the year for which such amounts are paid, but not any other year.

5. Payments

(a) *Qualification to Make Current Payments as Eligible Small Webcaster.* If the Gross Revenues, plus the Third Party Participation Revenues and revenues from the operation of New Subscription Services, of a transmitting entity and its Affiliates have not exceeded $1,250,000 in any year, and the transmitting entity reasonably expects to be an Eligible Small Webcaster in a given year, the transmitting entity may make payments for that year on the assumption that it will be an Eligible Small Webcaster for that year for so long as that assumption is reasonable.

(b) *True-Up Between Gross Revenues and Expenses.* In making monthly payments, an Eligible Small Webcaster shall, at the time a payment is due, calculate its Gross Revenues and Expenses for the year through the end of the applicable month and pay the applicable

percentage of Gross Revenues or Expenses, as the case may be, for the year through the end of the applicable month, less any amounts previously paid for such year. For the purposes of illustration only, if an Eligible Small Webcaster has $100,000 in Gross Revenues and $2,000 in Expenses in Month 1, the monthly payment shall be $10,000 (10% of aggregate gross yearly revenue up to $250,000). In Month 2, if the Eligible Small Webcaster has $100,000 in Gross Revenue and $2,000 in Expenses, then the Eligible Small Webcaster shall pay $10,000 in monthly payments (10% of aggregate gross yearly revenue for the year up to $250,000 less the $10,000 paid in Month 1). In Month 3, if the Eligible Small Webcaster has $100,000 in Gross Revenue and $2,000 in Expenses, then the Eligible Small Webcaster shall pay $11,000 in monthly payments (10% of aggregate gross yearly revenue for the year up to $250,000 plus 12% of aggregate gross yearly revenue for the amount above $250,000, less prior payments).

(c) *Effect if Eligibility Condition is Exceeded.* Except as provided in Section 5(e), if a transmitting entity has made payments for any year based on the assumption that it will qualify as an Eligible Small Webcaster, but the actual Gross Revenues plus Third Party Participation Revenues and revenues from the operation of New Subscription Services in that year of the transmitting entity and its Affiliates exceed the Gross Revenue threshold provided in Section 8(e), then the transmitting entity shall receive a six (6) month grace period measured from the first month following the month in which such revenues exceed $1,250,000 (the ''Grace Period''). During the Grace Period, the transmitting entity shall pay the rates as specified in Section 3(a). From and after the date the Grace Period has expired, the transmitting entity will pay the commercial webcasting rates provided in the Final Determination (for 2006–2010) or the then-applicable commercial webcasting rates under Sections 112(e) and 114 (for 2011–2015), only for periods after the expiration of the Grace Period.

(d) *Effect if Microcaster Eligibility Condition is Exceeded.* Except as provided in Section 5(e), if a transmitting entity has made payments and not reported usage for any year based on the assumption that it will qualify as a Microcaster, but the actual Gross Revenues plus Third Party Participation Revenues, Expenses, or Aggregate Tuning Hours in that year of the transmitting entity and its Affiliates exceed a threshold provided in Section 8(h), then the transmitting entity's payments for that entire year shall retroactively be adjusted as provided in this Section 5(d). By no later than January 31 of the following year, the transmitting entity shall notify SoundExchange whether it elects to be treated for the entire year in which such threshold was exceeded as either an Eligible Small Webcaster but not a Microcaster, or as a transmitting entity fully subject to the Final Determination (for 2006–2010) or to the then-applicable commercial webcasting rates under Sections 112(e) and 114 (for 2011–2015) (whichever of the foregoing it elects, the ''Elected Status''). At the same time, the transmitting entity must pay all amounts that would have been due for that year if it had originally elected the Elected Status, less any royalties previously paid hereunder as a Microcaster for that year (but not less the Proxy Fee). The transmitting entity need not provide reports of use for that year, and SoundExchange may distribute the royalties paid by the transmitting entity for that year based on the proxy usage data applicable to Microcasters. For the year following the year in which such threshold was exceeded, the transmitting entity must comply with applicable requirements as either an Eligible Small Webcaster but not a Microcaster, or as a transmitting entity fully subject to the Final Determination (for 2006–2010) or to the then-applicable commercial webcasting rates under Sections 112(e) and 114 (for 2011–2015).

(e) *True-Up for Certain Corporate Transactions.* If a transmitting entity that has at any time elected to be treated as an Eligible Small Webcaster under these Rates and Terms, and has not ceased to qualify as an Eligible Small Webcaster through growth in its business and thereafter paid full commercial webcasting rates for a period of at least twelve (12) full months (after any Grace Period applicable under Section 5(c)), becomes a party to or subject of any merger, sale of stock or all or substantially all of its assets, or other corporate restructuring, such that, upon the consummation of such transaction, the transmitting entity or its successor (including a purchaser of all or substantially all of its assets) does not qualify, or reasonably expect to qualify, as an Eligible Small Webcaster for the then-current year, then the transmitting entity or its successor shall, within thirty (30) days after the consummation of such transaction, pay to SoundExchange the difference between (1) the payment the transmitting entity would have been required to make under the commercial webcasting rates provided in the Final Determination (for 2006–2010) or under the then-applicable commercial webcasting rates under Sections 112(e) and 114 (for 2011–2015) for each year in which it elected to be treated as an Eligible Small Webcaster under these Rates and Terms, from January 1, 2006 through the date of such transaction, and (2) the royalty payments it made under these Rates and Terms for each such year. The burden of proof shall be on the transmitting entity or its successor to demonstrate its actual usage for purposes of determining the payment it would have been required to make under such commercial webcasting rates for each such year. If the transmitting entity has insufficient records to determine the payment it would have been required to make under such commercial webcasting rates for each such year, then such calculation shall be made on the basis of the assumption that it made transmissions of 5,000,000 Aggregate Tuning Hours per month, and 15.375 performances per each such Aggregate Tuning Hour, during the relevant period.

(f) *Remittance.* Payments of all amounts specified in these Rates and Terms shall be made to SoundExchange as provided in Section 7(a). Eligible Small Webcasters shall not be entitled to a refund of any amounts paid to SoundExchange, but if an Eligible Small Webcaster makes an overpayment of royalties (other than payments of minimums) during a year, SoundExchange shall, at its discretion, either refund the overpayment or give the Eligible Small Webcaster a credit in the amount of its overpayment, which credit shall be available to be applied to its payments for the immediately following year only.

(g) *Ephemeral Recordings Royalty.* SoundExchange has discretion to allocate payments hereunder between the statutory licenses under Sections 112(e) and 114 in the same manner as the majority of other webcasting royalties.

(h) *Past Periods.* Notwithstanding anything else in this Agreement, to the extent that an Eligible Small Webcaster that elects to be subject to these Rates and Terms has not paid royalties for all or any part of the period beginning on January 1, 2006, and ending on February 28, 2009, any amounts payable under these Rates and Terms for eligible nonsubscription transmissions during such period for which payment has not previously been made shall be paid by no later than April 30, 2009, including late fees as provided in Section 5(i) from the original due date.

(i) *Late Fee.* An Eligible Small Webcaster shall pay a late fee for each instance in which any payment, any statement of account or any report of use is not received by SoundExchange in full compliance with these Rates and Terms and applicable regulations by the due date. The amount of the late fee shall be 1.5% of a late payment, or 1.5% of the payment associated with a late statement of account or report of use, per month, or the highest lawful rate, whichever is lower. The late fee shall accrue from the due date of the payment, statement of account or report of use until a fully-compliant payment, statement of account or report of use is received by SoundExchange.

6. Notice and Recordkeeping

(a) *Microcasters.* SoundExchange believes that accurate census reporting by services is the best way for it to obtain data for making fair royalty distributions to copyright owners and performers, and for that reason, Section 6(b) generally requires census reporting by Eligible Small Webcasters. However, SoundExchange has observed a low level of compliance by the smallest webcasters with the payment and notice and recordkeeping requirements imposed by applicable regulations. Moreover, where SoundExchange has received reports of use from the smallest webcasters, it has had to devote levels of resources to processing those reports that are high relative to the usage and payment involved. While SoundExchange's ultimate goal is for all webcasters to provide census reporting, requiring census reporting by the smallest webcasters at this time may further reduce compliance and significantly increase distribution costs.

Accordingly, on a transitional basis for a limited time and for purposes of these Rates and Terms only, and in light of the unique business and operational circumstances currently existing with respect to these services, electing Microcasters shall not be required to provide reports of their use of

sound recordings for eligible nonsubscription transmissions and related ephemeral recordings. Instead, SoundExchange shall distribute the aggregate royalties paid by electing Microcasters based on proxy usage data in accordance with a methodology adopted by SoundExchange's Board of Directors. In addition to minimum royalties hereunder, electing Microcasters will pay to SoundExchange a $100 Proxy Fee to defray costs associated with this reporting waiver, including development of proxy usage data. SoundExchange hopes that offering this option to electing Microcasters will promote compliance with statutory license obligations and thereby increase the pool of royalties available to be distributed to copyright owners and performers. SoundExchange further hopes that selection of a proxy believed by SoundExchange to represent fairly the playlists of the smallest webcasters will allow payment to more copyright owners and performers than would be possible with any other reasonably available option. Microcasters should assume that, effective January 1, 2016, they will be required to report their actual usage in full compliance with then-applicable regulations. Microcasters are encouraged to begin to prepare to report their actual usage by that date, and if it is practicable for them to do so earlier, they may wish not to elect Microcaster status.

(b) *Reports to Be Provided by other Eligible Small Webcasters.* As a condition of these Rates and Terms, except as provided in Section 6(a), an Eligible Small Webcaster shall submit reports of use of sound recordings to SoundExchange covering the following for all of its eligible nonsubscription transmissions, on a channel by channel basis:

(1) The featured recording artist, group or orchestra;

(2) The sound recording title;

(3) The title of the retail album or other product (or, in the case of compilation albums created for commercial purposes, the name of the retail album upon which the track was originally released);

(4) The marketing label of the commercially available album or other product on which the sound recording is found;

(5) The International Standard Recording Code (''ISRC'') embedded in the sound recording, if available;

(6) The copyright owner information provided in the copyright notice on the retail album or other product (*e.g.*, following the symbol (P) (the letter P in a circle) or, in the case of compilation albums created for commercial purposes, in the copyright notice for the individual track);

(7) The Aggregate Tuning Hours, on a monthly basis, for each channel provided by the Eligible Small Webcaster as computed by a recognized industry ratings service or as computed by the Eligible Small Webcaster from its server logs;

(8) The channel for each transmission of each sound recording; and

(9) The start date and time of each transmission of each sound recording.

If at any time during the period through December 31, 2015, Eligible Small Webcasters would be required under regulations applicable to the Section 112(e) or 114 statutory license to provide reports of use more extensive than provided in this Section 6(b), then any incremental information required by such regulations shall be provided under these Rates and Terms in addition to the information identified above.

(c) *Provision of Reports.* Reports of use described in Section 6(b) shall be provided at the same time royalty payments are due under Section 7(a).

(d) *Server Logs.* To the extent not already required by the current regulations set forth in 37 CFR Part 380, all Eligible Small Webcasters shall retain for a period of at least four (4) years server logs sufficient to substantiate all information relevant to eligibility, rate calculation and reporting hereunder. To the extent that a third-party web hosting or service provider maintains equipment or software for an Eligible Small Webcaster and/or such third party creates, maintains, or can reasonably create such server logs, the Eligible Small Webcaster shall direct that such server logs be created and maintained by said third party for a period of at least four years and/or that such server logs be provided to, and maintained by, the Eligible Small Webcaster. SoundExchange shall have access to the same pursuant to applicable regulations for the verification of statutory royalty payments (presently 37 CFR 380.6).

7. Additional Provisions

(a) *Monthly Obligations.* All Eligible Small Webcasters except electing Microcasters must make monthly payments, provide statements of account, and submit reports of use as described in Section 6 for each month on the forty-fifth (45th) day following the month in which the transmissions subject to the payments, statements of account, and reports of use were made.

(b) *Proof of Eligibility.* At all times, the burden of proof shall be on the Eligible Small Webcaster to demonstrate eligibility for the Rates and Terms set forth herein and for Microcaster status, and at all times the obligation shall be on the Eligible Small Webcaster to maintain records sufficient to determine eligibility. Failure to retain sufficient records to determine eligibility shall constitute a violation of these Rates and Terms and shall render a transmitting entity ineligible for the rates and terms set forth herein. An Eligible Small Webcaster that elects to be governed by the rates and terms set forth herein shall make available to SoundExchange, within thirty (30) days after SoundExchange's written request at any time during the three (3) years following a period during which it is to be treated as an Eligible Small Webcaster for purposes of these Rates and Terms, sufficient evidence to support its eligibility as an Eligible Small Webcaster and/or Microcaster during that period, including but not limited to an accounting of all Affiliate and Third Party Participation Revenue, and Aggregate Tuning Hours on a monthly basis. Any proof of eligibility provided hereunder shall be provided with a certification signed by the Eligible Small Webcaster if a natural person, or by an officer or partner of the Eligible Small Webcaster if the Eligible Small Webcaster is a corporation or partnership, stating, under penalty of perjury, that the information provided is accurate and the person signing is authorized to act on behalf of the Eligible Small Webcaster.

(c) *Default.* An Eligible Small Webcaster shall comply with all the requirements of these Rates and Terms. If it fails to do so, SoundExchange may give written notice to the Eligible Small Webcaster that, unless the breach is remedied within thirty days from the date of notice and not repeated, the Eligible Small Webcaster's authorization to make public performances and ephemeral reproductions under these Rates and Terms will be automatically terminated. Such termination renders any public performances and ephemeral reproductions as to which the breach relates actionable as acts of infringement under 17 U.S.C. 501 and fully subject to the remedies provided by 17 U.S.C. 502–506.

(d) *Applicable Regulations.* To the extent not inconsistent with the terms herein, use of sound recordings by Eligible Small Webcasters shall be governed by, and Eligible Small Webcasters shall comply with, applicable regulations, including 37 CFR Part 380. Without limiting the foregoing, the provisions of applicable regulations for the retention of records and verification of statutory royalty payments (presently 37 CFR 380.4(h) and 380.6) shall apply hereunder. Eligible Small Webcasters shall cooperate in good faith with any such verification, and the exercise by SoundExchange of any right with respect thereto shall not prejudice any other rights or remedies of SoundExchange or sound recording copyright owners.

(e) *Applicable Law and Venue.* These Rates and Terms shall be governed by, and construed in accordance with, the laws of the District of Columbia (without giving effect to conflicts of law principles thereof). All actions or proceedings arising directly or indirectly from or in connection with these Rates and Terms shall be litigated only in the United States District Court for the District of Columbia located in Washington, DC. SoundExchange and Eligible Small Webcasters consent to the jurisdiction and venue of the foregoing court and consent that any process or notice of motion or other application to said court or a judge thereof may be served inside or outside the District of Columbia by registered mail, return receipt requested, directed to the person for which it is intended at its last known address (and service so made shall be deemed complete five (5) days after the same has been posted as aforesaid) or by personal service or in such other manner as may be permissible under the rules of that court.

(f) *Rights Cumulative.* The remedies provided in these Rates and Terms and available under applicable law shall be cumulative and shall not preclude assertion by any party of any other rights or the seeking of any other remedies against another party hereto. These Rates and Terms shall not constitute a waiver of any violation of Section 112 or 114 or their implementing regulations (except to the extent such implementing regulations are inconsistent

with these Rates and Terms). No failure to exercise and no delay in exercising any right, power or privilege shall operate as a waiver of such right, power or privilege. Neither these Rates and Terms nor any such failure or delay shall give rise to any defense in the nature of laches or estoppel. No single or partial exercise of any right, power or privilege granted under these Rates and Terms or available under applicable law shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No waiver by any party of full performance by another party in any one or more instances shall be a waiver of the right to require full and complete performance of these Rates and Terms and of obligations under applicable law thereafter.

(g) *Entire Agreement.* These Rates and Terms represent the entire and complete agreement between SoundExchange and an Eligible Small Webcaster with respect to their subject matter and supersede all prior and contemporaneous agreements and undertakings of SoundExchange and an Eligible Small Webcaster with respect to the subject matter hereof.

8. Definitions

As used in these Rates and Terms, the following terms shall have the following meanings:

(a) An *''Affiliate''* of a transmitting entity is a person or entity that directly, or indirectly through one or more intermediaries—

(1) Has securities or other ownership interests representing more than 50 percent of such person's or entity's voting interests beneficially owned by—

(A) Such transmitting entity; or

(B) A person or entity beneficially owning securities or other ownership interests representing more than 50 percent of the voting interests of the transmitting entity;

(2) Beneficially owns securities or other ownership interests representing more than 50 percent of the voting interests of the transmitting entity; or

(3) Otherwise Controls, is Controlled by, or is under common Control with the transmitting entity.

(b) The term *''Aggregate Tuning Hours''* has the meaning given that term in 37 CFR § 380.2(a), as published in the Final Determination.

(c) A *''Beneficial Owner''* of a security or other ownership interest is any person or entity who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise, has or shares voting power with respect to such security or other ownership interest.

(d) The term *''Control''* means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise.

(e) An *''Eligible Small Webcaster''* is a person or entity that (i) has obtained a compulsory license under 17 U.S.C. 112(e) and 114 and the implementing regulations therefor to make eligible nonsubscription transmissions over the Internet and related ephemeral recordings; (ii) complies with all provisions of Sections 112(e) and 114 and applicable regulations; (iii) is not a noncommercial webcaster as defined in 17 U.S.C. 114(f)(5)(E)(i); and (iv) in any calendar year in which it is to be considered an Eligible Small Webcaster has, together with its Affiliates, annual Gross Revenues plus Third Party Participation Revenues and revenues from the operation of New Subscription Services of not more than $1,250,000. In determining qualification under this Section 8(e), a transmitting entity shall exclude—

(1) Income of an Affiliate that is a natural person, other than income such natural person derives from another Affiliate of such natural person that is either a media or entertainment related business that provides audio or other entertainment programming, or a business that primarily operates an Internet or wireless service; and

(2) Gross Revenues of any Affiliate that is not engaged in a media or entertainment related business that provides audio or other entertainment programming, and is not engaged in a business that primarily operates an Internet or wireless service, if the only reason such Affiliate is Affiliated with the transmitting entity is that (i) it is under common Control of the same natural person or (ii) both are beneficially owned by the same natural person.

In the case of a person or entity that offers both eligible nonsubscription transmissions (as defined in 17 U.S.C. 114(j)(6)) and a New Subscription Service, these Rates and Terms apply only to the Eligible Small Webcaster's eligible nonsubscription transmissions and not the New Subscription Service.

(f) The term *''Expenses''*—

(1) Means all costs incurred (whether actually paid or not) by an Eligible Small Webcaster, except that capital costs shall be treated as Expenses allocable to a period only to the extent of charges for amortization or depreciation of such costs during such period as are properly allocated to such period in accordance with United States generally accepted accounting principles (''GAAP'');

(2) Includes the fair market value of all goods, services, or other non-cash consideration (including real, personal, tangible, and intangible property) provided by an Eligible Small Webcaster to any third party in lieu of a cash payment and the fair market value of any goods or services purchased for or provided to an Eligible Small Webcaster by an Affiliate of such webcaster; and

(3) Shall not include—

(A) The imputed value of personal services rendered by up to 5 natural persons who are, directly or indirectly, owners of the Eligible Small Webcaster, and for which no compensation has been paid;

(B) The imputed value of occupancy of residential property for which no Federal income tax deduction is claimed as a business expense;

(C) Costs of purchasing phonorecords of sound recordings used in the Eligible Small Webcaster's service;

(D) Royalties paid for the public performance of sound recordings; or

(E) The reasonable costs of collecting overdue accounts receivable, provided that the reasonable costs of collecting any single overdue account receivable may not exceed the actual account receivable.

(g) The term ''*Gross Revenues*''—(1) Means all revenue of any kind earned by a person or entity, less—

(A) Revenue from sales of phonorecords and digital phonorecord deliveries of sound recordings;

(B) The person or entity's actual costs of other products and services actually sold through a service that makes eligible nonsubscription transmissions, and related sales and use taxes imposed on such transactions, costs of shipping such products, allowance for bad debts, and credit card and similar fees paid to unrelated third parties;

(C) Revenue from the operation of a New Subscription Service for which royalties are paid in accordance with provisions of 17 U.S.C. 112 and 114; and

(D) Revenue from the sale of assets in connection with the sale of all or substantially all of the assets of such person's or entity's business, or from the sale of capital assets; and

(2) Includes—

(A) All cash or cash equivalents;

(B) The fair market value of goods, services, or other non-cash consideration (including real, personal, tangible, and intangible property);

(C) In-kind and cash donations and other gifts (but not capital contributions made in exchange for an equity interest in the recipient); and

(D) Amounts earned by such person or entity but paid to an Affiliate of such person or entity in lieu of payment to such person or entity.

Gross revenues shall be calculated in accordance with U.S. Generally Accepted Accounting Principles (GAAP), except that a transmitting entity that computes Federal taxable income on the basis of the cash receipts and disbursements method of accounting for any taxable year may compute its gross receipts for any period included in such taxable year on the same basis.

(h) A *''Microcaster''* is an Eligible Small Webcaster that, together with its Affiliates, in any calendar year in which it is to be considered a Microcaster, meets the following additional eligibility criteria: (i) Transmits sound recordings only by means of eligible nonsubscription transmissions (as defined in 17 U.S.C. 114(j)(6)); (ii) had annual Gross Revenues plus Third Party Participation Revenues during the prior year of not more than $5,000 and reasonably expects Gross Revenues plus Third Party Participation Revenues during the applicable year of not more than $5,000; (iii) has Expenses during the prior year of not more than $10,000 and reasonably expects Expenses during the applicable year of not more than $10,000; and (iv) during the prior year did not make eligible nonsubscription transmissions exceeding 18,067 Aggregate Tuning Hours, and during the applicable year reasonably does not expect to make eligible nonsubscription transmissions exceeding 18,067 Aggregate Tuning Hours.

(i) The term *''New Subscription Service''* has the meaning given that term in 17 U.S.C. 114(j)(8).

(j) The *''Third Party Participation Revenues''* of a transmitting entity are revenues of any kind earned by a person or entity, other than the transmitting entity, including those:

(1) That relate to the public performance of sound recordings and are subject to an economic arrangement in which the transmitting entity receives anything of value; or

(2) That are earned by such person or entity from the sale of advertising of any kind in connection with the transmitting entity's eligible nonsubscription transmissions.

By way of example only, a transmitting entity's Third Party Participation Revenues would include revenues earned by the transmitting entity's proprietor, a marketing partner of the transmitting entity, or an aggregator through which the transmitting entity's transmissions are available, by virtue of the transmitting entity's transmissions.

[FR Doc. E9–4439 Filed 3–2–09; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection, Financial Disclosure Report, Standard Form 714, which is required as a condition of access to specifically designated classified information along with a favorably adjudicated personnel security background investigation or reinvestigation that results in the granting or updating of a security clearance. Additionally, NARA proposes to make changes to the Standard Form 714 and the instructions to the form. Specific proposed changes will be provided upon request to NARA at the addresses provided below. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before May 4, 2009 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740–6001; or faxed to 301–713–7409; or electronically mailed to *tamee.fechhelm@nara.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways, including the use of information technology, to minimize the burden of the collection of information on all respondents; and (e) whether small businesses are affected by this collection. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Financial Disclosure Report.

OMB number: 3095–0058.

Agency form number: Standard Form 714.

Type of review: Regular.

Affected public: Business or other for-profit.

Estimated number of respondents: 25,897.

Estimated time per response: 2 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 51,794 hours.

Abstract: Executive Order 12958, as amended, ''Classified National Security Information'' authorizes the Information Security Oversight Office to develop standard forms that promote the implementation of the Government's security classification program. These forms promote consistency and uniformity in the protection of classified information.

The Financial Disclosure Report contains information that is used to assist in making eligibility determinations for access to specifically designated classified information pursuant to Executive Order 12968, ''Access to Classified Information,'' by appropriately trained adjudicative personnel. The data may later be used as part of a review process to evaluate continued eligibility for access to such specifically designated classified information or as evidence in legal proceedings.

The Financial Disclosure Report helps law enforcement entities obtain pertinent information in the preliminary stages of potential espionage and counter terrorism cases.

Dated: February 26, 2009.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E9–4502 Filed 3–2–09; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extensions of two currently approved information collections. The first is a survey of Customer Satisfaction at the National Personnel Records Center (Military Personnel Records [MPR] facility) of the National Archives and Records Administration. The second is voluntary survey of museum visitors at each Presidential library. The information provides feedback about our visitors' experiences at the libraries. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before May 4, 2009 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; faxed to 301–713–7409; or electronically mailed to *tamee.fechhelm@nara.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694; fax number 301–713–7409; or *tamee.fechhelm@nara.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the

general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways, including the use of information technology, to minimize the burden of the collection of information on respondents; and (e) whether small businesses are affected by these collections. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

1. *Title:* National Personnel Records Center (NPRC) Survey of Customer Satisfaction.

OMB Number: 3095–0042.

Agency Form Number: N/A.

Type of Review: Regular.

Affected Public: Federal, State and local government agencies, veterans, and individuals who write the Military Personnel Records (MPR) facility for information from or copies of official military personnel files.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 10 minutes.

Frequency of Response: On occasion (when respondent writes to MPR requesting information from official military personnel files).

Estimated Total Annual Burden Hours: 167 hours.

Abstract: The information collection is prescribed by EO 12862 issued September 11, 1993, which requires Federal agencies to survey their customers concerning customer service. The general purpose of this data collection is to provide MPR management with an ongoing mechanism for monitoring customer satisfaction. In particular, the purpose of the National Personnel Records Center (NPRC) Survey of Customer Satisfaction is to (1) determine customer satisfaction with MPR's reference service process, (2) identify areas within the reference service process for improvement, and (3) provide MPR management with customer feedback on the effectiveness of BPR initiatives designed to improve customer service as they are implemented. In addition to supporting the BPR effort, the National Personnel Records Center (NPRC) Survey of Customer Satisfaction helps NARA in responding to performance planning and reporting requirements contained in the Government Performance and Results Act (GPRA).

2. *Title:* Presidential Libraries Museum Visitor Survey.

OMB Number: 3095–0066.

Agency Form Number: N/A.

Type of Review: Regular.

Affected Public: Individuals who visit the museums at the Presidential libraries.

Estimated Number of Respondents: 75,000.

Estimated Time per Response: 15 minutes.

Frequency of Response: On occasion (when an individual visits a Presidential Library).

Estimated Total Annual Burden Hours: 18,750 hours.

Abstract: The survey is comprised of a set of questions designed to allow for a statistical analysis that will ultimately provide actionable information to NARA. The survey includes questions that measure the visitor's satisfaction in general and with specific aspects of their visit. These questions serve as dependent variables for analytical purposes. Other questions provide attitudinal, behavioral, and demographic data that are used to help understand variation in the satisfaction variables. Using statistical analyses, Harris Interactive will determine the factors that drive the visitor's perceptions of quality and satisfaction with the Library they visited. Additionally, natural groupings of visitors defined by similarity based on these attitudinal, behavioral, and demographic variables can be developed and targeted for outreach purposes. The information collected through this effort will inform program activity, operation, and oversight, and will benefit Library and NARA staff and management in making critical decisions about resources allocation, museum operation and program direction.

Dated: February 26, 2009.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E9–4587 Filed 3–2–09; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–438 and 50–439; NRC–2009–0093]

Tennessee Valley Authority; Bellefonte Nuclear Power Plant, Units 1 and 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) has prepared this Environmental Assessment (EA) associated with a request by the Tennessee Valley Authority (TVA) to reinstate the construction permits (CPs) CPPR–122 and CPPR–123 for the Bellefonte Nuclear Plant (BLN), Units 1 and 2, respectively. Based on information provided in TVA's letters, dated August 26, September 25, and November 24, 2008, and the NRC staff's independent review of references, the NRC staff did not identify any significant impact associated with the reinstatement of the BLN Units 1 and 2 CPs and the return of the facility to a terminated plant status. The NRC staff is documenting its environmental review in this EA.

Environmental Assessment

Plant Site and Environs

BLN Units 1 and 2 are pressurized-water reactor sites that have been partially completed. The units are located on a peninsula between Town Creek and the Tennessee River at River Mile 392 on the west shore of Guntersville Reservoir near Hollywood, Alabama. Most of the 1600 acres of the site have been previously impacted by the near completion of both BLN Units 1 and 2.

Identification of the Proposed Action

TVA requests reinstatement of the CPs for BLN Units 1 and 2. The Atomic Energy Commission (AEC now, the NRC) issued the Final Environmental Statement (FES) in June 1974 for BLN Units 1 and 2. On December 12, 1974, CPs were issued by the NRC. Much of the construction work for BLN Units 1 and 2 was subsequently completed. On April 6, 2006, TVA submitted a request to withdraw the CPs for BLN Units 1 and 2. On September 14, 2006, the NRC staff withdrew the CPs for BLN Units 1 and 2 based on the request. Subsequently, TVA submitted a request on August 26, 2008, as supplemented by letters dated September 25, 2008, and November 24, 2008, to reinstate the CPs for BLN Units 1 and 2.

The Need for the Proposed Action

Reinstatement of the CPs for BLN Units 1 and 2 and the return to a

terminated plant status may subsequently enable TVA to complete construction of BLN Units 1 and 2.

Environmental Impacts of the Proposed Action

This EA summarizes the radiological and nonradiological impacts to the environment that may result from the proposed reinstatement of the CPs.

Non-Radiological Impacts

Land Use and Aesthetic Impacts

Land use and aesthetic impacts from the proposed reinstatement of the CPs include impacts from completing the construction of BLN Units 1 and 2. TVA states in its letter of August 26, 2008, that BLN Units 1 and 2 are 90 percent and 58 percent complete in construction, respectively, with most of the infrastructure work completed.

Remaining construction-related activities at BLN Units 1 and 2 include: The potential realignment of the southern entrance road 1200 feet east of its existing location; the construction of the Unit 2 startup and recirculation equipment building on previously disturbed land near the Unit 2 auxiliary building; the installation of a new power stores building; and some changes to the gatehouse and protected area fencing. Additionally, clay borrow pits would be dug in wooded areas immediately east of the main buildings.

In response to an NRC staff's request for additional information (RAI), TVA noted in its November 24, 2008, letter that few facilities would cause further land disturbance, and that previously disturbed land, existing parking lots, access road, offices, workshops, and warehouses at BLN would be used during the completion of construction. Onsite land use conditions at BLN, including conditions along existing transmission lines corridors (no new lines would be required to complete the two units), switch yards, and substations, would not change. The applicant concluded that any impacts to natural resources from projected site construction activities would remain bounded by the original 1974 FES assessment.

Based on the information provided by TVA, the NRC staff concludes that there would be no significant impact on land use and aesthetic resources in the vicinity of BLN Units 1 and 2. The majority of construction activities have already occurred and the impacts have been assessed and documented in the original 1974 FES.

Historic and Archaeological Resources

The National Historic Preservation Act (NHPA) requires Federal agencies to consider the effects of their undertakings on historic properties. Historic properties are defined as resources that are eligible for listing on the National Register of Historic Places (NRHP). The criteria for eligibility are listed in the *Code of Federal Regulations* (CFR), under Title 36, ''Parks, Forests, and Public Property,'' Part 60, Section 4, ''Criteria for Evaluation'' (36 CFR 60.4). The historic preservation review process (Section 106 of the NHPA) is outlined in regulations issued by the Advisory Council on Historic Preservation in Title 36, ''Parks, Forests, and Public Property,'' Part 800, ''Protection of Historic Properties'' (36 CFR Part 800). Reinstatement of the BLN CPs and completion of construction at the BLN sites is a Federal action that could possibly affect either known or undiscovered historic properties located on or near the plant site and its associated transmission lines. In accordance with the provisions of the NHPA, the NRC makes a reasonable effort to identify historic properties in the area of potential effect. The area of potential effect for this action is the plant site and the immediate environs.

To assess the environmental impacts to historic and archaeological resources, the NRC staff reviewed information provided by TVA in its 1974 FES, along with supplemental information provided by letters to the NRC dated August 26, 2002, and November 24, 2008. Additional site details were also obtained from reviewing the Environmental Report in TVA's October 30, 2007, application for a Combined License (COL ER) for Bellefonte Units 3 and 4.

In 1936, archaeological salvage excavations were conducted at the Bellefonte site associated with the construction of Guntersville Reservoir. In 1972, TVA funded an archaeological reconnaissance investigation at the Bellefonte site to locate any historic and archaeological sites that would be adversely impacted by the construction of BLN Units 1 and 2. The 1972 survey identified three new prehistoric sites (1JA300–302), and located two sites (1JA978 and 1JA112) that were previously recorded during the pre-inundation survey of Guntersville Lake according to the FES 1974. Site 1JA978 was noted in the riverbank and contained both Archaic and Woodland artifacts. Site 1JA112 was primarily inundated; therefore, cultural affiliation could not be determined for this site. A 2006 survey conducted by TVA determined that sites 1JA978 and 1JA112 are located outside of BLN's property boundary. Analysis of artifacts recovered at 1JA300 reveal that the site was occupied during the Archaic, Woodland, and Mississippian cultural periods. Since 1JA300 was going to be adversely impacted by the construction of the plant intake structure and access road, data recovery excavations were conducted on site 1JA300 in 1973 and 1974 by the University of Alabama. Information provided by TVA in its COL ER indicated that a total of 22 features and 9 burials were excavated from the site. One of these features consisted of a small structure footprint, which is indicative of village-level habitation. The human remains are located at the University of Alabama. By letter dated November 24, 2008, TVA stated that additional archaeological surveys have been conducted. In 2006, TVA conducted a survey to document and evaluate all archaeological resources at BLN. During this survey, it was determined that site 1JA300 was destroyed during construction of the intake structure, and therefore, is no longer eligible for the NRHP.

Site 1JA301 was recorded during the 1972 reconnaissance survey as surficial remains (lithic debris) dating to the Archaic period. Analysis of the lithic debris from this site suggests that it was an intermittent campsite. It was recommended that any further excavation of this site would be unproductive. The 1972 report notes that site 1JA301 was heavily disturbed and reduced to plow zone scatter of prehistoric materials. Additional testing conducted determined that site 1JA301 was destroyed during construction of BLN Units 1 and 2 and is not eligible for inclusion in the NRHP according to the COL ER.

Site 1JA302 was purported to be remotely located to the construction area according to the FES 1974. Artifacts recovered from 1JA302 dated the site to the Woodland period. Limited excavation was proposed, however, further excavations were not conducted. Site 1JA302 lies outside the BLN property boundary. Site 1JA302 was determined to be eligible for inclusion on the NRHP.

Site 1JA111 is an undefined prehistoric occupation site. Additional testing was conducted at the site during the 2006 survey. A total of 93 artifacts were recovered, however, no diagnostic lithic artifacts were recovered to date from the site according to the COL ER. However, a small number of ceramics dating to the Mississippian period were recovered. Based upon the stratigraphic profiles and patterns of artifact recovery, TVA indicated that site 1JA111 appears to contain buried, intact archaeological deposits and has the potential to

contribute significant scientific and archaeological information regarding the prehistory of the Guntersville Basin according to the TVA report dated October 2007. Site 1JA111 remains potentially eligible for inclusion in the NRHP. TVA has indicated that the site will be fenced off, and marked on BLN site drawings as an area to be avoided by any future ground disturbing activities according to the TVA letters dated August 26, September 25, and November 24, 2008.

Site 1JA113 is another undefined prehistoric occupation site. Additional testing was conducted at the site in 2006 and yielded a single prehistoric lithic flake, however, site 1JA113 does not meet the criteria of eligibility for the NRHP according to the TVA letters dated August 26, September 25, and November 24, 2008.

One historic site was identified during the 2006 survey. Site 1JA1103 consists of a collapsed structure and associated outbuilding according to the COL ER. The 2006 survey revealed that this site was used as a temporary storage and weather shelter during the construction of BLN Units 1 and 2 according to the TVA letters dated August 26, September 25, and November 24, 2008. Site 1JA1103 has had its archaeological integrity altered by the construction of BLN Units 1 and 2; therefore, the site is not eligible for inclusion in the NRHP. Regardless of the site's eligibility, TVA has indicated that the site will be avoided.

Adjacent to the BLN site was the Town of Bellefonte the former Jackson County seat. The Town of Bellefonte is listed in the Alabama Statewide Plan of Historic Preservation and was determined eligible for inclusion on the NRHP. Among the former town buildings was a tavern that dated to 1845 according to the 1974 FES. This building and other structures associated with the Bellefonte town site were moved in 1974. The town site is not on TVA property, and the buildings were removed by the owners according to the TVA letter dated August 26, 2002.

The BLN site was heavily disturbed by the construction of BLN Units 1 and 2, which began in the 1970s. Reinstatement of the CPs and completing construction of BLN Units 1 and 2 would involve some ground disturbing activities in previously undisturbed areas of the site. The NRC staff anticipates that for areas not previously surveyed, an archaeological investigation would be conducted by a qualified archaeologist prior to any ground disturbing activities by TVA. Additionally, since TVA is a Federal agency, an NHPA Section 106 review and consultation with the Alabama Historical Commission would be initiated for such activities.

Based on the information provided in the 1974 FES, and TVA's subsequent responses to the NRC staff's RAIs in letters dated August 26, 2002, and November 24, 2008, the NRC staff finds that the potential impacts of reinstating the CPs and completing construction of BLN Units 1 and 2 would have no adverse effect on historic and archaeological resources.

Socioeconomic Impacts

Socioeconomic impacts from the proposed reinstatement of the CPs and completing the construction of BLN Units 1 and 2 include an increase in the size of the workforce at BLN and associated increased demand for public services and housing in the region.

In its August 26, 2002, response to an RAI, TVA estimated that the number of workers needed to complete the construction of BLN Units 1 and 2 could peak at about 4600 workers; comprised of approximately 2600 construction workers, 900 engineers, 850 plant staff, and 250 start-up testing staff. Most construction workers would relocate temporarily to Jackson County resulting in a short-term increase in population along with increased demands for public services and housing. TVA confirmed this estimate in a letter to the NRC dated November 24, 2008, and provided additional demographic information. Because construction work would be short-term, most construction workers would stay in rental homes, apartments, mobile homes, and camper-trailers. According to 2000 Census information, there were over 46,000 vacant housing units in the 50-mile radius of BLN, including over 2500 vacant housing units in Jackson County, that could potentially ease the demand for local rental housing should construction activities resume.

TVA has acknowledged in its November 24, 2008, letter that completing the construction activities of BLN Units 1 and 2 may require greater than anticipated numbers of construction workers, which could significantly affect the availability of public services (*i.e.*, schools, transportation, police and fire services, road infrastructure, water supplies, etc.). Reinstatement of the CPs and completing the construction of BLN Units 1 and 2 could, therefore, result in greater socioeconomic impacts than those projected in the 1974 FES. However, these impacts would have a relatively short duration. TVA has also committed to monitor the situation and work with local and state officials to mitigate any unacceptable adverse socioeconomic impacts that might result according to the TVA letter dated November 24, 2008.

Based on a review of the information provided by TVA and relevant census data, the NRC staff concludes that reinstating the CPs and completing the construction of BLN Units 1 and 2 would not result in adverse socioeconomic impacts.

Environmental Justice

The environmental justice impact analysis evaluates the potential for disproportionately high and adverse human health and environmental effects on minority and low-income populations that could result from reinstating the CPs and completing the construction of BLN Units 1 and 2. Adverse health effects are measured in terms of the risk and rate of fatal or nonfatal adverse impacts on human health.

Disproportionately high and adverse human health effects occur when the risk or rate of exposure to an environmental hazard for a minority or low-income population is significant and exceeds the risk or exposure rate for the general population or for another appropriate comparison group. A disproportionately high environmental impact that is significant refers to an impact or risk of an impact on the natural or physical environment in a low-income or minority community that appreciably exceeds the environmental impact on the larger community. Such effects may include ecological, cultural, human health, economic, or social impacts. Some of these potential effects have been identified in resource areas discussed in this EA. For example, increased demand for rental housing during construction could disproportionately affect low-income populations. Minority and low-income populations are subsets of the general public residing around BLN, and all are exposed to the same health and environmental effects generated from construction activities at BLN.

Minority Populations in the Vicinity of BLN—According to 2000 census data, 18.9 percent of the population (approximately 1,083,000 individuals) residing within a 50-mile radius of BLN identified themselves as minority individuals. The largest minority group was Black or African American (157,000 persons or 14.5 percent), followed by Hispanic or Latino of any race (24,000 or about 2.2 percent). About 8.1 percent of the Jackson County population identified themselves as minorities, with Black or African American the largest minority group (3.7 percent)

followed by Hispanic or Latino (1.1 percent) according to the U.S. Census Bureau (USCB). According to USCB census data estimates for 2006, the minority population of Jackson County, as a percent of total population, had increased to 9.2 percent.

Low-Income Populations in the Vicinity of BLN—According to 2000 census data, approximately 32,000 families and 143,000 individuals (approximately 10.5 and 13.2 percent, respectively) residing within a 50-mile radius of BLN were identified as living below the Federal poverty threshold in 1999. The 1999 Federal poverty threshold was $17,029 for a family of four.

According to census data, the median household income for Alabama in 2004 was $37,062, while 16.1 percent of the state population was determined to be living below the Federal poverty threshold. Jackson County had a lower median household income ($33,733) and a lower percentage (15.3 percent) of individuals living below the poverty level.

Impact Analysis—Potential impacts to minority and low-income populations due to the reinstatement of the CPs and completing the construction of BLN Units 1 and 2 would mostly consist of environmental and socioeconomic effects (*e.g.*, noise, dust, traffic, employment, and housing impacts).

Since most of the construction work at BLN has been completed, noise and dust impacts would be short-term and limited to onsite activities. Minority and low-income populations residing along site access roads could experience increased commuter vehicle traffic during shift changes. As employment increases at BLN during completion of BLN Units 1 and 2, employment opportunities for minority and low-income populations may also increase. Increased demand for rental housing during peak construction could disproportionately affect low-income populations. However, according to the latest census information, there were over 46,000 vacant housing units in the 50-mile radius of BLN, including over 2500 vacant housing units in Jackson County.

Based on this information and the analysis of human health and environmental impacts presented in this EA, there would be no disproportionately high and adverse impacts to minority and low-income populations from the reinstatement of the CPs and completing the construction of the BLN Units 1 and 2.

Impacts on Water Resources

Water resource impacts due to reinstating BLN Units 1 and 2 CPs would be relatively small. Water discharges are governed by the plant's current National Pollutant Discharge Elimination System (NPDES) permit and waste streams controlled by the current Resource Conservation and Recovery Act (RCRA) permit; these permits remain active. TVA would continue to purchase drinking water from the City of Hollywood, Alabama, which is a community public water system that is regulated by the State of Alabama. TVA would continue to route waste water from the BLN Units 1 and 2 to the Hollywood Sewer System.

By letter dated November 24, 2008, TVA confirmed that almost all environmental disturbances related to construction have already occurred, and that any impacts to natural resources, including water resources, would remain bounded by its assessment in the 1974 FES.

Based on the information provided, the staff expects that there would be little or no impact to aquatic resources because the majority of construction activities have already been completed.

Impacts on Air Quality

Main sources for the potential impacts on air quality due to reinstatement of the CPs for BLN would be fugitive dust from construction activities, associated with the project and exhaust emissions from the motorized equipment and vehicles of workers. The 1990 Clean Air Act amendments include a provision that no Federal agency shall support any activity that does not conform to a state implementation plan designed to achieve the National Ambient Air Quality Standards for criteria pollutants (sulfur dioxide, nitrogen dioxide, carbon monoxide, ozone, lead, and particulate matter less than 10 in diameter). On November 30, 1993, the U.S. Environmental Protection Agency (EPA) issued a final rule (58 FR 63214) implementing the new statutory requirements, effective January 31, 1994. The final rule requires that Federal agencies prepare a written conformity analysis and determination for each pollutant where the total of direct and indirect emissions caused by proposed federal action [1] would exceed established threshold emission levels in a nonattainment [2] or maintenance area.[3]

Construction activities are known to cause localized temporary increases in atmospheric concentrations of nitrogen oxides, carbon monoxide, sulfur dioxide, volatile organic compounds, ammonia and particulate matter PM_{10} and $PM_{2.5}$ as a result of exhaust emissions of worker's vehicles, diesel generators, and construction equipment. In accordance with the Clean Air Act, Federal agencies are prohibited from issuing a license for any activity that does not conform to an applicable implementation plan (40 CFR Parts 51 and 93). Since the plant is located in a $PM_{2.5}$ nonattainment area, BLN must show conformity to applicable Alabama State Implementation Plans by analyzing vehicles exhaust emissions (using an approved EPA model) that will occur during construction of BLN Units 1 and 2.

During potential construction of BLN Units 1 and 2, some ground-clearing, grading, excavation, and movement of materials and machinery are expected to occur. Ground-clearing, grading, and excavation activities will raise dust, as will the movement of materials and machinery. Fugitive dust may also rise from cleared areas during windy periods. If any open burning is planned then the applicable permits would need to be obtained from the Air Division of the Alabama Department of Environmental Management. Normally, construction activities take place for a limited duration; if reinstated, the expiration completion date for BLN Unit 1 CP is October 1, 2011, and the expiration completion date for BLN Unit 2 CP is October 1, 2014, as specified in an NRC Order dated March 4, 2003. Any impacts on air quality that might occur would be temporary.

Because the NRC staff expects that any potential construction activities at BLN Units 1 and 2 would conform to the Alabama Implementation plans, the NRC staff concludes that the impacts of construction activities on air quality would then be low. For such activities, the NRC staff notes a variety of mitigation measures, such as wetting of unpaved roads and construction areas during dry periods and seeding or mulching bare areas, inspection and

[1] Federal action means any activity engaged in by a department, agency or instrumentality of the Federal Government, or any activity that a department, agency or instrumentality of the Federal Government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C or the Federal Transit Act (49 U.S.C 1601 *et seq.*). (40 CFR 51.852)

[2] An area is designated ''nonattainment'' for a criteria pollutant if it does not meet National Ambient Air Quality Standards (NAAQS) for the pollutant.

[3] A maintenance area has been redesignated by a State from nonattainment to attainment; the State must submit to EPA a plan for maintaining NAAQS as a revision to its State Implementation Plan.

maintenance of the gasoline or diesel fuel fired construction equipment to prevent excessive exhaust emissions and shift changes for workforce to reduce the number of vehicles on the road at any given time, that could mitigate potential air quality impacts resulting from the potential reinstatement and construction completion at BLN Units 1 and 2.

Impacts on Aquatic Resources

In a TVA letter dated September 25, 2008, TVA indicates that TVA proposes ''no new ground disturbance,'' possibly a small amount of earthwork adjacent to existing building to support air compressors, and possibly ''reintroduction'' of small amounts of lubricating oil. The TVA letter dated September 25, 2008, does not indicate that the reinstatement of the CPs and construction would result in any activities involving transmission lines, such as maintenance, nor does it indicate any on-site activities other than those listed above. The activities described in the TVA letter, would be of such limited geographic extent and of such removal from aquatic habitats that the NRC staff expects that there would be little to no impact to aquatic resources.

By letter dated November 24, 2008, TVA provided additional information to confirm that most site disturbance has already occurred, and that any impacts to natural resources, including aquatic resources, would remain bounded by the impacts discussed in the 1974 FES.

Based on the information provided, the NRC staff expects that there would be little to no impact to aquatic resources based on the limited geographic extent and area affected.

Threatened and Endangered Aquatic Species

By letter dated November 24, 2008, TVA updated the list of threatened or endangered species and concluded that except for the gray bat, none of the federally listed species are known to occur at or adjacent to the BLN site. Although threatened and endangered aquatic species are listed as occurring in Jackson County, the NRC staff confirmed with the Alabama State Department of Conservation and Natural Resources (DCNR) that there were no aquatic species listed as threatened or endangered in the immediate vicinity of BLN.

Impacts on Terrestrial Biota

Since most of the construction has been completed, limited impacts may occur to terrestrial biota related to the potential realignment by 1200 feet (370 meters) of the southern entrance to the plant and by the excavation of borrow pits in a wooded area east of the existing main power plant buildings. Reinstating the CPs and completing construction of the BLN Units 1 and 2 would remain within the scope of the 1974 FES, assuming that TVA implements the preconstruction and construction monitoring program for both aquatic and terrestrial resources as described in the 1974 FES. This would also cover potential impacts to terrestrial biota from transmission line right-of-way maintenance. The 1974 FES considered all potential impacts associated with the transmission line and noted that TVA's transmission line maintenance and construction methods, particularly overspray during herbicide applications, had resulted in damage to trees located outside of the transmission line corridor. However, current best management practices (BMPs) employed by most industries today would mitigate such environmental impacts from pesticide or herbicide applications.

Assuming that these practices for transmission line right-of-way would be in place if the CPs for BLN Units 1 and 2 were reinstated, the NRC staff anticipates little to no impact on terrestrial biota, including wetland areas. By letter dated November 24, 2008, TVA confirmed that impacts to terrestrial resources would remain bounded by the assessment in the 1974 FES.

Endangered Terrestrial Species

In a NRC EA dated January 24, 2003 (68 FR 3571), for extension of expiration dates of the BLN CPs, the NRC staff found that the endangered Gray Bat (*Myotis grisescens*) is the only species on the Federal list of endangered species known to occur in the vicinity of the Bellefonte site or within its transmission line corridors. The Gray Bat uses the sloughs and main channel of the Tennessee River near the BLN site to forage according to the NRC EA, dated January 24, 2003, and an Alabama State DCNR letter, dated October 15, 2008. The NRC EA, dated January 24, 2003, found that construction activities planned at that time would not be expected to cause any adverse impacts to the Grey Bat or its habitat.

There is a Bald Eagle (*Haliaeetus leucocephalus*) nest located less than 2 miles (3 kilometers) northeast of the BLN site, but the Bald Eagle was recently removed from the Federal list of threatened and endangered species. However, the Bald Eagle is still protected under the Federal Bald and Golden Eagle Protection Act.

According to the NRC EA, dated January 24, 2003, population levels of Osprey (*Pandion haliaetus*) have been increasing on Guntersville Lake, and several nests have been observed in the vicinity of Coon and Crow Creeks. Ospreys would use shoreline habitats fronting the BLN site for foraging. While not a species listed as threatened or endangered, the Osprey is protected along with the Bald Eagle under the Alabama State Nongame Species Regulation according to Alabama State DCNR letter, dated October 15, 2008.

Based on this information, and TVA's response to the RAI dated November 24, 2008, the NRC staff concludes that resumption of construction activities at the BLN site are not likely to have any significant adverse effect on any listed species or other species mentioned above, because the majority of ground or river disturbance from construction activities have already been completed.

Nonradiological Impacts Summary

Reinstatement of the CPs for BLN Units 1 and 2 would not result in a significant change in nonradiological impacts in the areas of land use, water use, waste discharges, terrestrial and aquatic biota, transmission facility operation, social and economic factors, and environmental justice related to resumption of construction operations at the power plants. No other nonradiological impacts were identified or would be expected. Table 1 summarizes the nonradiological environmental impacts of the proposed reinstatement of the CPs for BLN Units 1 and 2.

TABLE 1—SUMMARY OF NONRADIOLOGICAL ENVIRONMENTAL IMPACTS

Land use	No impact to land use conditions and aesthetic resources in the vicinity of BLN.
Historic and Archaeological Resources	No impact to historic and archaeological resources in the vicinity of BLN.
Socioeconomics	Workforce required to complete BLN could have a profound effect on the availability of public services and rental housing in the vicinity of the plant. TVA is committed to monitoring the situation and to working with local and state officials to mitigate any unacceptable adverse socioeconomic conditions.

TABLE 1—SUMMARY OF NONRADIOLOGICAL ENVIRONMENTAL IMPACTS—Continued

Environmental Justice	There would be no disproportionately high and adverse impact on minority and low-income populations in the vicinity of BLN.
Water Use	Water use during completion of construction would be relatively minor. No changes from previous impact evaluations are expected.
Air Quality	Temporary impacts from fugitive dust related to construction and vehicle emissions related to construction workers traveling to and from BLN.
Aquatic Resources	Little to no impact to listed species since most external construction is completed.
Terrestrial Biota	Little to no impact to listed species since most external construction is completed.
Threatened and Endangered Species	Little to no impact to listed species since most external construction is completed.
Transmission Facilities	Little to no impact to terrestrial and aquatic resources if current BMPs are incorporated into management plan.

Radiological Impacts

Radioactive Effluent and Solid Waste Impacts

Nuclear power plants use waste treatment systems designed to collect, process, and dispose of gaseous, liquid, and solid wastes that might contain radioactive material in a safe and controlled manner such that discharges are in accordance with the requirements of Title 10 of 10 CFR Part 20, ''Standards for Protection Against Radiation'', and 10 CFR Part 50, ''Domestic Licensing of Production and Utilization Facilities'', Appendix I.

Since construction activities will not involve any radioactive effluent and solid waste, the staff determined that reinstatement of the CPs and construction of BLN Units 1 and 2 would not result in any radiological effluent and solid waste since the BLN Units 1 and 2 would not be operating. Disposal of essentially all of the hazardous chemicals used at nuclear power plants is also regulated by RCRA or NPDES permits.

Occupational Radiation Doses

Occupational exposures to plant workers conducting activities involving radioactively contaminated systems or working in radiation areas can be exposed to radiation. However, reinstatement of the CPs and construction activities will not involve any radioactive material; the NRC staff determined that occupational doses can be maintained within the limits of 10 CFR Part 20 for the reinstatement of the CPs and construction of BLN Units 1 and 2.

Public Radiation Doses

Since construction activities will not involve any radioactive material, the staff determined that public radiation doses can be maintained within the limits of 10 CFR Part 100 for the reinstatement of the CPs and construction of BLN Units 1 and 2.

Postulated Accident Doses

Since construction activities will not involve operation of BLN Units 1 and 2, the staff determined that there will be no postulated accident doses for the reinstatement of the CPs and construction of BLN Units 1 and 2.

Uranium Fuel Cycle and Transportation Impacts

Since construction activities will not involve operation of BLN Units 1 and 2, the staff determined that there would be no environmental impact of the fuel cycle and transportation of fuels and wastes for the reinstatement of the CPs and construction of BLN Units 1 and 2.

Radiological Impacts Summary

The proposed reinstatement of the CPs and construction of BLN Units 1 and 2 would not result in an impact associated with radiological effluent and solid waste, or occupational and public radiation exposure, or the uranium fuel cycle and transportation. In addition, TVA confirmed in its response to the RAI dated November 24, 2008, that there are no changes or updates related to radiological impacts, beyond those assessed in the 1974 FES, associated with the proposed reinstatement of the CPs and construction of BLN Units 1 and 2.

Accordingly, the NRC staff concludes that there are no adverse impacts associated with the proposed reinstatement of the CPs and construction of BLN Units 1 and 2. Table 2 summarizes the radiological environmental impacts of the proposed reinstatement of the CPs and construction of BLN Units 1 and 2.

TABLE 2—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS

Occupational Radiation Doses	No adverse impacts.
Public Radiation Doses	No adverse impacts.
Postulated Accident Doses	No adverse impacts.
Uranium Fuel Cycle and Transportation Impacts	No adverse impacts.

Cumulative Impacts

A cumulative impact is defined in Council of Environmental Quality regulations (40 CFR 1508.7) as ''an impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.'' The NRC staff has considered past, present, and reasonably foreseeable future actions in this review for cumulative impacts on the environment. Should TVA receive approval by the NRC and decide to construct one or two new nuclear power plant units at the Bellefonte site (BLN Unit 1 and/or Unit 2), the cumulative impact would result from construction activities in the immediate vicinity of the site.

The NRC staff has conducted a review of past, present, and the foreseeable future action of reinstatement of the CPs and construction for BLN Unit 1 and 2. The NRC staff determined runoff from the land area around the main construction site drains into an unnamed tributary, wetland, and the intake. Topographical flow gradient is following the natural elevation not planned for land excavation or disturbance. Cumulative impacts of normal construction of the proposed facilities for BLN Units 1 and 2 were evaluated for water resources, air quality, health and safety, waste

generation, resource use, and environmental justice including cumulative impacts for water quality, geologic resources, ecological resources, aesthetic resources. These were explicitly addressed and the NRC staff notes direct and indirect impacts to these resources are expected to be negligible. Cumulative impacts from proposed facility construction reinstatement of the CPs and construction activities are not expected to be significant. In addition, the cumulative impacts of the proposed facilities to land development, electricity usage, and water usage would be quite small.

If construction resumes, TVA plans to eventually move (re-route) the first half mile of the south entrance road such that it would still join Jackson County Highway 33, but to an intersection that is about 1200 feet east of the current connection point. This change would improve traffic visibility and, thereby, increase commuter safety. Some new ground would be disturbed for this road but there are no associated significant environmental impacts.

If construction resumes, some new backfill borrow pits may be required to obtain clay. These would likely be made in undisturbed ground east of the main site power plant buildings. The topsoil would be removed temporarily and replaced to restore the sites after clay removal. Tree cover would be removed in this process.

Meteorological monitoring requirements have changed, which might necessitate construction of a new environmental data station. This new facility could possibly be sited on undisturbed soil.

Construction of the startup and recirculation equipment building for Unit 2 has not been initiated; however, the site for this building is disturbed ground very close to the south side of the Unit 2 auxiliary building. Other potential construction activities on disturbed ground include increasing the size of the construction and administration building (CAB); additional fire protection tanks by the CAB; additional waste tanks adjacent to the Unit 1 reactor building; and completion of the auxiliary feedwater pipe trench near the Unit 2 reactor building. The power stores building may be enlarged, and new plant security requirements may necessitate changes to the gatehouse.

If the CPs are reinstated, the expiration completion date for BLN Unit 1 CP is October 1, 2011, and the expiration completion date for BLN Unit 2 CP is October 1, 2014, as specified in a NRC Order dated March 4, 2003.

Therefore, it is anticipated that the potential cumulative impacts from reinstatement of the CPs and construction of BLN Units 1 and 2 would be small and no mitigation would be required.

One of the considered actions involves an application to build two new nuclear units at the Bellefonte site (BLN Units 3 and 4). By letter dated October 30, 2007, TVA submitted its application for a Combined License (COL) for Bellefonte Units 3 and 4; this application is currently under review by the Office of New Reactors.

On August 27, 2008, TVA legal counsel notified Atomic Safety and Licensing Board Panel, reviewing the matter of BLN 3 and 4, that TVA has requested to reinstate the CPs for BLN Units 1 and 2 in a letter dated August 26, 2008.

At this juncture, the TVA request that the NRC reinstate the CPs for BLN Units 1 and 2 does not constitute a ''proposal'' that is interdependent with the BLN Units 3 and 4 COL application that is before the agency. The TVA request to reinstate the CP for BLN Units 1 and 2 fails to constitute a ''proposal'' of the type that would trigger a NEPA cumulative impact analysis regarding Units 1 and 2 in the National Environmental Policy Act (NEPA) analysis for proposed BLN Units 3 and 4. If construction activities resume for BLN Units 1 and 2, TVA would need to assess the BLN Units 1 and 2 construction impacts relative to BLN Units 3 and 4.

Alternatives to the Proposed Action

There are four possibilities for reinstatement of the CPs and construction: (1) Both BLN Units 1 and 2 (the proposed action, which bounds possibilities 2 and 3), (2) BLN Unit 1 only, (3) BLN Unit 2 only, and (4) neither BLN Unit 1 or Unit 2.

A possible alternative to the proposed action of reinstatement of the CPs for BLN Units 1 and 2 would be to reinstate only one CP; this alternative is bounded by the proposed action.

Another possible alternative to the proposed action of reinstatement of the CPs for BLN Units 1 and 2 would be to deny the request of reinstatement of the CPs. This option would not eliminate the environmental impacts of construction that have already occurred, and would only limit the additional construction that has been determined to have little to no impact on aquatic and terrestrial resources including endangered species, to hydrology, archaeology, land use, and transmission line maintenance, and temporary air impacts from fugitive dust and emissions from construction workers traveling to and from the site. If the request was denied, there would be no adverse socioeconomic impacts; there could be an increase in the availability of public services and rental housing in the vicinity of the plant. If the request was denied, there would be no adverse impacts to environmental justice; the environmental justice impact analysis evaluates the potential for disproportionately high and adverse human health and environmental effects on minority and low-income populations that could result from completing the construction of BLN Units 1 and 2.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the original FES for construction.

Agencies and Persons Consulted

In accordance with its stated policy, on October 15, 2008, the NRC staff consulted with the Alabama State officials, Mr. Keith Hudson and Ms. Ashley Peters, of the Alabama Department of Conservation and Natural Resources, regarding the environmental impact of the proposed action. The state officials had no comments.

Finding of No Significant Impact

On the basis of the EA, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters, dated August 16, 2006, September 25, 2008, and November 24, 2008. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or send an e-mail to *pdr.Resource@nrc.gov*.

Dated at Rockville, Maryland, this 24 day of February 2008.

For the Nuclear Regulatory Commission.

L. Raghavan,

Chief, Special Projects Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–4441 Filed 3–2–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–315 and 50–316; NRC–2009–0094]

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Units 1 and 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Section 36a(a)(2) [10 CFR 50.36a(a)(2)], for Facility Operating License Nos. DPR–58 and DPR–74, issued to Indiana Michigan Power Company (the licensee), for operation of the Donald C. Cook Nuclear Plant, Unit 1 and Unit 2, located in Berrien County. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The regulation 10 CFR 50.36(a)(2) specifies that the Radioactive Effluent Release Report submittal interval must not exceed 12 months. By application dated October 21, 2008 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML082970187), the licensee proposed an amendment to Technical Specification 5.6.3 which would change the submittal date from ''within 90 days of January 1 of each year'' (*i.e.*, prior to April 1, 2009) to ''prior to May 1 of each year.''

In the October 21, 2008, application, the licensee also requested a one-time exemption from the requirements of 10 CFR 50.36a(a)(2) to support the implementation of the proposed amendment which results in the 2008 Radioactive Effluent Release Report submittal exceeding the 12-month requirement.

The Need for the Proposed Action

The proposed action is required to support the implementation of the proposed amendment to Technical Specification 5.6.3. This amendment eliminates an undue administrative burden by extending the required submittal date for the Radioactive Effluent Release Report one additional month. As specified in 10 CFR 50.36a(a)(2), the interval between submittals must not exceed 12 months. A one-time exemption is required because the proposed amendment would result in the 2008 Radioactive Effluent Release Report submittal exceeding the 12-month requirement.

Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation of the proposed action and concludes that there are no environmental impacts associated with the proposed exemption. The details of the staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released offsite. There is no significant increase in the amount of any effluent released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources other than those previously considered in the Final Environmental Statement for the Donald C. Cook Nuclear Plant, Units 1 and 2, dated August 1973, and the Generic Environmental Impact Statement for License Renewal of the Donald C. Cook Nuclear Plant, Units 1 and 2 (NUREG–1437, Supplement 20), dated May 2005.

Agencies and Persons Consulted

On February 9, 2009, the staff consulted with the Michigan State official, Mr. Ken Yale, of the Michigan Department of Environmental Quality, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 21, 2008. 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. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 24th day of February 2009.

For the Nuclear Regulatory Commission.

Terry A. Beltz,

Senior Project Manager, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–4438 Filed 3–2–09; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of March 2, 9, 16, 23, 30, April 6, 2009.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of March 2, 2009

Wednesday, March 4, 2009

2:45 p.m. Discussion of Security Issues (Closed—Ex. 1).

Thursday, March 5, 2009

2:25 p.m. Affirmation Session (Public Meeting) (Tentative).

a. Dominion Nuclear Connecticut, Inc. (Millstone Power Station, Unit 3) (License Amendment for Power Uprate) (Tentative).

b. Entergy Nuclear Operations, Inc. Docket Nos. 50–247–LR and 50–286–LR. Entergy's Petition for Interlocutory Review of the Licensing Board's December 18, 2008 Memorandum and Order (Tentative).

Friday, March 6, 2009

9:30 a.m. Briefing on Guidance for Implementation of Security Rulemaking (Public Meeting) (Contact: Rich Correia, 301–415–7674).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

1:30 p.m. Briefing on Guidance for Implementation of Security Rulemaking (Closed—Ex. 3).

Week of March 9, 2009—Tentative

There are no meetings scheduled for the week of March 9, 2009.

Week of March 16, 2009—Tentative

Monday, March 16, 2009

9:30 a.m. Briefing on State of Nuclear Materials and Waste Programs (Public Meeting) (Contact: Tammy Bloomer, 301–415–1725).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Tuesday, March 17, 2009

1:30 p.m. Briefing on State of Nuclear Reactor Safety Programs (Public Meeting) (Contact: Tammy Bloomer, 301–415–1725).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Friday, March 20, 2009

9:30 a.m. Briefing on the Nuclear Education Program (Public Meeting) (Contact: John Gutteridge, 301–492–2313).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of March 23, 2009—Tentative

There are no meetings scheduled for the week of March 23, 2009.

Week of March 30, 2009—Tentative

There are no meetings scheduled for the week of March 30, 2009.

Week of April 6, 2009—Tentative

There are no meetings scheduled for the week of April 6, 2009.

* * * * *

* 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: February 26, 2009.

Rochelle C. Bavol,

Office of the Secretary.

[FR Doc. E9–4559 Filed 2–27–09; 11:15 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2009–17 and CP2009–24; Order No. 184]

New Competitive Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Express Mail & Priority Mail Contract Mail 4 to the Competitive Product List. The Postal Service has also filed a related contract. This notice addresses procedural steps associated with these filings.

DATES: Comments are due March 4, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 20, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Express Mail & Priority Mail Contract 4 to the Competitive Product List.[1] The Postal Service asserts that the Express Mail & Priority Mail Contract 4 product is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2009–17.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2009–24.

Request. The Request incorporates (1) A redacted version of the Governors' Decision authorizing the new product; (2) a redacted version of the contract; (3) requested changes in the Mail Classification Schedule product list; (4) a statement of supporting justification as required by 39 CFR 3020.32; and (5) certification of compliance with 39 U.S.C. 3633(a).[2] Substantively, the Request seeks to add Express Mail & Priority Mail Contract 4 to the Competitive Product List. Request at 1–2.

In the statement of supporting justification, Kim Parks, Manager, Sales

[1] Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 4 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, February 20, 2009 (Request).

[2] Attachment A to the Request consists of the redacted Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Express Mail and Priority Mail Services (Governors' Decision No. 09–2). The Governors' Decision includes an attachment which provides an analysis of the proposed Express Mail and Priority Mail Contract 4 and certification of the Governors' vote. Attachment B is the redacted version of the contract. Attachment C shows the requested changes to the Mail Classification Schedule product list. Attachment D provides a statement of supporting justification for the Request. Attachment E provides the certification of compliance with 39 U.S.C. 3633(a).

and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.,* Attachment D. Thus, Ms. Parks contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

Related contract. A redacted version of the specific Express Mail & Priority Mail Contract 4 is included with the Request. The contract is for 3 years and is to be effective 1 day after the Commission provides all necessary regulatory approvals. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a) and 39 CFR 3015.7(c). *See id.,* Attachment A and Attachment E. It notes that actual performance under this contract could vary from estimates, but concludes that the risks are manageable. *Id.,* Attachment A.

The Postal Service filed much of the supporting materials, including the Governors' Decision and the specific Express Mail & Priority Mail Contract 4, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2–3.

II. Notice of Filings

The Commission establishes Docket Nos. MC2009–17 and CP2009–24 for consideration of the Request pertaining to the proposed Express Mail & Priority Mail Contract 4 product and the related contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020 subpart B. Comments are due no later than March 4, 2009. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is Ordered:

1. The Commission establishes Docket Nos. MC2009–17 and CP2009–24 for consideration of the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than March 4, 2009.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E9–4414 Filed 3–2–09; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2009–18 and CP2009–25; Order No. 185]

New Competitive Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Express Mail & Priority Mail Contract Mail 5 to the Competitive Product List. The Postal Service has also filed a related contract. This notice addresses procedural steps associated with these filings.

DATES: Comments are due March 4, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 20, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Express Mail & Priority Mail Contract 5 to the Competitive Product List.[1] The Postal Service asserts that the Express Mail & Priority Mail Contract 5 product is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2009–18.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2009–25.

Request. The Request incorporates (1) A redacted version of the Governors' Decision authorizing the new product; (2) a redacted version of the contract; (3) requested changes in the Mail Classification Schedule product list; (4) a statement of supporting justification as required by 39 CFR 3020.32; and (5) certification of compliance with 39 U.S.C. 3633(a).[2] Substantively, the Request seeks to add Express Mail & Priority Mail Contract 5 to the Competitive Product List. Request at 1–2.

In the statement of supporting justification, Kim Parks, Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.,* Attachment D. Thus, Ms. Parks contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

Related contract. A redacted version of the specific Express Mail & Priority Mail Contract 5 is included with the Request. The contract is for 3 years and is to be effective 1 day after the Commission provides all necessary regulatory approvals. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a) and 39 CFR 3015.7(c). *See id.,* Attachment A and Attachment E. It notes that actual performance under this contract could vary from estimates, but concludes that

[1] Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 5 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, February 20, 2009 (Request).

[2] Attachment A to the Request consists of the redacted Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Express Mail and Priority Mail Services (Governors' Decision No. 09–3). The Governors' Decision includes an attachment which provides an analysis of the proposed Express Mail and Priority Mail Contract 5 and certification of the Governors' vote. Attachment B is the redacted version of the contract. Attachment C shows the requested changes to the Mail Classification Schedule product list. Attachment D provides a statement of supporting justification for the Request. Attachment E provides the certification of compliance with 39 U.S.C. 3633(a).

the risks are manageable. *Id.,* Attachment A.

The Postal Service filed much of the supporting materials, including the Governors' Decision and the specific Express Mail & Priority Mail Contract 5, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2–3.

II. Notice of Filings

The Commission establishes Docket Nos. MC2009–18 and CP2009–25 for consideration of the Request pertaining to the proposed Express Mail & Priority Mail Contract 5 product and the related contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020 subpart B. Comments are due no later than March 4, 2009. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is Ordered:

1. The Commission establishes Docket Nos. MC2009–18 and CP2009–25 for consideration of the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than March 4, 2009.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E9–4415 Filed 3–2–09; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 22c–2; SEC File No. 270–541; OMB Control No. 3235–0620.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 22c–2 (17 CFR 270.22c–2 ''Mutual Fund Redemption Fees'') under the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Investment Company Act'' or ''Act'') requires the board of directors (including a majority of independent directors) of most registered investment companies (''funds'') to either approve a redemption fee of up to two percent or determine that imposition of a redemption fee is not necessary or appropriate for the fund. Rule 22c–2 also requires a fund to enter into written agreements with their financial intermediaries (such as broker-dealers and retirement plan administrators) under which the fund, upon request, can obtain certain shareholder identity and trading information from the intermediaries. The written agreement must also allow the fund to direct the intermediary to prohibit further purchases or exchanges by specific shareholders that the fund has identified as being engaged in transactions that violate the fund's market timing policies. These requirements enable funds to obtain the information that they need to monitor the frequency of short-term trading in omnibus accounts and enforce their market timing policies.

The rule includes three ''collections of information'' within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[1] First, the rule requires boards to either approve a redemption fee of up to two percent or determine that imposition of a redemption fee is not necessary or appropriate for the fund. Second, funds must enter into information sharing agreements with all of their ''financial intermediaries'' [2] and maintain a copy of the written information sharing agreement with each intermediary in an easily accessible place for six years. Third, pursuant to the information sharing agreements, funds must have systems that enable them to request frequent trading information upon demand from their intermediaries, and to enforce any restrictions on trading required by funds under the rule.

The collections of information created by Rule 22c–2 are necessary for funds to effectively assess redemption fees, enforce their policies in frequent trading, and monitor short-term trading, including market timing, in omnibus accounts. These collections of information are mandatory for funds that redeem shares within seven days of purchase. The collections of information also are necessary to allow Commission staff to fulfill its examination and oversight responsibilities.

Rule 22c–2(a)(1) requires the board of directors of all registered investment companies and series thereof (except for money market funds, ETFs, or funds that affirmatively permit short-term trading of its securities) to approve a redemption fee for the fund, or instead make a determination that a redemption fee is either not necessary or appropriate for the fund. Commission staff understands that the boards of all funds currently in operation have undertaken this process for the funds they currently oversee, and the rule does not require boards to review this determination periodically once it has been made. Accordingly, we expect that only boards of newly registered funds or newly created series thereof would undertake this determination. Commission staff estimates that approximately 300 funds or series thereof (excluding money market funds and ETFs) are newly formed each year and would need to make this determination.

Commission staff estimates that it takes approximately 2 hours of the boards' time, as a whole, to approve a

[1] 44 U.S.C. 3501–3520.

[2] The rule defines a Financial Intermediary as: (i) Any broker, dealer, bank, or other person that holds securities issued by the fund in nominee name; (ii) a unit investment trust or fund that invests in the fund in reliance on section 12(d)(i)(E) of the Act; and (iii) in the case of a participant directed employee benefit plan that owns the securities issued by the fund, a retirement plan's administrator under section 316(A) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1002(16)(A) or any person that maintains the plans' participant records. Financial Intermediary does not include any person that the fund treats as an individual investor with respect to the fund's policies established for the purpose of eliminating or reducing any dilution of the value of the outstanding securities issued by the fund. Rule 22c–2(c)(1).

redemption fee or make the required determination. In addition, Commission staff estimates that it takes compliance personnel of the fund approximately 8 hours to prepare trading, compliance, and other information regarding the fund's operations to enable the board to make its determination, and takes internal counsel of the fund approximately 3 hours to review this information and present its recommendations to the board. Therefore, for each fund board that undertakes this determination process, Commission staff estimates it expends approximately 13 hours.[3] As a result, Commission staff estimates that the total time spent for all funds on this process is 3900 hours.[4]

Rule 22c–2(a)(2) requires a fund to enter into information sharing agreements with each of its financial intermediaries. Commission staff understands that all currently registered funds have already entered into such agreements with their intermediaries. Funds enter into new relationships with intermediaries from time to time, however, which requires them to enter into new information sharing agreements. Commission staff understands that, in general, funds enter into information-sharing agreement when they initially establish a relationship with an intermediary, which is typically executed as an addendum to the distribution agreement. Commission staff estimates that there are approximately 7,254 open-end fund series currently in operation (excluding money market funds and ETFs). However, the Commission staff understands that most shareholder information agreements are entered into by the fund group (a group of funds with a common investment adviser), and estimates that there are currently 680 currently active fund groups.[5] Commission staff estimates that, on average, each active fund group enters into relationships with approximately 5 new intermediaries each year. Commission staff understands that funds generally use a standard information sharing agreement, drafted by the fund or an outside entity, and modifies that agreement according to the requirements of each intermediary. Commission staff estimates that negotiating the terms and entering into an information sharing agreement takes a total of approximately 4 hours of attorney time per intermediary (representing 2.5 hours of fund attorney time and 1.5 hours of intermediary attorney time). Accordingly, Commission staff estimates that each existing fund group expends 20 hours each year[6] to enter into new information sharing agreements, and all existing fund groups incur a total of 13,600 hours.

In addition, newly created funds advised by new entrants (effectively new fund groups) must enter into information sharing agreements with all of their financial intermediaries. Commission staff estimates that there are approximately 22 new funds or fund groups that form each year that will have to enter into information sharing agreements with each of their intermediaries.[7] Commission staff estimates that funds and fund groups formed by new advisers typically have relationships with significantly fewer intermediaries than existing fund groups, and estimates that new fund groups will typically enter into approximately 100 information sharing agreements with their intermediaries when they begin operations.[8] As discussed previously, Commission staff estimates that it takes approximately 4 hours of attorney time per intermediary to enter into information sharing agreements. Therefore, Commission staff estimates that each newly formed fund group will incur 400 hours of attorney time,[9] and all newly formed fund groups will incur a total of 8800 hours to enter into information sharing agreements with their intermediaries.[10]

Rule 22c–2(a)(3) requires funds to maintain records of all information sharing agreements for 6 years in an easily accessible place. Commission staff estimates that there are approximately 7,254 open-end fund series currently in operation (excluding money market funds and ETFs). However, the Commission staff anticipates that most shareholder information agreements will be stored at the fund group level and estimates that there are currently approximately 680 fund groups. Commission staff estimates that maintaining records of information sharing agreements requires approximately 10 minutes of time spent by a general clerk per fund, each year. Accordingly, Commission staff estimates that all funds will incur approximately 113 hours[11] in complying with the recordkeeping requirement of rule 22c–2(a)(3).

Therefore, Commission staff estimates that to comply with the information sharing agreement requirements of rule 22c–2(a)(1) and (3) requires a total of 22,513 hours.[12]

The Commission staff estimates that on average, each fund group requests shareholder information once a week, and gives instructions regarding the restriction of shareholder trades every day, for a total of 417 responses related to information sharing systems per fund group each year, and a total 283,560 responses for all fund groups annually. In addition, the staff estimates that funds make 300 responses related to board determinations, 3,400 responses related to new intermediaries of existing fund groups, 2,200 responses related to new fund group information sharing agreements, and 680 responses related to recordkeeping, for a total of 6,580 responses related to the other requirements of rule 22c–2. Therefore, the Commission staff estimates that the total number of responses is 290,140 (283,560 + 6,580 = 290,140). Commission staff also estimates that there are 7,254 potential respondents making 290,140 responses each year. The Commission staff estimates that the total hour burden for rule 22c–2 is 26,413 hours.[13]

Rule 22c–2 requires funds to enter into information sharing agreements with their intermediaries that enable funds to, upon request (i) be provided certain information regarding shareholders and their trades that are held through a financial intermediary or an indirect intermediary, and (ii) require the intermediary to execute instructions from the fund restricting or prohibiting further purchases or exchanges by shareholders that violate the fund's frequent trading policies. As a result of this requirement, some funds and

[3] This calculation is based on the following estimates: (2 hours of board time + 3 hours of internal counsel time + 8 hours of compliance time = 13 hours).

[4] This calculation is based on the following estimates: (13 hours × 300 funds = 3,900 hours).

[5] ICI, 2008 Investment Company Fact Book at Fig 1.7 (2008) (*http://www.ici.org/stats/latest/2008_factbook.pdf*).

[6] This estimate is based on the following calculations: (4 hours × 5 new intermediaries = 20 hours).

[7] ICI, 2008 Investment Company Fact Book at Fig 1.7 (2008) (*http://www.ici.org/stats/latest/2008_factbook.pdf*).

[8] Commission staff understands that funds generally use a standard information sharing agreement, drafted by the fund or an outside entity, and then modifies that agreement to according the requirements of each intermediary.

[9] This estimate is based on the following calculations: (4 hours × 100 intermediaries = 400 hours).

[10] This estimate is based on the following calculations: (22 fund groups × 400 hours + 8,800 hours).

[11] This estimate is based on the following calculations: (10 minutes × 680 fund groups = 6,800 minutes); (6,800 minutes / 60 = 113 hours).

[12] This estimate is based on the following calculations: (13,600 hours + 8,800 hours + 113 hours = 22,513 hours).

[13] This estimate is based on the following calculations: (3,900 hours (board determination) + 22,513 hours (information sharing agreements) = 26,413 total hours).

intermediaries have had to develop and maintain information sharing, monitoring, and order execution systems (collectively ''information sharing systems'').

In general, the staff estimates that the typical charges involved in operating and maintaining information sharing systems average 25 cents for every 100 account transactions requested. The Commission staff estimates that, on average, each fund group requests information for 100,000 transactions each week, incurring costs of $250 weekly, or $13,000 a year.[14] In addition, the Commission staff estimates that funds pay access fees to use these information sharing systems (or comparable internal costs) of approximately $30,000 each year. The Commission staff therefore estimates that a fund group would typically incur approximately $43,000 in costs each year related to the operation and maintenance of information sharing systems required by rule 22c–2. The Commission staff has previously estimated that there are approximately 680 fund groups currently active, and therefore estimates that all fund groups incur a total of $29,240,000 in ongoing costs each year related to maintaining and operating information sharing systems.[15]

Commission staff estimates that it requires approximately $100,000 to purchase or develop and implement such an information sharing system for the first time. Commission staff has previously estimated that approximately 22 funds or fund groups are formed each year managed by new advisers, and therefore estimates that all these funds would incur total costs of approximately $2,200,000.[16]

Responses provided to the Commission will be accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program. Responses provided in the context of the Commission's examination and oversight program are generally kept confidential. Complying with the information collections of rule 22c–2 is mandatory for funds that redeem their shares within 7 days of purchase. 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 control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 25, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4425 Filed 3–2–09; 8:45 am]

BILLING CODE 8011–01–P

[14] This estimate is based on the following calculations: (100,000 transaction requests × 0.0025¢ = $250); ($250 × 52 weeks = $13,000).

[15] This estimate is based on the following calculation: (680 fund groups × $43,000 = $29,240,000).

[16] This estimate is based on the following estimate: ($100,000 × 22 new fund groups = $2,200,000).

SECURITIES AND EXCHANGE COMMISSION

In the Matter of Cincinnati Microwave, Inc., Core Technologies Pennsylvania, Inc., First Central Financial Corp., Imark Technologies, Inc. (n/k/a Pharm Control Ltd.), Molten Metal Technology, Inc., MRS Technology, Inc., Sun Television & Appliances, Inc., and Telegroup, Inc.; File No. 500–1; Order of Suspension of Trading

February 27, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cincinnati Microwave, Inc. because it has not filed any periodic reports since the period ended September 29, 1996.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Core Technologies Pennsylvania, Inc. because it has not filed any periodic reports since the period ended September 30, 1998, except for a Form 10–Q it filed for the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First Central Financial Corp. because it has not filed any periodic reports since the period ended June 30, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Imark Technologies, Inc. (n/k/a Pharm Control Ltd.) because it has not filed any periodic reports since the period ended March 31, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Molten Metal Technology, Inc. because it has not filed any periodic reports since the period ended September 30, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MRS Technology, Inc. because it has not filed any periodic reports since the period ended September 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sun Television & Appliances, Inc. because it has not filed any periodic reports since the period ended November 28, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Telegroup, Inc. because it has not filed any periodic reports since the period ended September 30, 1998.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on February 27, 2009, through 11:59 p.m. EDT on March 12, 2009.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–4594 Filed 2–27–09; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59448; File No. SR–CBOE–2009–011]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Simple Auction Liaison (SAL)

February 25, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that on February 20, 2009, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify Rule 6.13A, *Simple Auction Liaison (SAL)*, so that SAL will be available when the size of the agency order is larger than the disseminated Market-Maker quotation size on the opposite side of the market in Hybrid 3.0 classes. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

SAL is a feature within CBOE's Hybrid System that auctions marketable orders for price improvement over the national best bid or offer (''NBBO''). Currently, SAL automatically initiates an auction process for any SAL-eligible order [5] that is eligible for automatic execution by the Hybrid System (an ''agency order'') pursuant to Rule 6.13, *CBOE Hybrid System's Automatic Execution Feature*, except when the Exchange's disseminated quotation on the opposite side of the market from the agency order does not contain sufficient Market-Maker quotation size to satisfy the entire Agency Order. Prior to commencing the auction, SAL stops the agency order at the NBBO against Market-Maker quotations displayed at the NBBO on the opposite side of the market as the agency order. For example, if an otherwise eligible agency order for 120 contracts is entered and the disseminated quotation size is 100, SAL will not initiate an auction process. On the other hand, if an eligible agency order for 100 contracts is entered and the disseminated quotation size is 100, SAL will stop the entire agency order at the NBBO against the disseminated quotation size of 100 while SAL initiates an auction for price improvement over the NBBO.

In order to offer additional opportunities for price improvement in Hybrid 3.0 classes that are singly-listed (which currently only includes options on the Standard and Poor's 500 Index, SPX), we propose to modify the process so that SAL will operate in instances where the agency order size exceeds the disseminated Market-Maker quotation size. In such instances, the order would be stopped to the extent of the disseminated Market-Maker quotation size. To the extent an order exceeds the disseminated Market-Maker quotation size, a stop is not necessary and will not be applied. Thus, using our example above, if an eligible agency order for 120 contracts is entered in a Hybrid 3.0 class and the disseminated quotation size is 100, SAL will partially stop the agency order at the NBBO against the disseminated quotation size of 100 (the remaining 20 contracts will not be stopped) while SAL initiates an auction for price improvement over the NBBO for the entire 120 contract order. After expiration of the SAL auction, the order will execute to the extent possible in accordance with the matching algorithm in effect for SAL executions in the Hybrid 3.0 class. If there is any remainder and the order is a market order, the remainder would trade with the book at the next price level(s). If there is any remainder that is not executable and the order is a limit order, and if the Hybrid Agency Liaison (''HAL'') is activated for the class pursuant to Rule 6.14, that remainder will HAL.[6] If HAL is not active, any remainder of the limit order will book. The Exchange believes this change would allow for additional opportunities for price improvement to orders that would otherwise not be eligible for SAL. All other provisions of the SAL rule would apply unchanged.

2. Statutory Basis

The Exchange believes 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) of the Act [8] in particular in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes that the proposed change would give additional opportunities to provide orders executions at improved prices.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule 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

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] With respect to SAL eligibility, the Exchange designates the eligible order size, eligible order type, eligible order origin code (*i.e.*, public customer orders, non-Member Maker broker-dealer orders, and Market Maker broker-dealer orders), and classes in which SAL is activated.

[6] HAL is a feature within the Hybrid System that provides automated order handing in designated classes trading on Hybrid for qualifying electronic orders that are not automatically executed by the Hybrid System. In Hybrid 3.0 Classes that are singly-listed, HAL automatically processes upon receipt, eligible limit orders that would improve the Exchange's disseminated quotations except when the disseminated quotation is represented by a manual quote in which case the order will automatically route to the electronic book instead of being processed by HAL and the manual quote will be cancelled.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

with the protection of investors and the public interest, provided that the self-regulatory organization has given 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–CBOE–2009–011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2009–011. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2009–011 and should be submitted on or before March 24, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4428 Filed 3–2–09; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). The Commission notes that CBOE has satisfied this 5-day requirement.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59441; File No. 10–191]

C2 Options Exchange, Incorporated; Notice of Filing of Application for Registration as a National Securities Exchange Under Section 6 of the Securities Exchange Act of 1934

February 24, 2009.

On January 21, 2009, C2 Options Exchange, Incorporated (''C2'') submitted to the Securities and Exchange Commission (''Commission'') a Form 1 application under the Securities Exchange Act of 1934 (''Exchange Act''), seeking registration as a national securities exchange under Section 6 of the Exchange Act. The Commission is publishing this notice to solicit comments on C2's Form 1. The Commission will take these comments into consideration in making its determination about whether to grant C2's request to be registered as a national securities exchange. The Commission shall grant such registration if it finds that the requirements of the Exchange Act and the rules and regulations thereunder with respect to C2 are satisfied.[1]

C2's Form 1 provides detailed information on its proposed structure and how it proposes to satisfy the requirements of the Exchange Act. In particular, C2 would be owned by its parent company, the Chicago Board Options Exchange, Incorporated (''CBOE''), but would operate as a separate self-regulatory organization under its own exchange license. The incorporator of C2 would appoint C2's initial Board of Directors, which would be comprised of the same individuals who are then serving as the board of directors of CBOE. As specified in the proposed Certificate of Incorporation, shortly after trading commences, C2 would undertake a petition process by which Trading Permit Holders could elect Representative Directors to the Board.

Access to C2 would be available through trading permits. All CBOE members in good standing would be eligible to receive a C2 trading permit upon completion of a streamlined application process, while non-CBOE members could apply for a C2 trading permit in a manner similar to the current process for firms applying for membership on CBOE.

C2 would operate an all-electronic marketplace for the trading of listed options and would not maintain a physical trading floor. Liquidity on C2 would be derived from orders to buy and orders to sell submitted electronically by trading permit holders or their sponsored participants from remote locations, as well as from market makers, which would have certain affirmative and negative market making obligations.

C2's Form 1 is available at the Commission's Public Reference Room and *http://www.sec.gov.* Interested persons are invited to submit written data, views, and arguments concerning C2's Form 1, including whether C2's application is consistent with the Exchange Act. Among other things, the Commission requests comments on C2's proposed governance and Board composition. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number 10–191 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 10–191. This file number

[1] 15 U.S.C. 78s(a).

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/other.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to C2's Form 1 filed with the Commission, and all written communications relating to the application 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. 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 10–191 and should be submitted on or before April 17, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[2]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4426 Filed 3–2–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59446; File No. SR–NYSE–2009–17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Eliminating the Ability To Enter Orders on the Exchange With the Settlement Instructions of ''Cash'', ''Next Day'' and ''Seller's Option''

February 25, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 18, 2009, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to eliminate the ability to enter orders on the Exchange with the settlement instructions of ''cash'', ''next day'' and ''seller's option''.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Through this filing the Exchange seeks to amend several Exchange rules to remove references to certain settlement instructions that are no longer compatible with the Exchange's more electronic market. These include instructions to settle on ''cash'', ''next day'' or ''seller's option'' basis.

The Exchange notes that parallel changes are proposed to be made to the rules of the NYSE Alternext Exchange (formerly the American Stock Exchange).[4]

Background

Currently, in addition to regular way settlement (*i.e.*, settlement on the third business day following trade date), a customer may submit an order with settlement instructions for cash, next day or seller's option. An order with cash settlement instructions requires delivery of the securities the same day as the transaction in contrast to a regular way transaction, where the seller is required to deliver the securities on the third business day. Next day settlement instructions require delivery of the securities on the first business day following the transaction. Orders that have settlement instructions of seller's option affords the seller the right to deliver the security or bond at any time within a specified period, ranging from not less than two business days to not more than 180 days for stocks and not less than two business days and no more than sixty days for U.S. government securities.

Cash, next day and seller's option settlement instructions are remnants of a time when the Exchange functioned completely as a manual auction market. While each of these settlement instructions may be included on order types that are submitted electronically to the Exchange, orders containing any of those settlement instructions cannot be immediately and automatically executed but must bypass the Exchange matching/execution engine, Display Book, and are literally printed on paper at the trading post for manual processing on the Floor.

Proposed Elimination of Cash, Next Day, Seller's Option Settlement Instructions

In the Exchange's current more electronic market, orders received by Exchange systems that are marketable upon entry are eligible to be immediately and automatically executed. Order types and settlement instructions that require manual intervention pose significant impediments to the efficient functioning of the Exchange's market. To this end the Exchange filed with the Commission to remove legacy orders that require manual processing. Specifically, on January 31, 2008, the Exchange filed with the Commission to amend NYSE Rule 13 to invalidate the use of the manual order types ''Alternative Order—Either/Or Order'', ''Orders Good Until a Specified Time'', ''Scale Order'' and ''Switch Order—Contingent Order'' and Rule 124's order types ''Limited Order, With or Without Sale'' and ''Basis Price Order'' as being incompatible with the more electronic Exchange market environment.[5]

The Exchange's commitment to provide its market participants with the ability to have their orders executed in the most efficient manner necessitates the elimination of cash, next day and seller's option as valid settlement instructions for orders submitted to the

[2] 17 CFR 200.30–3(a)(71)(i).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* SR–NYSE Alternext–2009–14 (to be filed February 18, 2009). The Commission notes that the referenced filing was rejected because of a deficiency in the proposed rule text.

[5] *See* Securities and Exchange Act Release No. 57295 (February 8, 2008), 73 FR 8731 (February 14, 2008) (SR–NYSE–2008–11).

Exchange. These instructions result in these orders printing to paper at the trading Post [6] when they are submitted electronically in Exchange systems. The DMM and the trading assistant must realize that the document printed was in fact an order thus causing delay in the execution of the order. The DMM is then responsible for the manual execution of the order. The manual intervention required of the DMM and trading assistant at the Post in the processing of these orders puts the orders at the very real risk of ''missing the market'' as a result of the current speed of order execution in the Exchange market.

In addition, the inefficiency of these order types is made obvious by the fact that they are infrequently used by market participants. A review of the different types of orders received by the Exchange during the week of May 12, 2008 through May 16, 2008 shows that there were on average 28 cash orders (with an average of 1,653 shares per day), 48 next day orders (average of 763 shares per day) and 2 seller's option orders (average of 2,839 shares per day) utilized by market participants each day. By comparison, for May 2008, the Exchange received an average of 92.2 million orders a day. Even during the last five trading days of 2007, when the most cash, next day and seller's option orders are received, the average per day submissions were 123 for cash (average of 896 shares per day), 199 for next day (average of 1,848 shares per day) and 10 for seller's option (average of 11,679 shares per day).[7]

The Exchange now seeks to eliminate cash, next day and seller's option as valid settlement instructions for orders submitted to the NYSE. The Exchange therefore proposes to delete the references to those settlement instructions from NYSE Rules 12 (''Business Day''), 64 (Bonds, Rights and 100-Share-Unit Stocks), 66 (U.S. Government Securities),[8] 123 (Records of Orders), 124 (Odd-Lot Orders), 130 (Overnight Comparison of Exchange Transactions), 137 (Written Contracts), 137A (Samples of Written Contracts), 189 (Unit of Delivery), 235 (Ex-Dividends, Ex-Rights), 236 (Ex-Warrants), 241 (Interest—Added to Contract Price), 257 (Deliveries After ''Ex'' Date), 282 (Buy-In Procedures) and 440G (Transactions in Stocks and Warrants for the Accounts of Members, Principal Executives and Member Organizations). In addition, the Exchange seeks to eliminate entirely Rules 73 (''Seller's Option''), 177 (Delivery Time—''Cash'' Contracts) and 179 (''Seller's Option''). In addition, the Exchange proposes to remove language in Rules 64 and 66 that provide for the possibility of using multiple settlement periods for bids and offers entered on the Exchange since, for all practical purposes, the Exchange will now only accept orders for regular way settlement.

The Exchange also proposes to amend Rule 66 to add the provision that exists in Rule 64 to allow the Exchange, in its discretion, to provide for additional settlement periods. The Exchange is proposing this addition to bring the provisions of the two rules into harmony as they address similar procedures with respect to different types of securities admitted to dealings on the Exchange. The Exchange, however, recognizes that any additional settlement periods it proposes to add will be subject to the rule filing process under Section 19(b) of the Securities Exchange Act of 1934 (the ''Act'') [*sic*].[9]

The Exchange will commence implementation of the proposed elimination of the settlement instructions discussed herein on March 13, 2009. The Exchange intends to progressively implement this elimination on a security by security basis as it gains experience with the implementation until it is operative in all securities traded on the Floor. During the implementation, the Exchange will identify on its Web site which securities will no longer be eligible for these settlement instructions.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') [sic] for this proposed rule change is the requirement under Section 6(b)(5) [10] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The instant filing accomplishes these goals by rescinding legacy settlement instructions that place customers at risk of missing the market and possibly receiving inferior priced executions.

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 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 after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) [11] of the Act and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative until 30 days after the date of filing.[13] However, Rule 19b–4(f)(6)(iii) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative on March 13, 2009. Specifically, the Exchange states that the proposal will rescind legacy settlement instructions that are not compatible with the Exchange's electronic market. The Commission believes that allowing the proposed rule change to become operative on March 13, 2009 is consistent with the

[6] Trading Posts are the horseshoe shaped counters manned by DMMS and trading assistants on the Trading Floor of the NYSE where individual stocks are bought and sold.

[7] The Exchange notes that on December 30th and 31st of 2008 it executed an atypical amount of shares for orders submitted with cash, next day and seller's option settlement instructions. Specifically, on December 30, 2008, 126,504 shares were executed on a cash settlement basis, 10,284,879 shares for next day settlement and 10,000,000 shares for seller's option settlement. In addition, there were 8,110,228 shares executed for cash settlement on December 31, 2008. The Exchange believes that this level of activity is reflective of the economic events of 2008 and is unrelated to usual trading patterns for these settlement types.

[8] The Exchange does not have the capability to accept these order types for U.S. Government securities.

[9] 15 U.S.C. 78s(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *Id.* 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 satisfied this requirement.

protection of investors and the public interest, because it will enable the Exchange to implement pending technological enhancements that require the rescission of these settlement instructions. The Exchange expects these enhancements to make its order processing operations more efficient and thereby strengthen and advance the quality of the Exchange's market. Accordingly, the Commission designates the proposed rule change to be operative on March 13, 2009.[15]

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–NYSE–2009–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–17 and should be submitted on or before March 24, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4427 Filed 3–2–09; 8:45 am]

BILLING CODE 8011–01–P

[15] For purposes only of waiving the 30-day operative delay of the proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59440; File No. SR–NYSEArca–2009–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Arca, Inc. Amending Rule 6.69—Reporting Duties

February 24, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 13, 2009, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 6.69—Reporting Duties. The text of the proposed rule change is attached as Exhibit 5.[4] 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, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to revise the procedures for reporting open outcry trades that occur on the options trading floor.

All option transactions that occur on the options trading floor must be immediately reported to the Exchange, in a form and manner prescribed by the Exchange, for dissemination to the Options Price Reporting Authority (''OPRA'').[5] This requirement applies to all OTP Holders who are required to report trades either directly to OPRA or to another party who is responsible for reporting trades to OPRA.

All option transactions have two parties to a trade, a buyer and a seller. Pursuant to Rule 6.69(b), the responsible party for reporting a transaction is the party that participates on the transaction as the seller. The Exchange now proposes to revise this rule so that whenever a Floor Broker is participating on one side of a transaction, they become the responsible party for reporting the trade, regardless of whether they are the buyer or seller. The Exchange is proposing this change in order to provide a more efficient mechanism for reporting transactions.

All orders on the Exchange are required to be in an electronic format prior to representation on the trading

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission notes that while provided in Exhibit 5 to the filing, the text of the proposed rule change is not attached to this notice but is available at the Exchange, the Commission's Public Reference Room, and at *http://www.nyse.com*.

[5] For transactions executed on the Exchange's electronic trading platform, NYSE Arca will report the trade directly to OPRA.

floor. Typically, an order is sent via a wire or phone line to a Floor Broker's booth located on the trading floor, and a representative of the brokerage firm will enter the terms of the order into the Electronic Order Capture System (''EOC'').[6] It is at this time that the Floor Broker is able to represent the order in the trading crowd. This procedure applies regardless of whether the Floor Broker is the buyer or seller on the trade. Upon execution of the order, the Broker is able to complete the requisite trade information, including the contra side of the trade, and electronically report the transaction to the Exchange for processing and dissemination to OPRA. In most cases, the contra-side to a trade that has been represented by a Floor Broker will be an NYSE Arca Market Maker. Market Makers trade for their own proprietary accounts, are not required to electronically systemize their orders prior to responding to a call from a Floor Broker. Once a trade is consummated, in order for a Market Maker acting as a seller, to report the transaction, he has to re-enter all the order information that the Floor Broker already has in their EOC system and then send the information to the Exchange for processing. In the event there are multiple Market Makers acting as seller and comprising the contra-side to a transaction, each Market Maker would have to re-enter all the trade information individually. The Exchange believes that requiring a Market Maker to report a transaction, when trading with a Floor Broker, is a practice that may serve to delay the reporting of transactions that occur on the options floor.

The Exchange does not feel that requiring a Floor Broker to report every transaction that they are a party to will create any undue hardship or unnecessary burden of the Floor Broker. In the vast majority of situations, the Floor Broker already possesses the order information in an electronic format,[7] it is actually more efficient for the Floor Broker to send the trade information directly to the Exchange after executing the order, than it is to re-enter the same information and have the Market Maker report the trade.

In the event that there is a Floor Broker participating on both sides of a transaction, the Floor Broker participating as the seller must report the transaction to the Exchange. For transactions occurring on the Exchange between two Market Makers, the Market Maker participating as the seller must report the transaction to the Exchange. These reporting obligations are consistent with the terms of Rule 6.69, as it reads presently.

In order to offer further clarity to the rules regarding reporting duties, the Exchange proposes a new provision regarding Complex Orders. A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account. Since each party to the transaction could be both buying and selling different series that make up order, there may be no clearly defined seller. The Exchange now proposes that for Complex Order transactions between two Floor Brokers or two Market Makers, the party responsible for reporting the transaction shall be the OTP Holder that first initiated the transaction. This provision does not affect the obligation that a Floor Broker has to report transactions pursuant to proposed Rule 6.69(b)(i), but will have bearing when a Complex Order is executed between two Floor Brokers or between two Market Makers.

The Exchange also proposes to eliminate Rule 6.69 Commentary .04 which relates to an obsolete and outdate practice. ''Hard cards'', which refer to the cardboard backing of a paper trade ticket, are no longer in use on the trading floor.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5) of the Act[9] in particular, because 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 mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change can lead to faster and more efficient reporting of transactions that occur on the options trading floor.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2009–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–11. 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

[6] The EOC system is the Exchange's electronic audit trail and order tracking system that provides an accurate time-sequenced record of all orders and transactions on the Exchange.

[7] Certain order types, such as FLEX Orders and Cabinet Orders are exempt from the EOC electronic order format requirements.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–11 and should be submitted on or before March 24, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4378 Filed 3–2–09; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11643 and #11644]

Kentucky Disaster Number KY–00019

AGENCY: Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–1818–DR), dated 02/05/2009.

Incident: Severe Winter Storm and Flooding.

Incident Period: 01/26/2009 through 02/13/2009.

Effective Date: 02/13/2009.

Physical Loan Application Deadline Date: 04/06/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 11/05/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Kentucky, dated 02/05/2009, is hereby amended to establish the incident period for this disaster as beginning 01/26/2009 and continuing through 02/13/2009.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E9–4440 Filed 3–2–09; 8:45 am]

BILLING CODE 8025–01–P

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Finding of No Significant Impact/Record of Decision (FONSI/ROD), Written Reevaluation With Respect to New Information Concerning Section 4(f) Mitigation Measures, and Supplemental Department of Transportation Act Section 4(f) Determination for the Runway 6–24 Extension Project, Erie International Airport, Erie, PA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that it is making available a FONSI/ROD, a Written Reevaluation of New Information Concerning Section 4(f) Mitigation Measures, and a Supplemental Section 4(f) Determination, effective February 4, 2009, for the proposed extension of Runway 6–24 at Erie International Airport (ERI), Tom Ridge Field, Erie, Pennsylvania.

SUPPLEMENTARY INFORMATION: The FAA has completed and issued its Finding of No Significant Impact/Record of Decision (FONSI/ROD) for the Reevaluation of the Environmental Assessment (EA) for the Proposed Extension of Runway 6–24 at Erie International Airport, Tom Ridge Field, Erie, Pennsylvania dated October 2005 and the Erie International Airport, Tom Ridge Field, Section 4(f) Report dated July 2005. The Written Reevaluation was required as a result of new information concerning the Section 4(f) mitigation measures for the project impacts to the Millcreek Golf Course and Learning Center in Millcreek Township. The purpose of the FONSI/ROD and Written Reevaluation was to evaluate potential environmental impacts resulting from the proposed changes in the Section 4(f) mitigation measures for the Millcreek Golf Course and Learning Center.

Copies of the FONSI/ROD and related documents are available for review by appointment only at the following locations.

Please call to make arrangements for viewing:

Federal Aviation Administration Harrisburg Airports District Office, 3905 Hartzdale Drive, Suite 508, Camp Hill, PA 17011, (717) 730–2830 and

Erie Regional Airport Authority, 4411 W. 12th Street, Erie, PA 16505–3091, (814) 833–4258.

FOR FURTHER INFORMATION CONTACT: Edward S. Gabsewics, CEP, Environmental Protection Specialist, Federal Aviation Administration, Harrisburg Airports District Office, 3905 Hartzdale Drive, Suite 508, Camp Hill, PA 17011, Telephone 717–730–2832.

Issued in Camp Hill, Pennsylvania, February 4, 2009.

Lori K. Pagnanelli,

Manager, Harrisburg Airports District Office.

[FR Doc. E9–4366 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Gulfport Biloxi International Airport, Gulfport, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on land release request.

SUMMARY: Under the provisions of Title 49, U.S.C. 47153(c), notice is being given that the FAA is considering a request from the Gulfport Biloxi Regional Airport Authority (GBRAA) to waive the requirement that a 0.84-acre parcel of surplus property, located at the Gulfport Biloxi International Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before April 2, 2009.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bruce

Frallic, Airport Executive Director at the following address: Gulfport-Biloxi Regional Airport Authority, 14035–L Airport Road, Gulfport, MS 39503.

FOR FURTHER INFORMATION CONTACT: William Schuller, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9883. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Gulfport Biloxi Regional Airport Authority to release 0.84 acres of surplus property at the Gulfport-Biloxi International Airport. The property will be purchased by the City of Gulfport, which is a municipality. The property fronts Airport Boulevard and will be used for widening an intersection on Airport Boulevard. The net proceeds from the sale of this property will be used for airport purposes.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the office of the Gulfport-Biloxi Regional Airport Authority.

Issued in Jackson, Mississippi, on February 23, 2009.

Rans D. Black,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. E9–4345 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Chautauqua County, NY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this revised notice to advise the public that FHWA will not be preparing an Environmental Impact Statement (EIS) for the proposed Millennium Parkway project in Chautauqua County, New York. A Notice of Intent to prepare an EIS was published in the **Federal Register** on December 27, 2007.

FOR FURTHER INFORMATION CONTACT: Jeffrey W. Kolb, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431–4127.

Or

Alan E. Taylor, Regional Director, NYSDOT Region 5; 100 Seneca Street, Buffalo NY 14203, Telephone: 716–847–3238.

Or

George P. Spanos, P.E., Director, CCDPF, 454 North Work Street, Falconer, New York 14733, Telephone: (716) 661–8400.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT), and Chautauqua County Department of Public Facilities (CCDPF) will not prepare an EIS as previously intended on a proposal to progress the construction of the Millennium Parkway in Chautauqua County, New York. The purpose of the Millennium Parkway Project is to improve tractor-trailer truck traffic access to the industrial corridor, including the Chadwick Bay Industrial Park, from New York (NY) Route 60 (Bennett Road). Based upon further review of the project and related impacts it was determined that the scope of the project would be reduced to use an alignment that would be comprised of a combination of reconstruction of the existing portion of Talcott Street between NY Route 60 and CR 81, and the construction of a roadway on a new alignment, approximately 1000 meters through a previously disturbed, vacant area between CR 81 and CR 82. The improvements being considered will not have a significant impact on the environment. In light of the minimal environmental impacts a Categorical Exclusion with Documentation is being prepared to progress the project.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 23 CFR 771.123.

Issued on: February 24, 2009.

Jeffrey W. Kolb,

Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. E9–4431 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0204]

Notice of Delay in Processing the Applications by American Trucking Associations, Inc. and the Massachusetts Department of Highways for a Preemption Determination Concerning the City of Boston's Hazardous Materials Routing Restrictions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: In accordance with statutory requirements, FMCSA is publishing a notice of delay in processing the American Trucking Associations, Inc.'s (ATA) and the Massachusetts Department of Highways' applications for a preemption determination concerning the City of Boston's restrictions regarding highway routing of certain hazardous materials. FMCSA is conducting fact-finding and legal analysis in response to the consolidated requests, and is delaying issuance of its determination in order to allow time for appropriate consideration of the issues raised by the applications.

FOR FURTHER INFORMATION CONTACT: James Simmons, Chief, Hazardous Materials Division (MC–ECH), (202) 493–0496; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, or at *james.simmons@dot.gov*.

SUPPLEMENTARY INFORMATION: ATA and the Massachusetts Department of Highways applied for an administrative determination concerning whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and FMCSA regulations, 49 CFR part 397, preempt certain hazardous material routing requirements that have been established or modified by the City of Boston. FMCSA published notice of ATA's application in the **Federal Register** on August 8, 2008. 73 FR 46349. FMCSA published notice of Massachusetts Department of Highways' application in the **Federal Register** on September 2, 2008 (73 FR 51335), at which time both applications were consolidated into one docket.

Title 49 U.S.C. 5125(d) requires FMCSA to issue a decision on the preemption applications ''within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the **Federal**

Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made.''

The ATA and Massachusetts Department of Highways' applications for a preemption determination are still under consideration by FMCSA. The Agency currently is conducting fact-finding and legal analysis in response to the applications. Because of this additional fact-finding and legal analysis, it is impracticable to issue a decision within the 180-day timeframe. In order to allow time for full consideration of the issues raised by the applications, FMCSA delays issuance of its determination, and estimates a decision will be published in approximately 120 days.

Issued on: February 25, 2009.

Rose A. McMurray,

Acting Deputy Administrator.

[FR Doc. E9–4453 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26367]

Motor Carrier Safety Advisory Committee Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Motor Carrier Safety Advisory Committee Meeting.

SUMMARY: FMCSA announces that the Motor Carrier Safety Advisory Committee (MCSAC) will hold a committee meeting. The meeting is open to the public.

DATES: The meeting will be held from 1 p.m. to 4 p.m. on March 18, 2009. Written comments must be received by noon on March 18, 2009.

ADDRESSES: The meeting will be held at the U.S. Department of Transportation, Media Center, West Building, Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey K. Miller, Chief, Strategic Planning and Program Evaluation Division, Office of Policy Plans and Regulation, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–5370, *mcsac@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Pub. L. 109–59) required the Secretary of the U.S. Department of Transportation to establish in FMCSA, a Motor Carrier Safety Advisory Committee. The advisory committee provides advice and recommendations to the FMCSA Administrator on motor carrier safety programs and motor carrier safety regulations. The advisory committee operates in accordance with the Federal Advisory Committee Act (5 U.S.C. App 2). The Committee is comprised of 15 members appointed by the Administrator. Two new members, Scott G. Hernandez, Lieutenant Colonel with the Colorado State Patrol, and Robert Powell, State Trooper with the Virginia State Police, were appointed by the Administrator on January 19, 2009.

II. Meeting Participation

The meeting is open to the public and FMCSA invites participation by all interested parties, including motor carriers, drivers, and representatives of motor carrier associations. Please note that attendees will need to be pre-cleared in advance of the meeting in order to expedite entry into the building. By March 16, 2009, please e-mail *mcsac@dot.gov* if you plan to attend the meeting, to facilitate the pre-clearance security process. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please e-mail *mcsac@dot.gov* by March 16, 2009.

As a general matter, the Committee will allocate one hour for public comments on March 18, 2009, from 3 p.m. to 4 p.m. Individuals wishing to address the committee should send an e-mail to *mcsac@dot.gov* by March 16, 2009. The time available will be divided among those who have signed up to address the committee, but no one will be allotted more than 15 minutes. For a copy of the agenda, please send an e-mail to *mcsac@dot.gov*.

Individuals with a desire to present written materials to the committee should submit written comments identified by Federal Docket Management System (FDMC) Docket Number FMCSA–2006–26367 using any of the following methods:

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

Issued on: February 25, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9–4456 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2000–8398; FMCSA–2002–13411; FMCSA–2005–20027]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 11 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 5, 2009. Comments must be received on or before April 2, 2009.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2000–8398; FMCSA–2002–13411; FMCSA–2005–20027, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at *http://DocketInfo.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 11 individuals who have requested a renewal of their exemption in accordance with FMCSA procedures. FMCSA has evaluated these 11 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are: Richard D. Carlson, David J. Collier, Robert P. Conrad, Sr., Donald P. Dodson, Jr., Stephanie D. Klang, Mark J. Koscinski, Dexter L. Myhre, Henry C. Patton, George D. Schell, James A. Stoudt, Ralph A. Thompson.

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 11 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 66 FR 17994; 68 FR 15037; 70 FR 14747; 72 FR 12665; 65 FR 20245; 65 FR 57230; 67 FR 57266; 69 FR 52741; 65 FR 66286; 66 FR 13825; 68 FR 10300; 70 FR 14747; 65 FR 78256; 66 FR 16311; 68 FR 13360; 70 FR 12265; 67 FR 76439; 68 FR 10298; 70 FR 7545; 70 FR 2701; 70 FR 16887). Each of these 11 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by April 2, 2009.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 11 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is

being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: February 25, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9–4448 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–3637; FMCSA–2000–8203; FMCSA–2002–12844; FMCSA–2004–17984; FMCSA–2006–24015; FMCSA–2006–26066]

Qualification of Drivers; Exemption Renewals; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 9 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comments submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*.

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on February 9, 2009.

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 9 renewal applications, FMCSA renews the Federal vision exemptions for Jose C. Azuara, Thomas J. Boss, Fabian L. Burnett, Timothy A. DeFrange, Scott D. Goalder, Casey R. Johnson, Robert J. Johnson, Myriam Rodriguez, and James E. Savage.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: February 24, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9–4451 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2009–0001–N–5]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements (ICRs) for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than May 4, 2009.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 17, Washington, DC 20590, or Ms. Nakia Jackson, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number _____.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via e-mail to Mr. Brogan at *robert.brogan@dot.gov*, or to Ms. Jackson at *nakia.jackson@dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Nakia Jackson, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6073). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to provide 60 days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are

necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of eight currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

OMB Control Number: 2130–0006.

Title: Railroad Signal System Requirements.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form Number(s): N/A.

Abstract: The regulations pertaining to railroad signal systems are contained in 49 CFR Parts 233 (Signal System Reporting Requirements), 235 (Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System), and 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Systems, Devices, and Appliances). Section 233.5 provides that each railroad must report to FRA within 24 hours after learning of an accident or incident arising from the failure of a signal appliance, device, method, or system to function or indicate as required by Part 236 of this Title that results in a more favorable aspect than intended or other condition hazardous to the movement of a train. Section 233.7 sets forth the specific requirements for reporting signal failures within 15 days in accordance with the instructions printed on Form FRA F 6180.14. Finally, Section 233.9 sets forth the specific requirements for the ''Signal System Five Year Report.'' It requires that every five years each railroad must file a signal system status report. The report is to be prepared on a form issued by FRA in accordance with the instructions and definitions provided. Title 49, Part 235 of the Code of Federal Regulations, sets forth the specific conditions under which FRA approval of modification or discontinuance of railroad signal systems is required and prescribes the methods available to seek such approval. The application process prescribed under Part 235 provides a vehicle enabling FRA to obtain the necessary information to make logical and informed decisions concerning carrier requests to modify or discontinue signaling systems. Section 235.5 requires railroads to apply for FRA approval to discontinue or materially modify railroad signaling systems. Section 235.7 defines material modifications and identifies those changes that do not require agency approval. Section 235.8 provides that any railroad may petition FRA to seek relief from the requirements under 49 CFR Part 236. Sections 235.10, 235.12, and 235.13 describe where the petition must be submitted, what information must be included, the organizational format, and the official authorized to sign the application. Section 235.20 sets forth the process for protesting the granting of a carrier application for signal changes or relief from the rules, standards, and instructions. This section provides the information that must be included in the protest, the address for filing the protest, the item limit for filing the protest, and the requirement that a person requesting a public hearing explain the need for such a forum. Section 236.110 requires that the test results of certain signaling apparatus be recorded and specifically identify the tests required under sections 236.102–109; sections 236.377–236.387; sections 236.576; 236.577; and section 236.586–589. Section 236.110 further provides that the test results must be recorded on pre-printed or computerized forms provided by the carrier and that the forms show the name of the railroad, place and date of the test conducted, equipment tested, test results, repairs, and the condition of the apparatus. This section also requires that the employee conducting the test must sign the form and that the record be retained at the office of the supervisory official having the proper authority. Results of tests made in compliance with sections 236.587 must be retained for 92 days, and results of all other tests must be retained until the next record is filed, but in no case less than one year. Additionally, section 236.587 requires each railroad to make a departure test of cab signal, train stop, or train control devices on locomotives before that locomotive enters the equipped territory. This section further requires that whoever performs the test must certify in writing that the test was properly performed. The certification and test results must be posted in the locomotive cab with a copy of the certification and test results retained at the office of the supervisory official having the proper authority. However, if it is impractical to leave a copy of the certification and test results at the location of the test, the test results must be transmitted to either the dispatcher or one other designated official who must keep a written record of the test results and the name of the person performing the test. All records prepared under this section are required to be retained for 92 days. Finally, section 236.590 requires the carrier to clean and inspect the pneumatic apparatus of automatic train stop, train control, or cab signal devices on locomotives every 736 days, and to stencil, tag, or otherwise mark the pneumatic apparatus indicating the last cleaning date.

REPORTING BURDEN

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
233.5—Reporting of accidents	687 railroads	10 phone calls	30 minutes	5
233.7—False proceed signal failures report	687 railroads	100 reports	15 minutes	25
233.9—Reports	687 railroads	687 applications	60 minutes	687
235.5—Changes requiring filing of application	80 railroads	111 applications	10 hours	1,110
235.8—Applications for relief from Part 236	80 railroads	24 relief requests	2.5 hours	60

REPORTING BURDEN—Continued

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
235.20—Protest letters	80 railroads	84 protest letters	30 minutes	42
236.110—Results of tests—recordkeeping	80 railroads	936,660 forms	27 minutes	427,881
236.587—Departure test	18 railroads	730,000 tests	4 minutes	48,667
236.590—Pneumatic apparatus—stenciling/tagging pneumatic valves.	18 railroads	6,697 stencilings	22.5 minutes	2,511

Total Estimated Responses: 1,674,373.

Total Estimated Annual Burden: 480,988 hours.

Status: Regular Review.

Title: U.S. DOT Crossing Inventory Form.

OMB Control Number: 2130–0017.

Type of Request: Extension of a currently approved collection.

Abstract: Form FRA F 6180.71 is a voluntary form, and is used by States and railroads to periodically update certain site specific highway-rail crossing information which is then transmitted to FRA for input into the National Inventory File. This information has been collected on the U.S. DOT–AAR Crossing Inventory Form (previous designation of this form) since 1974 and maintained in the National Inventory File database since 1975. The primary purpose of the National Inventory File is to provide for the existence of a uniform database which can be merged with accidents data and used to analyze information for planning and implementation of crossing safety programs by public, private, and governmental agencies responsible for highway-rail crossing safety. Following the official establishment of the National Inventory in 1975, the Federal Railroad Administration (FRA) assumed the principal responsibility as custodian for the maintenance and continued development of the U.S. DOT/AAR National Highway-Rail Crossing Inventory Program. The major goal of the Program is to provide Federal, State, and local governments, as well as the railroad industry, information for the improvement of safety at highway-rail crossings. Good management practices necessitate maintaining the database with current information. The data will continue to be useful only if maintained and updated as inventory changes occur. FRA previously cleared the reporting and recordkeeping burden for this form under Office of Management and Budget (OMB) Clearance Number 2130–0017. OMB approved the burden for this form through August 31, 2009. FRA is requesting a new three year approval from OMB for this information collection.

Form Number(s): Form FRA F 6180.71.

Affected Public: Businesses.

Respondent Universe: 683 Railroads.

Frequency of Submission: On occasion; monthly.

REPORTING BURDEN

	Respondent universe	Total annual responses	Average time per response (min)	Total annual burden hours
Crossing Inventory—Forms	683 railroads	1,311 forms	30	656
Crossing Inventory—Mass Update Printouts	683 railroads	290 printouts (3,630 updated records).	30	145
Crossing Inventory—Disc/Tape (non-GX)	683 railroads	798 discs/tapes (117,498 records updated).	30	399
Crossing Inventory—GX Electronic Updates	683 railroads	28 GX Electronic files (11,411 records updated).	6	1,141

Total Responses: 133,850.

Estimated Total Annual Burden: 2,341 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on February 25, 2009.

Kimberly Orben,

Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. E9–4458 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket ID PHMSA–97–2995]

Pipeline Safety: Random Drug Testing Rate

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of minimum annual percentage rate for random drug testing.

SUMMARY: PHMSA has determined that the minimum random drug testing rate for covered employees will remain at 25 percent during calendar year 2009.

DATES: Effective January 1, 2009 through December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Stanley Kastanas, Director, Office of Substance Abuse Policy, Investigations and Compliance, PHMSA, U.S. Department of Transportation, telephone 202–550–0629 or e-mail *stanley.kastanas@dot.gov*.

SUPPLEMENTARY INFORMATION: Operators of gas, hazardous liquid, and carbon dioxide pipelines and operators of liquefied natural gas facilities must select and test a percentage of covered employees for random drug testing. Pursuant to 49 CFR 199.105(c)(2), (3), and (4), the PHMSA Administrator's decision on whether to change the minimum annual random drug testing rate is based on the reported random drug test positive rate for the pipeline industry. The data considered by the Administrator comes from operators' annual submissions of Management Information System (MIS) reports required by 49 CFR 199.119(a). If the reported random drug test positive rate is less than one percent, the Administrator may continue the minimum random drug testing rate at 25 percent. In 2007, the random drug test positive rate was less than one percent. Therefore, the minimum random drug testing rate will remain at 25 percent for calendar year 2009.

In reference to the notice published in 70 FR 20800, PHMSA intends to publish an Advisory Bulletin specifying the methodology for reporting MIS contractor data to PHMSA. Therefore, operators must ensure records on contract employees continue to be maintained.

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

Issued in Washington, DC on February 23, 2009.

Alan Mayberry,

Director, Engineering and Emergency Support.

[FR Doc. E9–4485 Filed 3–2–09; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–364 (Sub-No. 15X)]

Mid-Michigan Railroad, Inc.—Discontinuance of Service Exemption—in Kent and Ottawa Counties, MI

On February 11, 2009, Mid-Michigan Railroad, Inc. (MMRR) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue service over a 6.94-mile line of railroad between milepost 159.5 at Grand Rapids (Walker) and milepost 166.44 at Marne, in Kent and Ottawa Counties, MI.[1] The line traverses United States Postal Service Zip Codes 49404, 49435, and 49544, and includes the stations of Grand Rapids and Marne.

MMRR states that the line does not contain federally granted rights-of-way. Any documentation in MMRR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 1, 2009.

Any offer of financial assistance (OFA) for subsidy under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25).[2]

All filings in response to this notice must refer to STB Docket No. AB–364 (Sub-No. 15X) and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; and (2) Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204. Replies to the petition are due on or before March 23, 2009.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: February 20, 2009.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–4034 Filed 3–2–09; 8:45 am]

BILLING CODE 4915–01–P

[1] As part of a corporate family transaction, Grand Rapids Eastern Railroad, Inc. (GRE) was merged into MMRR in 1999. *See RailTex, Inc., Mid-Michigan Railroad, Inc., Michigan Shore Railroad, Inc., and Grand Rapids Eastern Railroad, Inc.—Corporate Family Transaction,* STB Finance Docket No. 33693 (STB served Jan. 20, 1999). GRE had leased the line from the Coopersville and Marne Railway Company Line (C&M) in 1997. *See Grand Rapids Eastern Railroad, Inc.—Lease and Operation Exemption—Coopersville and Marne Railway Company Line,* STB Finance Docket No. 33344 (STB served Feb. 10, 1997). C&M had acquired the line from the Central Michigan Railway Company in 1996. *See Coopersville & Marne Railway Company—Acquisition and Operation Exemption—Central Michigan Railway Company,* STB Finance Docket No. 32942 (STB served May 21, 1996).

[2] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 CFR 1105.6(c)(2) and 1105.8.

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The U.S. 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 Community Development Financial Institutions Fund (the ''Fund''), an office within the Department of the Treasury, is soliciting comments concerning the CDFI Program Application.

DATES: Written comments should be received on or before May 4, 2009 to be assured of consideration.

ADDRESSES: Direct all comments to Ruth Jaure, CDFI Program Manager, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, by e-mail to *cdfihelp@cdfi.treas.gov* or by facsimile to (202) 622–7754. Please note this is not a toll free number.

FOR FURTHER INFORMATION CONTACT: The CDFI Program Application may be obtained from the CDFI Program page of the Fund's Web site at *http://www.cdfifund.gov*. Requests for additional information should be directed to Ruth Jaure, CDFI Program Manager, Community Development Financial Institutions Fund, U.S.

Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, or call (202) 622–9156. Please note this is not a toll free number.

SUPPLEMENTARY INFORMATION:

Title: CDFI Program Application.

OMB Number: 1559–0021.

Abstract: The Community Development Financial Institutions (CDFI) Program was established by the Riegle Community Development and Regulatory Improvement Act of 1994 to use Federal resources to invest in and build the capacity of CDFIs to serve low-income people and communities lacking adequate access to affordable financial products and services. Through the CDFI Program, the CDFI Fund provides: (1) Financial Assistance (FA) awards to CDFIs that have Comprehensive Business Plans for creating demonstrable community development impact through the deployment of credit, capital, and financial services within their respective Target Markets or the expansion into new Investment Areas, Low-Income Targeted Populations, or Other Targeted Populations, and (ii) Technical Assistance (TA) grants to CDFIs and entities proposing to become CDFIs in order to build their capacity to better address the community development and capital access needs of their existing or proposed Target Markets and/or to become certified CDFIs. The regulations governing the CDFI Program are found at 12 CFR part 1805 and provide guidance on evaluation criteria and other requirements of the CDFI Program. The questions that the application contains, and the information generated thereby, will enable the Fund to evaluate applicants' activities and determine the extent of applicants' eligibility for a CDFI Program award. Failure to collect this information could result in improper uses of Federal funds.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular review.

Affected Public: Certified CDFIs and entities seeking CDFI Certification.

Estimated Number of Respondents: 200.

Estimated Annual Time per Respondent: 100 hours.

Estimated Total Annual Burden Hours: 20,000 hours.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record and may be published on the Fund Web site at *http://www.cdfifund.gov*. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Fund, including whether the information shall have practical utility; (b) the accuracy of the Fund'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 technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The Fund specifically requests comments concerning the following: (1) Whether offering separate applications for the FA and TA components would reduce the burden on applicants; (2) whether the distinct business models followed by different types of CDFIs (such as banks, credit unions, and venture capital funds) merit individualized applications; (3) if an applicant eligibility screen should be applied before the application deadline, allowing applicants to determine beforehand if they would be qualified to receive an award; (4) if detailed Matching Funds documentation should be collected later in the application review process, and a reasonable amount of time to expect an applicant to provide this data; (5) the merit of further reducing the narrative page limits in the application; (6) the potential burden of requiring specific documents to support proposed uses of TA funds, namely Statements of Work for professional services, and résumés and/or position descriptions for personnel; and (7) the potential burden of requiring additional documentation to support the application, namely tax returns (Form 990), Certificates of Good Standing, operating budgets, lists of sources of capital, rate sheets for products and services, and borrower characteristic profiles.

Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713, 4717; 31 U.S.C 321; 12 CFR part 1806.

Dated: February 25, 2009.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. E9–4520 Filed 3–2–09; 8:45 am]

BILLING CODE 4810–70–P

Federal Register

Tuesday,
March 3, 2009

Part II

Federal Deposit Insurance Corporation

12 CFR Part 327
Assessments; Interim Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AD35

Assessments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Interim rule with request for comment.

SUMMARY: The FDIC is adopting an interim rule to impose a 20 basis point emergency special assessment under 12 U.S.C. 1817(b)(5) on June 30, 2009. The assessment will be collected on September 30, 2009. The interim rule also provides that, after June 30, 2009, if the reserve ratio of the Deposit Insurance Fund is estimated to fall to a level that the Board believes would adversely affect public confidence or to a level which shall be close to zero or negative at the end of a calendar quarter, an emergency special assessment of up to 10 basis points may be imposed by a vote of the Board on all insured depository institutions based on each institution's assessment base calculated pursuant to 12 CFR 327.5 for the corresponding assessment period. The FDIC seeks comment on the interim rule.

DATES: Effective April 1, 2009. Comments must be received on or before April 2, 2009.

ADDRESSES: You may submit comments, identified by RIN number, by any of the following methods:

- Agency Web Site: *http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on the Agency Web Site.
- *E-mail: Comments@FDIC.gov*. Include the RIN number in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All submissions received must include the agency name and RIN for this rulemaking. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Munsell W. St. Clair, Chief, Banking and Regulatory Policy Section, Division of Insurance and Research, (202) 898–8967; and Christopher Bellotto, Counsel, Legal Division, (202) 898–3801 or Sheikha Kapoor, Senior Attorney, Legal Division, (202) 898–3960.

SUPPLEMENTARY INFORMATION:

I. Background

Recent and anticipated failures of FDIC-insured institutions resulting from deterioration in banking and economic conditions have significantly increased losses to the Deposit Insurance Fund (the fund or the DIF). The reserve ratio of the DIF declined from 1.19 percent as of March 31, 2008, to 1.01 percent as of June 30, 0.76 percent as of September 30, and 0.40 percent (preliminary) as of December 31. Twenty-five institutions failed in 2008, and the FDIC projects a substantially higher rate of institution failures in the next few years, leading to a further decline in the reserve ratio. Because the fund reserve ratio fell below 1.15 percent as of June 30, 2008, and was expected to remain below 1.15 percent, the Reform Act required the FDIC to establish and implement a Restoration Plan that would restore the reserve ratio to at least 1.15 percent within five years, absent extraordinary circumstances.[1]

On October 7, 2008, the FDIC established a Restoration Plan for the DIF. The Restoration Plan called for the FDIC to set assessment rates such that the reserve ratio would return to 1.15 percent within five years. The plan also required the FDIC to update its loss and income projections for the fund and, if needed to ensure that the fund reserve ratio reaches 1.15 percent within five years, increase assessment rates.

Simultaneously with the adoption of this interim rule, the FDIC has amended the Restoration Plan and extended the time within which the reserve ratio must be returned to 1.15 percent to 7 years due to extraordinary circumstances. Also, again simultaneously with the adoption of this interim rule, the FDIC has adopted a final rule (the assessments final rule) that, among other things, sets initial base assessment rates at 12 to 45 basis points.

However, given the FDIC's estimated losses from projected institution failures, the assessment rates adopted in the final rule are not sufficient to return the fund reserve ratio to 1.15 percent within 7 years and are unlikely to prevent the DIF fund balance and reserve ratio from falling to near zero or becoming negative this year.

[1] Section 7(b)(3)(E) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b)(3)(E).

II. Emergency Special Assessment

The FDIC believes that it is important that the fund not decline to a level that could undermine public confidence in federal deposit insurance. Even though the FDIC has significant authority to borrow from the Treasury to cover losses, a fund balance and reserve ratio that are near zero or negative could create public confusion about the FDIC's ability to move quickly to resolve problem institutions and protect insured depositors. The FDIC views the Treasury line of credit as available to cover unforeseen losses, not as a source of financing projected losses.

The FDIC projects that the reserve ratio will fall to close to zero or become negative in 2009 unless the FDIC receives more revenue than regular quarterly assessments will produce, given the rates adopted in the final rule on assessments. Therefore, the FDIC will impose an emergency special assessment equal to 20 basis points of an institution's assessment base on June 30, 2009.[2] The special assessment will be collected on September 30, 2009, at the same time that the risk-based assessments for the second quarter of 2009 are collected. The assessment base for the special assessment shall be the same as the assessment base for the second quarter risk-based assessment.

The FDIC has extended the period of the Restoration Plan to seven years due to the extraordinary circumstances facing the banking industry—including the severe problems in the financial markets and the prospects of a lengthy recession. If the Restoration Plan period remained at its original five years, the FDIC estimates that initial assessment rates would have had to range from 20 to 45 basis points, compared to the actual initial assessment rates adopted in the assessments final rule, which range from 12 to 45 basis points.

A 20 basis point special assessment rate should increase the reserve ratio by approximately 32 basis points.

[2] 12 U.S.C. 1817(b)(5) provides: Emergency special assessments.—In addition to the other assessments imposed on insured depository institutions under this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment is necessary—

(A) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under [12 U.S.C. 1824(a)] in accordance with the repayment schedule in effect under [12 U.S.C. 1824(c)] during the period with respect to which such assessment is imposed;

(B) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from insured depository institutions under [12 U.S.C. 1824(d)]; or

(C) for any other purpose that the Corporation may deem necessary.

According to the FDIC's projections, the 20 basis point special assessment combined with the rates adopted in the final assessments rule would return the reserve ratio to 1.15 percent by the end of 2015, consistent with the amended seven-year Restoration Plan period.

As part of the Restoration Plan, the FDIC has the authority to restrict credit use while the plan is in effect, providing that institutions may still apply credits against their assessments equal to the lesser of their assessment or 3 basis points.[3] The FDIC has decided not to restrict credit use in the Restoration Plan. The FDIC projects that the amount of credits remaining at the time that the special assessment is imposed will be very small and that their use will have very little effect on the assessment revenue necessary to meet the requirements of the plan.[4]

Effect on Capital and Earnings

The FDIC has analyzed the effect of a 20 basis point special assessment on the capital and earnings of insured institutions. For this analysis, it relied on the projected range of industry earnings in 2009 described in Appendix 2 of the preamble to the final rule on assessments. Given the assumptions in the analysis, for the industry as a whole, the special assessment in 2009 would result in year-end 2009 capital that would be approximately 0.7 percent lower than in the absence of a special assessment. Based on the range of projected industry earnings, a 20 basis point special assessment would cause 9 to 13 institutions (with $3 billion to $5 billion in aggregate assets) whose equity-to-assets ratio would have exceeded 4 percent in the absence of such an assessment to fall below that percentage and 3 to 4 institutions (with about $1 billion in aggregate assets) to fall below 2 percent.

For profitable institutions, the special assessment in 2009 would result in pre-tax income that would be between 10 percent and 13 percent lower than if the FDIC did not charge such the special assessment. For unprofitable institutions, pre-tax losses would increase by an average of between 3 percent and 6 percent.

III. Further Special Assessments

The FDIC recognizes that there is considerable uncertainty about its projections for losses and insured deposit growth, and, therefore, of future fund reserve ratios. To further ensure that the fund reserve ratio does not decline to a level that could undermine public confidence in federal deposit insurance, the FDIC may impose an emergency special assessment of up to 10 basis points of an institution's assessment base whenever, after June 30, 2009, the reserve ratio of the Deposit Insurance Fund is estimated to fall to a level that the Board believes would adversely affect public confidence or to a level which shall be close to zero or negative at the end of a calendar quarter. Any such special assessment will be imposed on the last day of a quarter (March 31, June 30, September 30 or December 31) and will be collected approximately three months later, at the same time that risk-based assessments are collected. The earliest possible date for such a special assessment is September 30, 2009 (which would be collected December 30, 2009).

The assessment base for any special assessment shall be the base for the risk-based assessment for the quarter ending the date the special assessment is imposed. Thus, for example, the assessment base for a special assessment imposed on September 30, 2009, would be the assessment base for the quarterly risk-based assessment for the third quarter of 2009 (collected December 30, 2009).

Near the end of each quarter, the FDIC will estimate the reserve ratio for that quarter from available data on, or estimates of, insurance fund assessment income, investment income, operating expenses, other revenue and expenses, and loss provisions (including provisions for anticipated failures). Because no data on estimated insured deposits will be available until after the quarter-end, the FDIC will assume that estimated insured deposits will increase during the quarter at the average quarterly rate over the previous four quarters.

If the FDIC estimates that the reserve ratio will fall to a level that the Board believes would adversely affect public confidence or to a level close to zero or negative at the end of a calendar quarter, and the Board decides to impose an emergency special assessment of up to 10 basis points, the FDIC will announce the imposition and rate of the special assessment no later than the last day of the quarter. As soon as practicable after any such announcement, the FDIC will have a notice published in the **Federal Register** of the imposition of the special assessment.

Thus, for example, if in late September 2009, the FDIC estimates that the reserve ratio on September 30, 2009, will fall to zero, and the FDIC's Board votes to impose a special assessment of up to 10 basis points, the FDIC will announce no later than September 30 that it is imposing a special assessment on September 30, 2009, and the rate of the assessment, and will collect the special assessment, along with the usual quarterly deposit insurance assessment, on December 30, 2009.

The FDIC currently projects that the combination of regular quarterly assessments and the 20 basis point special assessment will prevent the fund reserve ratio from falling to a level that that the Board believes would adversely affect public confidence or to a level close to zero or negative during the period of the Restoration Plan. For this reason, the FDIC does not expect to impose a special assessment of up to 10 basis points. However, the FDIC will not make its estimates of quarter-end reserve ratios for purposes of any such special assessment, nor will the Board determine whether to impose such a special assessment, until shortly before the end of each quarter, in order to take advantage of the most recently available data.

IV. Requests for Comments

The FDIC seeks comment on every aspect of this rulemaking. In particular, the FDIC seeks comment on the issues set out below. The FDIC asks that commenters include reasons for their positions.

1. Should the June 30, 2009 special assessment be at a rate other than 20 basis points?

2. Should there be a maximum rate that the combination of an institution's regular quarterly assessment rate and a special assessment could not exceed? For example, an institution in Risk Category IV could possibly be charged a regular quarterly assessment at the annual rate of 77.5 basis points beginning in the second quarter of 2009. A 20 basis point special assessment would effectively increase the maximum possible annual rate to nearly 100 basis points. Should the rate be capped at a smaller amount?

3. Should weaker institutions be exempted, in whole or in part, from the special assessment? For example, should institutions with CAMELS ratings of 4 or 5 be exempted? Should adequately or undercapitalized institutions be exempted? Should institutions that would become undercapitalized (or critically undercapitalized) as the result of the special assessment be exempted?

4. Should special assessments be assessed on assets or some other measure, rather than the regular risk-based assessment base?

[3] Section 7(b)(3)(E)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(E)(iv)).

[4] For 2009 and 2010, credits may not offset more than 90 percent of an institution's assessment. Section 7(e)(3)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)(3)(D)(ii)).

5. Should there be special assessments of up to10 basis points? Should some other rate be used? For example, should the rate be the rate needed to maintain the fund reserve ratio at particular value for the reserve ratio?

6. Should FDIC assessments, including emergency special assessments, take into account the assistance being provided to systemically important institutions?

V. Effective Date

This interim rule will take effect April 1, 2009.

VI. Regulatory Analysis and Procedure

A. Administrative Procedure Act

Pursuant to section 553(b)(B) of the Administrative Procedure Act (APA), notice and comment are not required prior to the issuance of a final rule if an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. The FDIC finds good cause to adopt this interim rule without prior notice and comment.

The FDIC believes that it is important that the fund not decline to a level that could undermine public confidence in federal deposit insurance. A fund balance and reserve ratio that are near zero or negative could create public confusion about the FDIC's ability to move quickly to resolve problem institutions and protect insured depositors. Without additional revenue other than quarterly risk-based assessments based on the rates adopted in the Final Rule, the FDIC projects the reserve ratio will fall close to zero or become negative in 2009. Therefore, it is important for public confidence to have the interim rule in place quickly. Nevertheless, the FDIC desires to have the benefit of public comment and thus invites interested parties to submit comments during a 30-day comment period. The 30-day comment period will allow the FDIC to receive comments in a timely manner, given that the interim rule will be on April 1, 2009. The FDIC will revise the interim rule, if appropriate, in light of the comments received.

B. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invites your comments on how to make this proposal easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?
- What else could the FDIC do to make the regulation easier to understand?

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that each federal agency either certify that a final rule would not have a significant economic impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis of the proposal and publish the analysis for comment.[5] Certain types of rules, such as rules of particular applicability relating to rates or corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of ''rule'' for purposes of the RFA.[6] The interim rule relates directly to the rates imposed on insured depository institutions for deposit insurance. In addition, this interim rule does not involve the issuance of a notice of proposed rulemaking. For these reasons, the requirements of the RFA do not apply. Nonetheless, the FDIC is voluntarily undertaking a regulatory flexibility analysis and is seeking comment on it.

As of December 31, 2008, of the 8,305 insured commercial banks and savings institutions, 4,567 were small insured depository institutions as that term is defined for purposes of the RFA (i.e., those with $165 million or less in assets).

The FDIC's total assessment needs are driven by the statutory requirement that the FDIC adopt a Restoration Plan that provides that the fund reserve ratio reach at least 1.15 percent within five years absent extraordinary circumstances and by the FDIC's aggregate insurance losses, expenses, investment income, and insured deposit growth, among other factors. Under the interim rule, each institution would be subject to a special assessment at a uniform rate to help meet FDIC assessment revenue needs. Apart from the uniform special assessment on all institutions to help meet the FDIC's total revenue needs, the interim rule makes no other changes in rates for any insured institution, including small insured depository institutions. In effect, the interim rule would uniformly increase each institution's assessment rate by 20 basis points for one assessment collection (including each small institution's assessment rate, as a small institution is defined for RFA purposes), and would not alter the present distribution of assessment rates.[7] The interim rule does not directly impose any ''reporting'' or ''recordkeeping'' requirements within the meaning of the Paperwork Reduction Act. The compliance requirements for the interim rule would not exceed existing compliance requirements for the present system of FDIC deposit insurance assessments, which, in any event, are governed by separate regulations. The FDIC is unaware of any duplicative, overlapping or conflicting federal rules.

D. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that the interim rule is not a ''major rule'' within the meaning of the relevant sections of the Small Business Regulatory Enforcement Act of 1996 (SBREFA) Public Law 110–28 (1996). As required by law, the FDIC will file the appropriate reports with Congress and the Government Accountability Office so that the interim rule may be reviewed.

E. Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in the interim rule.

F. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the interim rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

[5] See 5 U.S.C. 603, 604 and 605.

[6] 5 U.S.C. 601.

[7] Additional special assessments of up to 10 basis points could uniformly increase each institution's assessment rate up to 10 basis points for additional assessment collections.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, banking, Savings associations.

■ For the reasons set forth in the preamble, the FDIC proposes to amend chapter III of title 12 of the Code of Federal Regulations as follows:

PART 327—ASSESSMENTS

■ 1. The authority citation for part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1813, 1815, 1817–1819, 1821; Sec. 2101–2109, Pub. L. 109–171, 120 Stat. 9–21, and Sec. 3, Pub. L. 109–173, 119 Stat. 3605.

■ 2. In part 327 add new § 327.15 to Subpart A to read as follows:

§ 327.11 Emergency special assessments.

(a) *Emergency special assessment imposed on June 30, 2009.* On June 30, 2009, the FDIC shall impose an emergency special assessment of 20 basis points on each insured depository institution based on the institution's assessment base calculated pursuant to § 327.5 for the second assessment period of 2009.

(b) *Emergency special assessments after June 30, 2009.* After June 30, 2009, if the reserve ratio of the Deposit Insurance Fund is estimated to fall to a level that that the Board believes would adversely affect public confidence or to a level which shall be close to zero or negative at the end of a calendar quarter, an emergency special assessment of up to 10 basis points may be imposed by a vote of the Board on all insured depository institutions based on each institution's assessment base calculated pursuant to § 327.5 for the corresponding assessment period.

(1) *Estimation process.* For purposes of any emergency special assessment under this paragraph (b), the FDIC shall estimate the reserve ratio of the Deposit Insurance Fund for the applicable calendar quarter end from available data on, or estimates of, insurance fund assessment income, investment income, operating expenses, other revenue and expenses, and loss provisions, including provisions for anticipated failures. The FDIC will assume that estimated insured deposits will increase during the quarter at the average quarterly rate over the previous four quarters.

(2) *Imposition and announcement of emergency special assessments.* Any emergency special assessment under this paragraph (b) shall be on the last day of a calendar quarter and shall be announced by the end of such quarter. As soon as practicable after announcement, the FDIC will have a notice published in the **Federal Register** of the emergency special assessment.

(c) *Invoicing of any emergency special assessments.* The FDIC shall advise each insured depository institution of the amount and calculation of any emergency special assessment imposed under paragraph (a) or (b) of this section. This information shall be provided at the same time as the institution's quarterly certified statement invoice for the assessment period in which the emergency special assessment was imposed.

(d) *Payment of any emergency special assessment.* Each insured depository institution shall pay to the Corporation any emergency special assessment imposed under paragraph (a) or (b) of this section in compliance with and subject to the provisions of §§ 327.3, 327.6 and 327.7 of subpart A, and the provisions of subpart B. The payment date for any emergency special assessment shall be the date provided in § 327.3(b)(2) for the institution's quarterly certified statement invoice for the calendar quarter in which the emergency special assessment was imposed.

By order of the Board of Directors.

Dated at Washington, DC, this 27th day of February, 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–4585 Filed 3–2–09; 8:45 am]

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