

the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by November 26, 2009, and the final decision of the Commission shall be issued by March 26, 2010.

**Karen V. Gregory,**  
Secretary.

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BILLING CODE 6730-01-P

## FEDERAL MARITIME COMMISSION

[Petition No. P2-08]

**Petition of APM Terminals Pacific Ltd., California United Terminals, Inc.; Eagle Marine Services, Ltd.; International Transportation Services, Inc.; Long Beach Container Terminal, Inc.; Seaside Transportation Service LLC; Total Terminals LLC; West Basin Container Terminal LLC; Pacific Maritime Services, LLC; SSA Terminal (Long Beach), LLC Trans Pacific Container Service Corporation; Yusen Terminals, Inc.; and SSA Terminals, LLC, ("Marine Terminal Operators"); and Portcheck LLC; Notice of Filing and Request for Comments**

This is to provide notice of filing and to invite comments on or before December 15, 2008, with regard to the Petition described below.

The marine terminal operators as listed above and PortCheck LLC, parties to FMC Agreement No. 201199, the *Port Fee Services Agreement* ("Petitioners") have petitioned the Commission pursuant to 46 CFR 502.69 of the Commission's Rules of Practice and Procedure, for a review of a staff action taken concerning the effective date of Petitioners' agreement filed on November 3, 2008. In particular, Commission staff found that the agreement was not eligible for an exemption from the statutory 45-day agreement waiting period under Section 40304(c) of the Shipping Act of 1984 ("Shipping Act"), and the Commission's Rules at 46 CFR 535.308(a).

Certain interested parties have already submitted comments on this Petition. One letter, submitted by counsel on behalf of licensed motor carriers Swift Transportation Company and Knight Transportation, Inc., indicate that they have been "informed by the Ports" of the Commission staff action thereon. Accordingly, it appears that there may be broad public interest.

In order for the Commission to make a thorough evaluation of the Petition, interested persons are requested to submit views or arguments in reply to the Petition no later than December 15, 2008. Replies shall consist of an original and 15 copies, be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573-0001, and be served on Petitioner's counsel, David F. Smith and Wayne R. Rohde, Sher and Blackwell LLP, Suite 900, 1850 M Street, NW., Washington, DC 20036. A copy of the reply shall be submitted in electronic form (Microsoft Word) by e-mail to [Secretary@fmc.gov](mailto:Secretary@fmc.gov).

The Petition will be posted on the Commission's Web site at <http://www.fmc.gov/reading/Petitions.asp>. Replies filed in response to this petition also will be posted on the Commission's Web site at this location.

Parties participating in this proceeding may elect to receive service of the Commission's issuances in this proceeding through e-mail in lieu of service by U.S. mail. A party opting for electronic service shall advise the Office of the Secretary in writing and provide an e-mail address where service can be made.

**Karen V. Gregory,**  
Secretary.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-1390-N2]

RIN 0938-AP15

### Medicare Program; Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates: Fiscal Year 2009 Wage Index Changes Following Implementation of Section 124 of the Medicare Improvement for Patients and Providers Act of 2008

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice contains fiscal year (FY) 2009 revised final wage indices and hospital reclassifications for 27 hospitals. These revised final wage indices and hospital reclassifications were made according to special procedural rules set forth in the FY 2009 hospital inpatient prospective payment systems final rule (73 FR 48588-9).

**DATES:** *Effective Date:* The provisions of this notice are effective on December 3, 2008,

*Applicability Date:* The final wage indices and hospital reclassifications are applicable for discharges beginning October 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** Tzvi Hefter, (410) 786-4487.

### SUPPLEMENTARY INFORMATION:

#### I. Background

On July 15, 2008 the Medicare Improvement for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110-275) was enacted. Section 124 of Public Law 110-275 extends through FY 2009 wage index reclassifications under section 508 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173) and certain special exceptions (for example, those special exceptions contained in the final rule promulgated in the August 11, 2004 **Federal Register** (69 FR 49105 and 49107) and extended under section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) (Pub. L. 110-173)). Because of the timing of the enactment of Public Law 110-275, we were not able to recompute the fiscal year (FY) 2009 wage index values for any hospital reclassified under section 508 and special exception hospitals in time for inclusion in the FY 2009 hospital inpatient prospective payment system final rule published in the August 19, 2008 **Federal Register** (73 FR 48434) (hereinafter referred to as the FY 2009 IPPS final rule). Instead, we stated that we would issue the final FY 2009 wage index values and other related tables, in a separate **Federal Register** notice published subsequent to the final rule.

In the October 3, 2008 **Federal Register** (73 FR 57888), we published the FY 2009 IPPS final notice including the final wage indices and geographic reclassifications. The final notice reflects the reclassification withdrawal and termination decisions we made on behalf of hospitals in accordance with special procedural rules explained in the FY 2009 IPPS final rule (73 FR 48588).

In accordance with such rules, hospitals had until October 20, 2008 to notify us if they wished to revise the decision that we made on their behalf. We received requests from 31 hospitals. Of these hospitals, three hospitals were ineligible for a revision because the hospitals were not reclassified to or located in areas containing hospitals whose reclassifications or special exceptions were extended by section 124 of Public Law 110-275. A fourth