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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. APHIS–2009–0048]

RIN 0579–AC99

User Fees for Agricultural Quarantine and Inspection Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule; withdrawal.

SUMMARY: This document withdraws the interim rule published in the **Federal Register** on September 28, 2009, adjusting the user fees charged for certain agricultural quarantine and inspection services provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. That interim rule was originally scheduled to become effective on October 1, 2009, but on October 2, 2009, we published in the **Federal Register** a second document delaying the effective date until November 1, 2009. We have now decided to withdraw the interim rule in order to explore other regulatory alternatives.

DATES: The withdrawal of the interim rule amending 7 CFR part 354 published at 74 FR 49311–49315 on September 28, 2009, and delayed in a document published at 74 FR 50915 on October 2, 2009, is effective October 30, 2009.

FOR FURTHER INFORMATION CONTACT: For information concerning program operations, contact Mr. William E. Thomas, Director, Quarantine Policy, Analysis, and Support, PPQ, APHIS, 4700 River Road Unit 131, Riverdale, MD 20737; (301) 7345214. For information concerning rate development, contact Mrs. Kris Caraher, User Fee Section, Financial Services Branch, Financial Management Division, MRPBS, APHIS, 4700 River Road Unit 55, Riverdale, MD 20737–1232; (301) 734–0882.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule [1] published in the **Federal Register** on September 28, 2009 (74 FR 49311–49315, Docket No. APHIS–2009–0048), we amended the user fee regulations in 7 CFR part 354 by adjusting the fees charged for certain agricultural quarantine and inspection (AQI) services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. The rule was scheduled to become effective on October 1, 2009. On October 2, 2009, however, we published a second document in the **Federal Register** (74 FR 50915, Docket No. APHIS–2009–0048) delaying the effective date of the interim rule until November 1, 2009. The delay was intended to provide entities affected by the changes in AQI user fees additional time to make the necessary preparations to comply with the new fees. In conjunction with the delay, public meetings on the interim rule were held in Riverdale, MD, on October 15 and October 27, 2009. Transcripts of the meetings will be made available on the Regulations.gov Web site.[2]

We have now decided to withdraw the interim rule in order to explore other regulatory alternatives.

Accordingly, the interim rule amending 7 CFR part 354 published at 74 FR 49311–49315 on September 28, 2009, and delayed in a document published at 74 FR 50915 on October 2, 2009, is withdrawn effective October 30, 2009.

Authority: 7 U.S.C. 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

[1] To view the interim rule and the delay of effective date, go to: *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0048.*

[2] See footnote 1.

Done in Washington, DC, this 30th day of October 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–26518 Filed 10–30–09; 4:15 pm]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Doc. No. AMS–FV–09–0063; FV09–966–2 IFR]

Tomatoes Grown in Florida; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This rule decreases the assessment rate established for the Florida Tomato Committee (Committee) for the 2009–10 and subsequent fiscal periods from $0.0375 to $0.0275 per 25-pound carton of tomatoes handled. The Committee locally administers the marketing order, which regulates the handling of tomatoes grown in Florida. Assessments upon Florida tomato handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective November 5, 2009. Comments received by January 4, 2010, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov*. Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*. All comments submitted in response to this

rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or E-mail: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Florida tomatoes beginning August 1, 2009, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Committee for the 2009–10 and subsequent fiscal periods from $0.0375 per 25-pound carton to $0.0275 per 25-pound carton of Florida tomatoes.

The Florida tomato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of Florida tomatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2008–09 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on August 20, 2009, and unanimously recommended 2009–10 expenditures of $1,910,500 and an assessment rate of $0.0275 per 25-pound carton of tomatoes. In comparison, last year's budgeted expenditures were $2,438,200. The assessment rate of $0.0275 is $0.01 lower than the rate currently in effect. The Committee recommended the decrease in assessment rate due to a reduction in expenditures for education and promotion.

The major expenditures recommended by the Committee for the 2009–10 year include $700,000 for education and promotion, $475,500 for salaries, $320,000 for research, and $70,000 for employee retirement. Budgeted expenses for these items in 2008–09 were $1,200,000, $505,500, $320,000, and $77,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida tomatoes. Tomato shipments for the year are estimated at 50 million cartons, which should provide $1,375,000 in assessment income. Income derived from handler assessments, along with interest income and income from the USDA Market Access Program (MAP), will be adequate to cover budgeted expenses. Funds in the reserve (currently $502,000) will be kept within the maximum permitted by the order of not to exceed one fiscal period's expenses as stated in § 966.44.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2009–10 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 100 producers of tomatoes in the production area and approximately 70 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual

receipts are less than $7,000,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual price for fresh Florida tomatoes during the 2008–09 season was approximately $8.13 per 25-pound carton, and total fresh shipments for the 2008–09 season were 47,054,853 25-pound cartons of tomatoes. Committee data indicates 10 percent of the handlers handle 56 percent of the total volume shipped outside the regulated area. Based on the average price and the other data available, a majority of handlers could be considered small businesses under SBA's definition. In addition, based on production data, grower prices as reported by the National Agricultural Statistics Service, and the total number of Florida tomato growers, the average annual grower revenue is below $750,000. Thus, the majority of handlers and producers of Florida tomatoes may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2009–10 and subsequent fiscal periods from $0.0375 to $0.0275 per 25-pount carton of tomatoes. The Committee unanimously recommended 2009–10 expenditures of $1,910,500 and an assessment rate of $0.0275 per 25-pound container. The assessment rate of $0.0275 is $0.01 lower than the 2008–09 rate. The quantity of assessable tomatoes for the 2009–10 season is estimated at 50 million. Thus, the $0.0275 rate should provide $1,375,000 in assessment income. Income derived from handler assessment income, along with interest income and funds from the MAP program will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2009–10 year include $700,000 for education and promotion, $475,500 for salaries, $320,000 for research, and $70,000 for employee retirement. Budgeted expenses for these items in 2008–09 were $1,200,000, $505,500, $320,000, and $77,000, respectively.

The Committee recommended the decrease in assessment rate due to a reduction in expenditures for education and promotion.

The Committee reviewed and unanimously recommended 2009–10 expenditures of $1,910,500 which included decreases in education and promotion, salaries, employee retirement, and payroll expenses. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Finance, Research, and Education and Promotion Subcommittees. Alternative expenditure levels were discussed by these groups, based upon the relative value of various projects to the tomato industry. The assessment rate of $0.0275 per 25-pound carton of assessable tomatoes was then determined by dividing the total recommended budget by the quantity of assessable commodity, estimated at 50 million 25-pound cartons for the 2009–10 season. Considering income from assessments, interest, and income from other sources, total income will be approximately $41,500 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2009–10 season could range between $3.89 and $19.01 per 25-pound carton of tomatoes. Therefore, the estimated assessment revenue for the 2009–10 season as a percentage of total grower revenue could range between .1 and .7 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 20, 2009, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this interim final rule, including the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrders SmallBusinessGuide.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2009–10 fiscal year began on August 1, 2009, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable tomatoes handled during such fiscal period; (2) this action decreases the assessment rate for Florida tomatoes beginning with the 2009–10 fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

■ For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 966.234 is revised to read as follows:

§ 966.234 Assessment rate.

On and after August 1, 2009, an assessment rate of $0.0275 per 25-pound

carton is established for Florida tomatoes.

Dated: October 27, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–26462 Filed 11–3–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE300; Special Conditions No. 23–240–SC]

Special Conditions: Cessna Aircraft Company, Model 525C; Flight Performance, Flight Characteristics, and Operating Limitations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Cessna Aircraft Company, Model 525C airplane. This airplane will have a novel or unusual design feature(s) associated with turbofan engines, engine location, and certain performance characteristics necessary for this type of airplane that were not envisioned by the existing regulations. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is November 4, 2009. We must receive your comments by December 4, 2009.

ADDRESSES: Mail two copies of your comments to: Federal Aviation Administration, Regional Counsel, ACE–7, Attn: Rules Docket No. CE300, 901 Locust, Kansas City, MO 64106. You may deliver two copies to the Regional Counsel at the above address. Mark your comments: Docket No. CE300. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lowell Foster, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–4125; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your comments on these special conditions, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On June 28, 2007, Cessna Aircraft Company applied for a type certificate for their new Model Cessna Model 525C. The Cessna Model 525C is a commuter category derivative configuration of the Model 525B airplane with unique turbofan engines, engine location, and certain performance characteristics necessary for this type of airplane. Unlike similar commuter category jet projects, these special conditions reflect the model history of the model 525 back through normal category for consistency in training.

Type Certification Basis

Under the provisions of 14 CFR, part 21, § 21.17, Cessna Aircraft Company must show that the Cessna Model 525C meets the applicable provisions of part 23, as amended by Amendment 23–1 through 23–59 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 23) do not contain adequate or appropriate safety standards for the Model 525C because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model 525C must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model.

Novel or Unusual Design Features

The Cessna Model 525C will incorporate the following novel or unusual design features: Two aft mounted Williams International FJ44–4A turbofan engines rated at 3,400 pounds of thrust with a Full Authority Digital Engine Control (FADEC) system and other performance characteristics that were not envisioned by the regulations when the Model 525 was originally certificated.

Applicability

As discussed above, these special conditions are applicable to the Cessna Model 525C. Should Cessna Aircraft Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general

applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Cessna Model 525C airplanes.

1. *SC 23.161, Trim*

Instead of the requirements of § 23.161(b)(2), the following applies:

(b)(2) For commuter category airplanes, at all speeds from 1.4 V_{S1} to V_{MO}/M_{MO}.

2. *SC 23.181, Dynamic stability*

Instead of compliance with the requirements of § 23.181(a), and (d), the following applies:

(a) Any short period oscillation, not including combined lateral-directional oscillations, occurring between 1.2 V_S and the maximum allowable speed appropriate to the configuration of the airplane must be heavily damped with the primary controls—

(1) Free; and

(2) In a fixed position.

(d) During the conditions as specified in § 23.175, when the longitudinal control force required to maintain speeds differing from the trim speed by at least plus and minus 15 percent or 15 knots, whichever is less, is released after first returning the control to the original trimmed position, the response of the airplane must not exhibit any dangerous characteristics nor be excessive in relation to the magnitude of the control force prior to release. Any long-period oscillation of flight path, phugoid oscillation, that results must not be so unstable as to increase the pilot's workload or otherwise endanger the airplane.

Issued in Kansas City, Missouri, on October 28, 2009.

Margaret Kline,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–26596 Filed 11–3–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 080211163–91379–03]

RIN 0694–AE18

Encryption Simplification

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule; correcting amendment.

SUMMARY: The Bureau of Industry and Security (BIS) published a final rule in the **Federal Register** on Thursday, October 15, 2009 (74 FR 52880) that amended the Export Administration Regulations (EAR) to finalize and correct errors in an interim final rule entitled ''Encryption Simplification'' on October 3, 2008 (73 FR 57495). That final rule contained one error in the amendatory instruction used for revising one section. This error in the amendatory instruction led to the unintentional removal of the wrong sentence. This document corrects that amendatory instruction error by adding back the sentence that was removed and removing the intended sentence from that section.

In addition, this rule clarifies references in the preamble to an amendment to part 736 that should have been removed. The instruction to amend part 736 was removed from the rule prior to publication, because the amendment had already been made. No action is necessary to correct this mistake, as it did not affect the Code of Federal Regulations (CFR).

DATES: *Effective Date:* This rule is effective: November 4, 2009.

ADDRESSES: Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230. Send comments regarding the collection of information to Jasmeet Seehra, Office of Management and Budget (OMB), by e-mail to *jseehra@omb.eop.gov,* or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, 14th St. & Pennsylvania Avenue, NW., Room H2705, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce; by *telephone:* (202) 482–2440; or by *fax:* 202–482–3355.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 2009, the final rule, ''Encryption Simplification Rule: Final'' was published in the **Federal Register** (74 FR 52880). BIS intended to remove the sentence that reads ''Section 744.9 prohibits U.S. persons from providing technical assistance to certain foreign persons seeking to develop or manufacture certain encryption commodities or software.'' However, due to an error in the amendatory instructions, the incorrect sentence was removed. This rule corrects that amendatory instruction error by adding back the sentence that reads ''Section 744.6 prohibits certain activities by U.S. persons in support of certain nuclear, missile, chemical, or biological end-uses.'' and removing the sentence that was intended to be removed.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 13, 2009 (74 FR 41,325 (August 14, 2009)), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501

et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves two collections of information subject to the PRA. One of the collections has been approved by OMB under control number 0694 0088, ''Multi Purpose Application,'' and carries a burden hour estimate of 58 minutes for a manual or electronic submission. The other collection has been approved by OMB under control number 0694–0104, ''Commercial Encryption Items Under the Jurisdiction of the Department of Commerce,'' and carries a burden hour estimate of 7 hours for a manual or electronic submission. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to Jasmeet Seehra, OMB Desk Officer, by e-mail at *jseehra@omb.eop.gov* or by fax to (202) 395–7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6622, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this correction regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

■ Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is corrected by making the following correcting amendment:

PART 744—[AMENDED]

■ 1. The authority citation for part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 13, 2009, 74 FR 41,325 (August 14, 2009); November 10, 2008, 73 FR 67097 (November 12, 2008).

§ 744.1 [Amended]

■ 2. Section 744.1 is amended by revising paragraph (a)(1) to read as follows:

§ 744.1 General provisions.

(a)(1) Introduction. In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part contains prohibitions against exports, reexports, and selected transfers to certain end-users and end-uses as introduced under General Prohibition Five (End-use/End-users) and Nine (Orders, Terms, and Conditions), unless authorized by BIS. Sections 744.2, 744.3, 744.4 prohibit exports, reexports and transfers (in-country) of items subject to the EAR to defined nuclear, missile, and chemical and biological proliferation activities. Section 744.5 prohibits exports, reexports and transfers (in-country) of items subject to the EAR to defined nuclear maritime end-uses. Section 744.6 prohibits certain activities by U.S. persons in support of certain nuclear, missile, chemical, or biological end-uses. Section 744.7 prohibits exports and reexports of certain items for certain aircraft and vessels. Section 744.8 prohibits exports and reexports without authorization to certain parties who have been designated as proliferators of weapons of mass destruction or as supporters of such proliferators pursuant to Executive Order 13382. Section 744.10 prohibits exports and reexports of any item subject to the EAR to Russian entities, included in Supplement No. 4 of this part. Section 744.11 imposes license requirements, to the extent specified in Supplement No. 4 to this part on entities listed in Supplement No. 4 to this part for activities contrary to the national security or foreign policy interests of the United States. Sections 744.12, 744.13 and 744.14 prohibit exports and reexports of any item subject to the EAR to persons designated as Specially Designated Global Terrorists, Specially Designated Terrorists, or Foreign Terrorist Organizations, respectively. Section 744.16 sets forth the right of a party listed in Supplement No. 4 to this part to request that its listing be removed or modified. Section 744.19 sets forth BIS's licensing policy for applications for exports or reexports when a party to the transaction is an entity that has been sanctioned pursuant to any of three specified statutes that require certain license applications to be denied. Section 744.20 requires a license, to the extent specified in Supplement No. 4 to this part, for exports and reexports of items subject to the EAR destined to certain sanctioned entities listed in Supplement No. 4 to this part. Section 744.15 describes restrictions on exports and reexports to persons named in general orders. In addition, these sections include license review standards for export license applications submitted as required by these sections. It should also be noted that part 764 of the EAR prohibits exports, reexports and certain transfers of items subject to the EAR to denied parties.

* * * * *

Dated: October 30, 2009.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. E9–26542 Filed 11–3–09; 8:45 am]

BILLING CODE 3510–33–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB 113]

Staff Accounting Bulletin No. 113

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff accounting bulletin.

SUMMARY: This Staff Accounting Bulletin (SAB) revises or rescinds portions of the interpretive guidance included in the section of the Staff Accounting Bulletin Series titled ''Topic 12: Oil and Gas Producing Activities'' (Topic 12) and revises a technical reference in ''Topic 3: Senior Securities'' (Topic 3). This update is intended to make the relevant interpretive guidance consistent with

current authoritative accounting and auditing guidance and Commission rules and regulations. The principal changes involve revision or removal of material due to recent Commission rulemaking. Specifically, the staff is updating the Series in order to bring existing guidance into conformity with the contents of Financial Reporting Release No. 78 (Release No. 33–8995), *Modernization of Oil and Gas Reporting,* issued December 31, 2008 (FR–78), and, in the case of the technical amendment to SAB Topic 3, Financial Reporting Release No. 79 (Release Nos. 33–9026; 34–59775), *Technical Amendments to Rules, Forms, Schedules and Codification of Financial Reporting Policies* (FR–79), issued April 15, 2009. This SAB also updates related interpretive responses and examples in Topic 12. The staff expects registrants to apply the updated guidance in this SAB related to Topic 12 on a prospective basis in conjunction with the application of FR–78 and retroactively for the technical amendment to Topic 3 in conjunction with the effective date of FR–79. FR–78 is effective for registration statements filed on or after January 1, 2010, and for annual reports on Forms 10–K and 20–F for fiscal years ending on or after December 31, 2009. FR–79 is effective as of April 23, 2009.

DATES: *Effective Date:* November 4, 2009.

FOR FURTHER INFORMATION CONTACT: Jonathan W. Duersch, Assistant Chief Accountant, Office of the Chief Accountant, at (202) 551–3719, Doug Parker, Professional Accounting Fellow, Office of the Chief Accountant, at (202) 551–5316 or Leslie A. Overton, Associate Chief Accountant, Division of Corporation Finance, at (202) 551–3518, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

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

Dated: October 29, 2009.

Elizabeth M. Murphy,

Secretary.

PART 211—[AMENDED]

■ Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 113 to the table found in Subpart B.

Staff Accounting Bulletin No. 113

This staff accounting bulletin revises or rescinds portions of the interpretive guidance in Topic 12, ''Oil and Gas Producing Activities,'' included in the Staff Accounting Bulletin Series, in order to make the relevant interpretive guidance consistent with current authoritative accounting and auditing guidance and Financial Reporting Release No. 78 (Release No. 33–8995), *Modernization of Oil and Gas Reporting,* issued December 31, 2008 (2008 Oil & Gas Release). This SAB also updates related interpretive responses and examples. This SAB also includes an amendment to Topic 3 ''Senior Securities,'' for a technical reference revision to conform to Financial Reporting Release No. 79 (Release Nos. 33–9026; 34–59775), *Technical Amendments to Rules, Forms, Schedules and Codification of Financial Reporting Policies,* issued April 15, 2009.

The following describes the changes made to the Staff Accounting Bulletin Series that are presented at the end of this release:

Topic 3: Senior Securities

Topic 3.C, the introductory facts are amended to replace the reference ''Rule 5–02.28 of Regulation S–X'' with ''Rule 5–02.27 of Regulation S–X'' to conform to paragraph numbering amendments made by FR–79.

Topic 12: Oil and Gas Producing Activities

a. Topic 12 is amended to update authoritative accounting literature references to the FASB's Accounting Standards Codification (FASB ASC) throughout.

b. Topic 12.A.1, the introductory facts have been amended, and questions 1, 2, and 3 are removed, leaving question 4 in place (without a numerical designation). Questions 1 and 2 are no longer applicable to the amended definition of ''reliable technology'' in Rule 4–10 of Regulation S–X. Question 3 is removed to conform to Instruction 1 of Item 1204 of Regulation S–K, which no longer addresses reserves attributable to production from processing plant ownership as previously included in Instruction B of Item 3 of former Industry Guide 2.

c. Topic 12.A.2, the facts and the interpretive response to question 1 are amended to conform to changes made by the 2008 Oil & Gas Release by replacing the use of a year-end price when determining reserve quantities with the use of the average price during the 12-month period prior to the ending date of the period covered by the balance sheet, determined as the unweighted arithmetic average of the first-day-of-the-month market price within such period for that oil and gas (the average price). Questions 2 and 3 are removed because the average price is applied in all cases where contractual prices do not exist as specified under Rule 4–10(a)(22) of Regulation S–X.

d. Topic 12.A.3.b is removed to conform to the 2008 Oil & Gas Release which permits the disclosure of probable and possible reserve quantities but does not provide a basis to present estimated values attributed to those reserve quantities.

e. Topic 12.A.3.c, the facts are amended to remove references to Industry Guide 2, which has been replaced by amendments to Regulation S–K and to remove unnecessary references to Regulation S–X and Financial Accounting Standards Board (FASB) Statement No. 69. The interpretive response is amended to replace the term ''merger'' with the term ''business combination'' and replace the term ''combined'' with the term ''consolidated or combined''.

f. Topic 12.A.3.d is removed to conform to the Commission's rules and regulations which do not require (and the Division of Corporation Finance no longer requests) a balance sheet of the general partner to be included in a registration statement for an offering of limited partnership interests.

g. Topic 12.C.1, the facts are amended to remove a reference to FASB Statement No. 25, which is not included in the FASB ASC. In addition, non-substantive editorial changes are made to Topic 12.C.2.

h. Topic 12.D.1, non-substantive editorial changes are made to question 1 and question 2 is amended to simplify the illustrative example in the interpretive response and thereby promote a clearer understanding of the calculation using the ''shortcut'' method for determining the tax effects in computing the full cost ceiling limitation and the resulting gross write-off attributed to the full cost pool.

i. Topic 12.D.3.b is amended to conform to changes made by the 2008 Oil & Gas Release by replacing the use of a year-end spot price when determining reserve quantities with the use of the average price during the 12-month period prior to the ending date of the period covered by the balance sheet, determined as the unweighted arithmetic average of the first-day-of-the-month market price within such period for that oil and gas. Additionally,

the interpretive response is amended to remove unnecessary references to guidance in FASB Statements 52 and 80, which is now provided in FASB ASC Topic 815, *Derivatives and Hedging,* and to add a reference to Financial Reporting Release No. 72 (Release Nos. 33–8350; 34–48960), *Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations,* which is more recent guidance pertinent to Management's Discussion and Analysis disclosures.

j. Topic 12.D.3.c is amended to conform to changes made by the 2008 Oil & Gas Release by removing the provision to apply a recovery of oil and gas prices subsequent to period-end, when assessing whether a write-off computed under the full cost ceiling limitation should be recognized. As stated in the 2008 Oil & Gas Release, this guidance is no longer necessary because use of the average price would effectively eliminate anomalies caused by the single-day period-end price.

k. Topic 12.D.4, Footnote 1 is removed to eliminate unnecessary references specifically related to the adoption of FASB Statement 143, which is now referenced to FASB ASC Subtopic 410–20, *Asset Retirement and Environmental Obligations—Asset Retirement Obligations.* Footnotes previously numbered 2, 3 and 4 are renumbered 1, 2 and 3, respectively.

l. Topic 12.D.4.a, question 1 and the facts and interpretive response related to question 1 are amended and question 2 is removed to eliminate unnecessary references and guidance specifically related to the adoption of FASB Statement 143.

m. Topic 12.D.4.b, the facts, question and interpretive response are amended to eliminate unnecessary references and guidance specifically related to the adoption of FASB Statement 143.

n. Topic 12.D.4.c is removed to eliminate unnecessary transition guidance specifically related to the adoption of FASB Statement 143.

o. Topic 12.F, Footnote 4 is added to reference the definition of current prices used in Rule 4–10(c) of Regulation S–X, which was amended to conform to the 2008 Oil & Gas Release. As amended, Rule 4–10(c)(8) of Regulation S–X defines current price as the average price during the 12-month period prior to the ending date of the period covered by the report, determined as an unweighted arithmetic average of the first-day-of-the-month price for each month within such period, unless prices are defined by contractual arrangements, excluding escalations based upon future conditions.

p. Topic 12.G and Footnotes 5 and 6 are removed to conform to changes made by the 2008 Oil & Gas Release. This conforming change reflects the fact that, under amended Rule 4–10(a)(16) the definition of ''oil and gas producing activities'' includes the extraction of natural gas from coal beds.

Note: The text of SAB 113 will not appear in the Code of Federal Regulations.

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TOPIC 3: SENIOR SECURITIES

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C. Redeemable Preferred Stock

Facts: Rule 5–02.27 of Regulation S–X states that redeemable preferred stocks are not to be included in amounts reported as stockholders' equity, and that their redemption amounts are to be shown on the face of the balance sheet. However, the Commission's rules and regulations do not address the carrying amount at which redeemable preferred stock should be reported, or how changes in its carrying amount should be treated in calculations of earnings per share and the ratio of earnings to combined fixed charges and preferred stock dividends.

* * * * *

TOPIC 12: OIL AND GAS PRODUCING ACTIVITIES

A. Accounting Series Release 257—Requirements for Financial Accounting and Reporting Practices for Oil and Gas Producing Activities

1. Estimates of Reserve Quantities

Facts: Rule 4–10 of Regulation S–X contains definitions of possible reserves, probable reserves, and proved and developed oil and gas reserves to be used in determining quantities of oil and gas reserves to be reported in filings with the Commission.

Question: What pressure base should be used for reporting gas and production, 14.73 psia or the pressure base specified by the state?

Interpretive Response: The reporting instructions to the Department of Energy's Form EIA–28 specify that natural gas reserves are to be reported at 14.73 psia and 60 degrees F. There is no pressure base specified in Regulation S–X or S–K. At the present time staff will not object to natural gas reserves and production data calculated at other pressure bases, if such pressure bases are identified in the filing.

2. Estimates of Future Net Revenues

Facts: U.S. GAAP requires the disclosure of the standardized measure of discounted future net cash flows from production of proved oil and gas reserves.

Question: For purposes of determining reserves and estimated future net revenues, what price should be used for oil and gas which will be produced after an existing contract expires or after the redetermination date in a contract?

Interpretive Response: The price to be used for oil and gas which will be produced after a contract expires or has a redetermination is the average price during the 12-month period prior to the ending date of the period covered by the balance sheet, determined as an unweighted arithmetic average of the first-day-of-the-month price for each month within such period for that oil and gas. This average price, which should be based on the first-day-of-the-month market prices, may be increased thereafter only for additional fixed and determinable escalations, as appropriate. A fixed and determinable escalation is one which is specified in amount and is not based on future events such as rates of inflation.

3. Disclosure of Reserve Information

a. Removed by SAB 103

b. Removed by SAB 113

c. Limited Partnership 10–K Reports

Facts: Item 1201(a) of Regulation S–K contains an exemption from the requirements to disclose certain information relating to oil and gas operations for ''limited partnerships or joint ventures that conduct, operate, manage, or report upon oil and gas drilling income programs that acquire properties either for drilling and production, or for production of oil, gas, or geothermal steam. * * *

Limited partnership agreements often contain buy-out provisions under which the general partner agrees to purchase limited partnership interests that are offered for sale, based upon a specified valuation formula. Because of these arrangements, the requirements for disclosure of reserve value information may be of little significance to the limited partners.

Question: Must the financial statements of limited partnerships included in reports on Form 10–K contain the disclosures of estimated future net revenues, present values and changes therein, and supplemental summary of oil and gas activities specified in paragraphs 23 through 36 of FASB Accounting Standards Codification (FASB ASC) Section 932–235–50, *Extractive Activities—Oil and Gas—Notes to Financial Statements—Disclosure*?

Interpretive Response: The staff will not take exception to the omission of these disclosures in a limited partnership Form 10–K if reserve value information is available to the limited partners pursuant to the partnership agreement (even though the valuations may be computed differently and may be as of a date other than year end). However, the staff will require all of the information listed in paragraphs 23 through 36 of FASB ASC Section 932–235–50 for partnerships which are the subject of a business combination or exchange offer under which various limited partnerships are to be consolidated or combined into a single entity.

d. Removed by SAB 113

e. Rate Regulated Companies

Question: If a company has cost-of-service oil and gas producing properties, how should they be treated in the supplemental disclosures of reserve quantities and related future net revenues provided pursuant to paragraphs 29 through 36 of FASB ASC Section 932–235–50, *Extractive Activities—Oil and Gas—Notes to Financial Statements—Disclosure*?

Interpretive Response: Rule 4–10 provides that registrants may give effect to differences arising from the ratemaking process for cost-of-service oil and gas properties. Accordingly, in these circumstances, the staff believes that the company's supplemental reserve quantity disclosures should indicate separately the quantities associated with properties subject to cost-of-service ratemaking, and that it is appropriate to exclude those quantities from the future net revenue disclosures. The company should also disclose the nature and impact of its cost-of-service ratemaking, including the unamortized cost included in the balance sheet.

4. Removed by SAB 103

B. Removed by SAB 103

C. Methods of Accounting by Oil and Gas Producers

1. First-Time Registrants

Facts: In ASR 300, the Commission announced that it would allow registrants to change methods of accounting for oil and gas producing activities so long as such changes were in accordance with GAAP. Accordingly, the Commission stated that changes from the full cost method to the successful efforts method would not require a preferability letter. Changes to full cost, however, would require justification by the company making the change and filing of a preferability letter from the company's independent accountants.

Question: How does this policy apply to a nonpublic company which changes its accounting method in connection with a forthcoming public offering or initial registration under either the 1933 Act or 1934 Act?

Interpretive Response: The Commission's policy that first-time registrants may change their previous accounting methods without filing a preferability letter is applicable. Therefore, such a company may change to the full cost method without filing a preferability letter.

2. Consistent Use of Accounting Methods Within a Consolidated Entity

Facts: Rule 4–10(c) of Regulation S–X states in part that ''[a] reporting entity that follows the full cost method shall apply that method to all of its operations and to the operations of its subsidiaries * * *''

Question 1: May a subsidiary of the parent use the full cost method if the parent company uses the successful efforts method of accounting for oil and gas producing activities?

Interpretive Response: No. The use of different methods of accounting in the consolidated financial statements by a parent company and its subsidiary would be inconsistent with the full cost requirement that a parent and its subsidiaries all use the same method of accounting.

The staff's general policy is that an enterprise should account for all its like operations in the same manner. However, Rule 4–10 of Regulation S–X provides that oil and gas companies with cost-of-service oil and gas properties may give effect to any differences resulting from the ratemaking process, including regulatory requirements that a certain accounting method be used for the cost-of-service properties.

Question 2: Must the method of accounting (full cost or successful efforts) followed by a registrant for its oil and gas producing activities also be followed by any fifty percent or less owned companies in which the registrant carries its investment on the equity method (equity investees)?

Interpretive Response: No. Conformity of accounting methods between a registrant and its equity investees, although desirable, may not be practicable and thus is not required. However, if a registrant proportionately consolidates its equity investees, it will be necessary to present them all on the same basis of accounting.

D. Application of Full Cost Method of Accounting

1. Treatment of Income Tax Effects in the Computation of the Limitation on Capitalized Costs

Facts: Item (D) in Rule 4–10(c)(4)(i) of Regulation S–X provides that the income tax effects related to the properties involved should be deducted in computing the full cost ceiling.

Question 1: What specific types of income tax effects should be considered in computing the income tax effects to be deducted from estimated future net revenues?

Interpretive Response: The rule refers to income tax effects generally. Thus, the computation should take into account (i) the tax basis of oil and gas properties, (ii) net operating loss carryforwards, (iii) foreign tax credit carryforwards, (iv) investment tax credits, (v) alternative minimum taxes on tax preference items, and (vi) the impact of statutory (percentage) depletion.

It may often be difficult to allocate a net operating loss (NOL) carryforward between oil and gas assets and other assets. However, to the extent that the NOL is clearly attributable to oil and gas operations and is expected to be realized within the carryforward period, it should be added to tax basis.

Similarly, to the extent that investment tax credit (ITC) carryforwards and foreign tax credit carryforwards are attributable to oil and gas operations and are expected to be realized within the carryforward period, they should be considered as a deduction from the tax effect otherwise computed. Consideration of NOL and ITC or foreign tax credit carryforwards should not, of course, reduce the total tax effect below zero.

Question 2: How should the tax effect be computed considering the various factors discussed above?

Interpretive Response: Theoretically, taxable income and tax could be determined on a year-by-year basis and the present value of the related tax computed. However, the ''shortcut'' method illustrated below is also acceptable.

ASSUMPTIONS:

Cost of proved properties being amortized	$396,000
Lower of cost or estimated fair value of unproved properties to be amortized	49,000

Cost of properties not being amortized		55,000	
Capitalized costs of oil and gas assets		500,000	
Accumulated DD&A		(100,000)	
Book basis of oil and gas assets			$400,000
Excess of book basis over tax basis ($270,000) of oil and gas assets		$(130,000)	
NOL carryforward*		20,000	
		(110,000)	
Statutory tax rate (percent)		× 46%	
		(50,600)	
Foreign tax credit carryforward*		1,000	
ITC carryforward*		2,000	
Related net deferred income tax liability			(47,600)
Net book basis to be recovered			$352,400
Other Assumptions:			
Present value of ITC relating to future development costs		$1,500	
Present value of statutory depletion attributable to future deductions		$10,000	
Estimated preference (minimum) tax on percentage depletion in excess of cost depletion		$500	
Present value of future net revenue from proved oil and gas reserves		$272,000	
CALCULATION:			
Present value of future net revenue		$272,000	
Cost of properties not being amortized		55,000	
Lower of cost or estimated fair value of unproved properties included in costs being amortized		49,000	
Total ceiling limitation before tax effects			$376,000
Tax Effects:			
Total ceiling limitation before tax effects		$376,000	
Less: Tax basis of properties	$(270,000)		
Statutory depletion	(10,000)		
NOL carryforward	(20,000)		
		(300,000)	
Future taxable income		76,000	
Tax rate (percent)		× 46%	
Tax at statutory rate		(34,960)	
ITC (future development costs and carryforward)		3,500	
Foreign tax credit carryforward		1,000	
Estimated preference tax		(500)	
Net tax effects			(30,960)
Cost Center Ceiling			$345,040
Less: Net book basis to be recovered			352,400
REQUIRED WRITE-OFF, net of tax**			$(7,360)

*All carryforward amounts in this example represent amounts which are available for tax purposes and which relate to oil and gas operations.

**For accounting purposes, the gross write-off should be recorded to adjust both the oil and gas properties account and the related deferred income taxes.

CALCULATION OF GROSS PRE-TAX WRITE-OFF:			
Required write-off, net of tax			$(7,360)
Divided by (100% minus the statutory rate of 46%)			54%
Gross pre-tax write-off			$(13,630)

Related Journal Entries	*DR*	*CR*	
Full cost ceiling impairment	$13,630		
Oil and gas assets		$13,630	
Deferred income tax liability	$6,270		
Deferred income tax benefit		$6,270	

2. Exclusion of Costs From Amortization

Facts: Rule 4–10(c)(3)(ii) indicates that the costs of acquiring and evaluating unproved properties may be excluded from capitalized costs to be amortized if the costs are unusually significant in relation to aggregate costs to be amortized. Costs of major development projects may also be incurred prior to ascertaining the quantities of proved reserves attributable to such properties.

Question: At what point should amortization of previously excluded costs commence—when proved reserves have been established or when those reserves become marketable? For instance, a determination of proved reserves may be made before completion of an extraction plant necessary to process sour crude or a pipeline necessary to market the reserves. May the costs continue to be excluded from amortization until the plant or pipeline is in service?

Interpretive Response: No. The proved reserves and the costs allocable to such reserves should be transferred into the amortization base on an ongoing (well-by-well or property-by-property) basis as the project is evaluated and proved reserves are established.

Once the determination of proved reserves has been made, there is no justification for continued exclusion from the full cost pool, regardless of whether other factors prevent immediate marketing. Moreover, at the same time that the costs are transferred into the amortization base, it is also necessary in accordance with FASB ASC Subtopic 932–835, *Extractive Activities—Oil and Gas—Interest* and FASB ASC Subtopic 835–20, *Interest—Capitalization of Interest,* to terminate capitalization of interest on such properties.

In this regard, registrants are reminded of their responsibilities not to delay recognizing reserves as proved once they have met the engineering standards.

3. Full Cost Ceiling Limitation

a. Exemptions for Purchased Properties

Facts: During 20x1, a registrant purchases proved oil and gas reserves in place (''the purchased reserves'') in an arm's-length transaction for the sum of $9.8 million. Primarily because the registrant expects oil and gas prices to escalate, it paid $1.2 million more for the purchased reserves than the ''Present Value of Estimated Future Net Revenues'' computed as defined in Rule 4–10(c)(4)(i)(A) of Regulation S–X. An analysis of the registrant's full cost center in which the purchased reserves are located at December 31, 20x1 is as follows:

[Amounts in thousands]

	Total	Purchased reserves	Other proved properties	Unproved properties
Present value of estimated future net revenues	$14,100	8,600	5,500	.....
Cost, net of amortization	16,300	9,800	5,500	1,000
Related deferred taxes	2,300	.....	2,000	300
Income tax effects related to properties	2,500	.....	2,500	.....
Comparison of capitalized costs with limitation on capitalized costs at December 31, 20x1:		Including purchased reserves	Excluding purchased reserves	
Capitalized costs, net of amortization.	.....	$16,300	$6,500	
Related deferred taxes	.....	(2,300)	(2,300)	
Net book cost	.....	14,000	4,200	
Present value of estimated future net revenues	.....	14,100	5,500	
Lower of cost or market of unproved properties	.....	1,000	1,000	
Income tax effects related to properties	.....	(2,500)	(2,500)	
Limitation on capitalized costs	.....	12,600	4,000	
Excess of capitalized costs over limitation on capitalized costs, net of tax*	.....	1,400	200	

* For accounting purposes, the gross write-off should be recorded to adjust both the oil and gas properties account and the related deferred income taxes.

Question: Is it necessary for the registrant to write down the carrying value of its full cost center at December 31, 20x1 by $1,400,000?

Interpretive Response: Although the net carrying value of the full cost center exceeds the cost center's limitation on capitalized costs, the text of ASR 258 provides that a registrant may request an exemption from the rule if as a result of a major purchase of proved properties, a write down would be required even though the registrant believes the fair value of the properties in a cost center clearly exceeds the unamortized costs.

Therefore, to the extent that the excess carrying value relates to the purchased reserves, the registrant may seek a temporary waiver of the full-cost ceiling limitation from the staff of the Commission. Registrants requesting a waiver should be prepared to demonstrate that the additional value exists beyond reasonable doubt.

To the extent that the excess costs relate to properties other than the purchased reserves, however, a write-off should be recorded in the current period. In order to determine the portion of the total excess carrying value which is attributable to properties other than the purchased reserves, it is necessary to perform the ceiling computation on a ''with and without'' basis as shown in the example above. Thus in this case, the registrant must record a write-down of $200,000 applicable to other reserves. An additional $1,200,000 write-down would be necessary unless a waiver was obtained.

b. Use of Cash Flow Hedges in the Computation of the Limitation on Capitalized Costs

Facts: Rule 4–10(c)(4) of Regulation S–X provides, in pertinent part, that

capitalized costs, net of accumulated depreciation and amortization, and deferred income taxes, should not exceed an amount equal to the sum of components that include the present value of estimated future net revenues computed by applying current prices of oil and gas reserves (with consideration of price changes only to the extent provided by contractual arrangements) to estimated future production of proved oil and gas reserves as of the date of the latest balance sheet presented.

As of the reported balance sheet date, capitalized costs of an oil and gas producing company exceed the full cost limitation calculated under the above-described rule based on current prices, as defined in Rule 4–10(c)(8) of Regulation S–X, for oil and natural gas. However, prior to the balance sheet date, the company entered into certain hedging arrangements for a portion of its future natural gas and oil production, thereby enabling the company to receive future cash flows that are higher or lower than the estimated future cash flows indicated by use of the average price during the 12-month period prior to the balance sheet date, determined as an unweighted arithmetic average of the first-day-of-the-month price for each month within such period. These arrangements qualify as cash flow hedges under the provisions of FASB ASC Topic 815, *Derivatives and Hedging,* and are documented, designated, and accounted for as such under the criteria of that standard.

Question: Under these circumstances, must the company use the higher or lower prices to be received after taking into account the hedging arrangements (''hedge-adjusted prices'') in calculating the estimated cash flows from future production of oil and gas reserves covered by the hedges as of the reported balance sheet date?

Interpretive Response: Yes. Derivative contracts that qualify as a hedging instrument in a cash flow hedge and are accounted for as such pursuant to FASB ASC Topic 815 represent the type of contractual arrangements for which consideration of price changes should be given under the existing rule. While the SEC staff has objected to previous proposals to consider various hedging techniques as being equivalent to the contractual arrangements permitted under the existing rules, the staff's objection was based on concerns that the lack of clear, consistent guidance in the accounting literature would lead to inconsistent application in practice. However, the staff believes that FASB ASC Topic 815 and related guidance (including a more systematic approach to documentation) provides sufficient guidance so that comparable financial reporting in comparable factual circumstances should result.

This interpretive response reflects the SEC staff's view that, assuming compliance with the prerequisite accounting requirements, hedge-adjusted prices represent the best measure of estimated cash flows from future production of the affected oil and gas reserves to use in calculating the ceiling limitation. Nonetheless, the staff expects that oil and gas producing companies subject to the full cost rules will clearly indicate the effects of using cash flow hedges in calculating ceiling limitations within their financial statement footnotes. The staff further expects that disclosures will indicate the portion of future oil and gas production being hedged. The dollar amount that would have been charged to income had the effects of the cash flow hedges not been considered in calculating the ceiling limitation also should be disclosed.

The use of hedge-adjusted prices should be consistently applied in all reporting periods, including periods in which the hedge-adjusted price is more or less than the average price during the 12-month period prior to the balance sheet date, determined as an unweighted arithmetic average of the first-day-of-the-month price for each month within such period. Oil and gas producers whose computation of the ceiling limitation includes hedge-adjusted prices because of the use of cash flow hedges also should consider the disclosure requirements under FASB ASC Section 275–10–50, *Risks and Uncertainties—Overall-Disclosure.* Paragraph 9 of FASB ASC Section 275–10–50 calls for disclosure when it is at least reasonably possible that the effects of cash flow hedges on capitalized costs on the reported balance sheet date will change in the near term due to one or more confirming events, such as potential future changes in commodity prices.

In addition, the use of cash flow hedges in calculating the ceiling limitation may represent a type of critical accounting policy that oil and gas producers should consider disclosing consistent with the cautionary advice provided in Financial Reporting Release No. 60 (Release Nos. 33–8040; 34–45149), *Cautionary Advice Regarding Disclosure about Critical Accounting Policies* (December 12, 2001), and Financial Reporting Release No. 72 (Release Nos. 33–8350; 34–48960), *Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations* (December 29, 2003). Through these releases, the Commission has encouraged companies to include, within their MD&A disclosures, full explanations, in plain English, of the judgments and uncertainties affecting the application of critical accounting policies, and the likelihood that materially different amounts would be reported under different conditions or using different assumptions.

The staff's guidance on this issue would apply to calculations of ceiling limitations both in interim and annual reporting periods.

c. Effect of Subsequent Events on the Computation of the Limitation on Capitalized Costs

Facts: Rule 4–10(c)(4)(ii) of Regulation S–X provides that an excess of unamortized capitalized costs within a cost center over the related cost ceiling shall be charged to expense in the period the excess occurs.

Question: Assume that at the date of the company's fiscal year-end, its capitalized costs of oil and gas producing properties exceed the limitation prescribed by Rule 4–10(c)(4) of Regulation S–X. Thus, a write-down is indicated. Subsequent to year-end but before the date of the auditor's report on the company's financial statements, assume that additional reserves are proved up (excluding the effect of increased oil and gas prices subsequent to year-end) on properties owned at year-end. The present value of future net revenues from the additional reserves is sufficiently large that if the full cost ceiling limitation were recomputed giving effect to those factors as of year-end, the ceiling would more than cover the costs. Is it necessary to record a write-down?

Interpretive Response: No. In this case, the proving up of additional reserves on properties owned at year-end indicates that the capitalized costs were not in fact impaired at year-end. However, for purposes of the revised computation of the ''ceiling,'' the net book costs capitalized as of year-end should be increased by the amount of any additional costs incurred subsequent to year-end to prove the additional reserves or by any related costs previously excluded from amortization.

While the fact pattern described herein relates to annual periods, the guidance on the effects of subsequent events applies equally to interim period calculations of the ceiling limitation.

The registrant's financial statements should disclose that capitalized costs exceeded the limitation thereon at year-

end and should explain why the excess was not charged against earnings. In addition, the registrant's supplemental disclosures of estimated proved reserve quantities and related future net revenues and costs should not give effect to the reserves proved up or the cost incurred after year-end. However, such quantities may be disclosed separately, with appropriate explanations.

Registrants should be aware that oil and gas reserves related to properties acquired after year-end would not justify avoiding a write-off indicated as of year-end. Similarly, the effects of cash flow hedging arrangements entered into after year-end cannot be factored into the calculation of the ceiling limitation at year-end. Such acquisitions and financial arrangements do not confirm situations existing at year-end.

4. Interaction of FASB ASC Subtopic 410–20 Asset Retirement and Environmental Obligations—Asset Retirement Obligations—and the Full Cost Rules

a. Impact of FASB ASC Subtopic 410–20 on the Full Cost Ceiling Test

Facts: A company following the full cost method of accounting under Rule 4–10(c) of Regulation S–X must periodically calculate a limitation on capitalized costs, i.e., the full cost ceiling. Under FASB ASC Subtopic 410–20, *Asset Retirement and Environmental Obligations—Asset Retirement Obligations,* a company must recognize a liability for an asset retirement obligation (ARO) at fair value in the period in which the obligation is incurred, if a reasonable estimate of fair value can be made. The company also must initially capitalize the associated asset retirement costs by increasing long-lived oil and gas assets by the same amount as the liability. Any asset retirement costs capitalized pursuant to FASB ASC Subtopic 410–20 are subject to the full cost ceiling limitation under Rule 4–10(c)(4) of Regulation S–X. If a company were to calculate the full cost ceiling by reducing expected future net revenues by the cash flows required to settle the ARO, then the effect would be to ''double-count'' such costs in the ceiling test. The assets that must be recovered would be increased while the future net revenues available to recover the assets continue to be reduced by the amount of the ARO settlement cash flows.

Question: How should a company compute the full cost ceiling to avoid double-counting the expected future cash outflows associated with asset retirement costs?

Interpretive Response: The future cash outflows associated with settling AROs that have been accrued on the balance sheet should be excluded from the computation of the present value of estimated future net revenues for purposes of the full cost ceiling calculation.[1] [2]

b. Impact of FASB ASC Subtopic 410–20 on the Calculation of Depreciation, Depletion, and Amortization

Facts: Regarding the base for depreciation, depletion, and amortization (DD&A) of proved reserves, Rule 4–10(c)(3)(i) of Regulation S–X states that ''[c]osts to be amortized shall include (A) all capitalized costs, less accumulated amortization, other than the cost of properties described in paragraph (ii) below; [3] (B) the estimated future expenditures (based on current costs) to be incurred in developing proved reserves; and (C) estimated dismantlement and abandonment costs, net of estimated salvage values.'' FASB ASC Subtopic 410–20 requires that upon initial recognition of an ARO, the associated asset retirement costs be included in the capitalized costs of the company. Therefore, the estimated dismantlement and abandonment costs described in (C) above may be included in the capitalized costs described in (A) above, at least to the extent that an ARO has been incurred as a result of acquisition, exploration and development activities to date. Future development activities on proved reserves may result in additional asset retirement obligations when such activities are performed and the associated asset retirement costs will be capitalized at that time.

Question: Should the costs to be amortized under Rule 4–10(c)(3) of Regulation S–X include an amount for estimated dismantlement and abandonment costs, net of estimated salvage values, that are expected to result from future development activities?

Interpretive Response: Yes. Companies should estimate the amount of dismantlement and abandonment costs that will be incurred as a result of future development activities on proved reserves and include those amounts in the costs to be amortized.

c. Removed by SAB 113

E. Financial Statements of Royalty Trusts

Facts: Several oil and gas exploration and production companies have created ''royalty trusts.'' Typically, the creating company conveys a net profits interest in certain of its oil and gas properties to the newly created trust and then distributes units in the trust to its shareholders. The trust is a passive entity which is prohibited from entering into or engaging in any business or commercial activity of any kind and from acquiring any oil and gas lease, royalty or other mineral interest. The function of the trust is to serve as an agent to distribute the income from the net profits interest. The amount to be periodically distributed to the unitholders is defined in the trust agreement and is typically determined based on the cash received from the net profits interest less expenses of the trustee. Royalty trusts have typically reported their earnings on the basis of cash distributions to unitholders. The net profits interest paid to the trust for any month is based on production from a preceding month; therefore, the method of accounting followed by the trust for the net profits interest income is different from the creating company's method of accounting for the related revenue.

Question: Will the staff accept a statement of distributable income which reflects the amounts to be distributed for the period in question under the terms of the trust agreement in lieu of a statement of income prepared under GAAP?

Interpretive Response: Yes. Although financial statements filed with the Commission are normally required to be prepared in accordance with GAAP, the Commission's rules provide that other presentations may be acceptable in unusual situations. Since the operations of a royalty trust are limited to the distribution of income from the net profits interests contributed to it, the staff believes that the item of primary importance to the reader of the financial statements of the royalty trust is the amount of the cash distributions to the unitholders for the period reported. Should there be any change in the

[1] If an obligation for expected asset retirement costs has not been accrued under FASB ASC Subtopic 410–20 for certain asset retirement costs required to be included in the full cost ceiling calculation under Rule 4–10(c)(4) of Regulation S–X, such costs should continue to be included in the full cost ceiling calculation.

[2] This approach is consistent with the guidance in FASB ASC Subtopic 410–20 on testing for impairment under FASB ASC Section 360–10–35 *Property, Plant, and Equipment—Overall—Subsequent Measurement.* Under that guidance, the asset tested should include capitalized asset retirement costs. The estimated cash flows related to the associated ARO that has been recognized in the financial statements are to be excluded from both the undiscounted cash flows used to test for recoverability and the discounted cash flows used to measure the asset's fair value.

[3] The reference to ''cost of properties described in paragraph (ii) below'' relates to the costs of investments in unproved properties and major development projects, as defined.

nature of the trust's operations due to revisions in the tax laws or other factors, the staff's interpretation would be reexamined.

A note to the financial statements should disclose the method used in determining distributable income and should also describe how distributable income as reported differs from income determined on the basis of GAAP.

F. Gross Revenue Method of Amortizing Capitalized Costs

Facts: Rule 4–10(c)(3)(iii) of Regulation S–X states in part: ''Amortization shall be computed on the basis of physical units, with oil and gas converted to a common unit of measure on the basis of their approximate relative energy content, unless economic circumstances (related to the effects of regulated prices) indicate that use of units of revenue is a more appropriate basis of computing amortization. In the latter case, amortization shall be computed on the basis of current gross revenues (excluding royalty payments and net profits disbursements) from production in relation to future gross revenues based on current prices (including consideration of changes in existing prices provided only by contractual arrangements), from estimated production of proved oil and gas reserves.'' [4]

Question: May entities using the full cost method of accounting for oil and gas producing activities compute amortization based on the gross revenue method described in the above rule when substantial production is not subject to pricing regulation?

Interpretive Response: Yes. Under the existing rules for cost amortization adopted in ASR 258, the use of the gross revenue method of amortization was permitted in those circumstances where, because of the effect of existing pricing regulations, the use of the units of production method would result in an amortization provision that would be inconsistent with the current sales prices being received. While the effect of regulation on gas prices has lessened, factors other than price regulation (such as changes in typical contract lengths and methods of marketing natural gas) have caused oil and gas prices to be disproportionate to their relative energy content. The staff therefore believes that it may be more appropriate for registrants to compute amortization based on the gross revenue method whenever oil and gas sales prices are disproportionate to their relative energy content to the extent that the use of the units of production method would result in an improper matching of the costs of oil and gas production against the related revenue received. The method should be consistently applied and appropriately disclosed within the financial statements.

G. Removed by SAB 113

[FR Doc. E9–26525 Filed 11–3–09; 8:45 am]

BILLING CODE 8011–01–P

[4] Rule 4–10(c)(8) of Regulation S–X defines current price as the average price during the 12-month period prior to the ending date of the period covered by the report, determined as an unweighted arithmetic average of the first-day-of-the-month price for each month within such period, unless prices are defined by contractual arrangements, excluding escalations based upon future conditions.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0907]

RIN 1625–AA00

Safety Zone; Corporate Party on Hornblower Yacht, Fireworks Display, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters in San Francisco Bay proximate to Pier 30–32 in San Francisco, CA in support of a Corporate Party on Hornblower Yacht. This safety zone is established to ensure the safety of participants and spectators from the dangers associated with the pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or his designated representative.

DATES: This rule is effective from 12:45 p.m. through 9:30 p.m. on November 9, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0907 and are available online by going to *http://www.regulations.gov*, inserting USCG–2009–0907 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Ensign Liezl Nicholas, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442, e-mail *Liezl.A.Nicholas@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because delaying the implementation of the safety zone would subject the public to the hazards associated with firework displays. Because of the dangers posed by the pyrotechnics used in these fireworks displays, the safety zones are necessary to provide for the safety of event participants, spectators, spectator craft, and other vessels transiting the event area. Additionally, the zone should have negligible impact on vessel transits due to the fact that vessels will be limited from the area for a short duration and vessels can still transit in the majority of the San Francisco Bay during the event. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** Any delay in the effective date of this rule would expose mariners to the dangers posed by the pyrotechnics used in the fireworks display.

Background and Purpose

Hornblower Cruises & Events will sponsor a Corporate Party fireworks display on November 9, 2009, on the navigable waters located proximate to Pier 30–32 in San Francisco Bay, San Francisco Bay, CA. The fireworks display is meant for entertainment purposes. This safety zone is issued to establish a temporary restricted area on the waters surrounding the fireworks launch site during loading of the

pyrotechnics, and during the fireworks displays. This restricted area around the launch site is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics on the fireworks barges. The Coast Guard has granted the event sponsor a marine event permit for the fireworks displays.

Discussion of Rule

From at 12:45 p.m. until 9 p.m., during the set up of the fireworks and until the start of the fireworks displays, the temporary safety zone applies to the navigable waters around the fireworks site within a radius of 100 feet centering on the pyrotechnics barge located proximate to Pier 30–32 in San Francisco Bay at 37°46′39.90″ N, 122°23′06.78″ W (NAD 83). From 9 p.m. until 9:30 p.m., the area to which the temporary safety zone applies will increase in size to encompass the navigable waters around the fireworks launch site within a radius of 1,000 feet.

The effect of the temporary safety zones will be to restrict navigation in the vicinity of the fireworks sites while the fireworks are set up, and until the conclusion of the scheduled displays. Except for persons or vessels authorized by the Captain of the Port or his designated representative, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep spectators and vessels a safe distance away from the fireworks barges to ensure the safety of participants, spectators, and transiting vessels.

Regulatory Analyses

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

Regulatory Planning and Review

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

Although this rule restricts access to the waters encompassed by the safety zones, the effect of this rule will not be significant because: (i) The safety zone is in effect for a limited time; (ii) vessels will be able to transit in the majority of San Francisco Bay; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust plans accordingly.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: Owners and operators of pleasure craft engaged in recreational activities and sightseeing intending to transit or anchor in a portion of the San Francisco Bay from 12:45 p.m. to 9:30 p.m. on November 9, 2009. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of the areas of San Francisco, CA to engage in these activities, (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and (iv) the maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves a regulation establishing a safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T11–249 is added to read as follows:

§ 165.T11–249 Safety Zone; Corporate Party on Hornblower Yacht, Fireworks Display, San Francisco, CA

(a) *Location.* The following area is a safety zone: All waters of the San Francisco Bay from the surface to the bottom, within a 100 foot radius of the fireworks launch site located at 37°46′39.90″ N, 122°23′06.78″ W (NAD 83) proximate to Pier 30–32 from 12:45 p.m. until 9 p.m. on November 9, 2009; and within 1,000 feet of the same launch site from 9 p.m. until 9:30 p.m. on November 9, 2009.

(b) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP) San Francisco in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP's Representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the designated representative. Persons and vessels may request permission to enter the safety zones on VHF–16 or through the 24-hour Command Center at telephone (415) 399–3547.

(d) Effective period. This section is effective from 12:45 p.m. through 9:30 p.m. on November 9, 2009.

Dated: October 10, 2009.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. E9–26574 Filed 11–3–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AN05

Presumption of Service Connection for Amyotrophic Lateral Sclerosis

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule the interim final rule amending the Department of Veterans Affairs (VA) adjudication regulations to establish a presumption of service connection for amyotrophic lateral sclerosis (ALS) for any veteran who develops the disease at any time after separation from service. This amendment implements the decision by the Secretary of Veterans Affairs to establish such a presumption based on a November 2006 report by the National Academy of Sciences Institute of Medicine on the association between active service and ALS.

DATES: *Effective Date:* November 4, 2009.

Applicability Date: This final rule shall apply to all applications for benefits that are received by VA on or after September 23, 2008, the effective date of the interim final rule, and to all applications for benefits that were pending before VA, the United States Court of Appeals for Veterans Claims, or the United States Court of Appeals for the Federal Circuit on that date.

FOR FURTHER INFORMATION CONTACT: Thomas J. Kniffen, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9366.

SUPPLEMENTARY INFORMATION: On September 23, 2008, VA published in the **Federal Register** (73 FR 54691) an interim final rule that established at new § 3.318 a presumption of service connection for ALS for any veteran who develops the disease at any time after separation from service.

We provided a 60-day comment period that ended on November 24,

2008. We received comments from 12 members of the general public and 1 each from the ALS Association and the American Speech-Language-Hearing Association (ASHA). Most of the comments from the general public came from family members of veterans affected by this disease, expressing gratitude and the belief that this decision was long overdue. Based on the rationale set forth in the interim final rule and this final rule, we adopt the provisions of the interim final rule as a final rule without change.

Administrative Procedure Act

This document affirms the amendment made by the interim final rule that is already in effect. The Secretary of Veterans Affairs concluded that, under 5 U.S.C. 553(b)(3)(B) and (d)(3), there was good cause to dispense with advance public notice and opportunity to comment on this rule and good cause to publish the interim final rule with an immediate effective date. The interim final rule was necessary to implement immediately the Secretary's decision to establish a presumption of service connection for ALS for veterans with that diagnosis. Delay in the implementation of this presumption would have been contrary to the public interest.

Because the survival period for persons suffering from ALS is generally 5 years or less from the onset of symptoms, any delay would have been extremely detrimental to veterans who are currently afflicted with ALS. Veterans with ALS may not be taking alleviating medications, participating in muscle and speech therapy, or receiving proper assistance for daily functions due to financial hardship or their lack of having service-connected status for their disability. Moreover, in all likelihood, some veterans would have died from this rapidly progressive disease during a period for prior public comment. These veterans obviously would not have received any benefit from a presumption that is implemented after a public-comment period.

In order to benefit veterans currently suffering from ALS as quickly as possible, it was critical that VA established this presumption immediately.

Conditions for Presumptive Service Connection

The ALS Association expressed support for this regulation and stated its belief that 90 continuous days of service in the military and a diagnosis of ALS are sufficient to establish presumptive service connection for that disease. New § 3.318 generally establishes presumptive service connection for ALS if a veteran had at least 90 continuous days of active military, naval, or air service and developed ALS at any time after separation from such service. We made no changes based on this comment.

Exceptions to the Presumption of Service Connection

The ALS Association was concerned that the presumption of service connection for ALS would not apply ''when there is affirmative evidence that ALS was not caused by military service or was caused by a veteran's own willful misconduct.'' However, it conceded that there is ''very little likelihood that either of those standards will be met with regard to any particular claim,'' as we stated in the supplementary information of the interim final rule. We made no changes based on this comment.

Outreach Services

We received several comments about VA contacting family survivors of affected veterans concerning new § 3.318, increasing awareness of ALS, and performing research regarding the disease. VA is taking steps to inform both veterans with ALS and family survivors of veterans with ALS about this regulation and realizes the importance of all of these issues. These issues, however, are beyond the scope of this rulemaking. We made no changes based on these comments.

Eligibility for Survivor Benefits

We received comments concerning the availability of survivor benefits to survivors of veterans who died from ALS before the effective date of the interim final rule. A veteran's survivor who establishes that the veteran died from ALS before September 23, 2008, may be eligible for dependency and indemnity compensation pursuant to new § 3.318, but would not be entitled to any retroactive benefits before September 23, 2008 (see discussion below). The laws concerning survivor benefits, however, are not specifically addressed by this rulemaking. For information about such benefits, those who are interested may call VA for assistance at 1–888–GIBILL1 (442–4551) for education benefits, or at 1–800–827–1000 for all other VA benefits. They may also contact VA on the Internet at *http://www.gibill.va.gov* for education claims or at *https://iris.va.gov* for other information. We made no changes based on these comments.

Expedited Claims

The ALS Association recommended that VA consider adopting formal processes for expediting claims for veterans with ALS because of the rapidly progressive and terminal nature of the disease. VA is aware of the need for expediting claims for ALS and has taken steps to assure that this happens. However, this issue is beyond the scope of this rulemaking. We made no changes based on this comment.

Use of Assistive Technology

ASHA commented that it ''strongly supports this presumption'' and that this presumption would help veterans with ALS receive necessary treatment, such as the use of a speech-generating device. We note that VA already provides assistive technological devices to veterans to help them overcome challenges they face in coping with various diseases. Issues relating to treatment, however, are not part of this rulemaking. We made no changes based on this comment.

Effective Date of Benefits

Several commenters urged VA to provide benefits for awards based on new § 3.318 retroactive to the date of claim, even if the claim was originally filed and/or denied before September 23, 2008, the effective date of the interim final rule. New § 3.318 is applicable prospectively to claims filed on or after September 23, 2008, and to all applications for benefits that were pending before VA, the United States Court of Appeals for Veterans Claims, or the United States Court of Appeals for the Federal Circuit on that date. Under 38 U.S.C. 5110(g), the effective date of any award of disability compensation or dependency and indemnity compensation made pursuant to new § 3.318 will be assigned in accordance with the facts found but cannot be earlier than the effective date of the interim final rule or the date one year prior to the date of application, whichever is later. VA therefore cannot assign an effective date prior to September 23, 2008, for an award of benefits made pursuant to new § 3.318. We made no changes based on this comment.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action'' requiring review by the Office of Management and Budget, as any regulatory action 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 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 entitlement recipients; 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.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has concluded that it is a significant regulatory action under Executive Order 12866 because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule could affect only VA beneficiaries and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are as follows: 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: October 9, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

PART 3–ADJUDICATION

■ Accordingly, the interim rule amending 38 CFR part 3 which was published at 73 FR 54691 on September 23, 2008, is adopted as a final rule without change.

[FR Doc. E9–26580 Filed 11–3–09; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2009–0353; FRL–8979–9]

Revisions to the California State Implementation Plan, California Air Resources Board Consumer Products Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the California Air Resources Board portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on June 26, 2009 and concern volatile organic compound (VOC) emissions from consumer products. We are approving State rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: *Effective Date:* This rule is effective on December 4, 2009.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2009–0353 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947–4122, *tong.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On June 26, 2009 (74 FR 30481), EPA proposed to approve the following regulations into the California SIP.

TABLE 1—SUBMITTED REGULATIONS

Regulation	Regulation title	Adopted/ amended	Submitted
California Code of Regulations Title 17, Division 3, Chapter 1, Subchapter 8.5—Consumer Products.	Article 1—Antiperspirants and Deodorants	05/06/2005	03/27/2008
California Code of Regulations Title 17, Division 3, Chapter 1, Subchapter 8.5—Consumer Products.	Article 2—Consumer Products	09/26/2007	03/27/2008
California Code of Regulations Title 17, Division 3, Chapter 1, Subchapter 8.5—Consumer Products.	Article 3—Aerosol Coating Products	09/26/2007	03/27/2008
California Air Resources Board—Test Method 310	Method 310—Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products.	05/06/2005	03/27/2008

We proposed to approve the above regulations because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the regulations and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. We received and granted a request to extend the comment period by another 30 days until August 27, 2009 (74 FR 36980, July 27, 2009). During this period, we received one comment from the following party.

1. Michael Scheible, California Air Resources Board (CARB), letter dated August 27, 2009 and received August 27, 2009. CARB requested that Test Method 310 be removed from the SIP submittal and asked EPA to continue to act on the remaining Consumer Products regulations.

III. EPA Action

Based on CARB's request to remove Test Method 310 from the SIP submittal, we are not acting to approve the method into the SIP. EPA has previously determined that Test Method 310 is technically adequate to determine compliance with CARB's Consumer Products Regulations (70 FR 53590, September 13, 2005 and 40 CFR 59, subpart E).

No comments were submitted that change our assessment that the submitted regulations comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving California Code of Regulations Title 17, Division 3, Chapter 1, Subchapter 8.5—Consumer Products, Articles 1, 2, and 3 into the California SIP.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 23, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(365) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(365) New and amended regulations were submitted on March 27, 2008, by the Governor's designee.

(i) Incorporation by Reference.

(A) California Air Resources Board.

(*1*) Barclays Official California Code of Regulations, Title 17 Public Health, Division 3 Air Resources, Chapter 1 Air Resources Board, Subchapter 8.5 Consumer Products, Article 1 Antiperspirants and Deodorants, amendment filed 6–20–2005, operative 7–20–2005.

(*2*) Barclays Official California Code of Regulations, Title 17 Public Health, Division 3 Air Resources, Chapter 1 Air Resources Board, Subchapter 8.5 Consumer Products, Article 2 Consumer Products, amendment filed 11–8–2007, operative 12–8–2007.

(*3*) Barclays Official California Code of Regulations, Title 17 Public Health, Division 3 Air Resources, Chapter 1 Air Resources Board, Subchapter 8.5 Consumer Products, Article 3 Aerosol Coating Products, amendment filed 11–8–2007, operative 12–8–2007.

[FR Doc. E9–26417 Filed 11–3–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–1125; FRL–8350–6]

Pesticide Inert Ingredients; Revocation of Tolerance Exemption for Sperm Oil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing this final rule to revoke the existing obsolete tolerance exemption for residues of sperm oil conforming to 21 CFR 172.210. There have not been any active Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) pesticide product registrations containing this inert ingredient for many years. In addition, the sperm whale (from which sperm oil is derived) is a federally listed endangered species, and taking (or harming) this species is prohibited under the U.S. Endangered Species Act. Therefore, since this exemption corresponds to uses no longer current or registered under FIFRA in the United States, EPA is revoking the existing tolerance exemption under 40 CFR 180.910 because it is no longer necessary.

DATES: This regulation is effective November 4, 2009. Objections and requests for hearings must be received on or before January 4, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–1125. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Karen Samek, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8825; e-mail address: *samek.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act, (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–1125 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before January 4, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2007–1125, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

A. What Action Is the Agency Taking?

EPA is revoking the existing tolerance exemption under 40 CFR 180.910 for residues of sperm oil conforming to 21 CFR 172.210 as part of a broader administrative effort to correct errors and clarify permitted uses of pesticide inert ingredients in the Code of Federal Regulations. It is EPA's general practice to revoke tolerances and tolerance exemptions for pesticide chemical residues (which include both active and inert ingredients) for which there are no

associated active registered uses under FIFRA, or for which there are no registered products to which the tolerance or tolerance exemption applies, or for tolerances or tolerance exemptions that have been superseded.

EPA has historically been concerned that retention of tolerances and tolerance exemptions that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Thus, it is EPA's policy to issue a final rule revoking those tolerances and tolerance exemptions for residues of pesticide chemicals for which there are no active registrations or uses under FIFRA.

Generally, EPA will proceed with the revocation of these tolerance and tolerance exemptions on the grounds discussed in Unit II if one of the following conditions applies:

1. Prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a section 408(d) or (e) order revoking the tolerances or tolerance exemptions on other grounds, commenters retract the comment identifying a need for the tolerance to be retained.

2. EPA independently verifies that the tolerance or tolerance exemption is no longer needed.

3. The tolerance or tolerance exemption is not supported by data that demonstrate that the tolerance or tolerance exemption meets the requirements under FQPA.

EPA issued a proposed rule in the **Federal Register** of May 16, 2008 (73 FR 28391) (FRL–8363–6) proposing to revoke the tolerance exemption under 40 CFR 180.910 for residues of sperm oil conforming to 21 CFR 172.210. There were no comments received in response to the proposed rule.

EPA believes it is appropriate to revoke the tolerance exemption associated with this inert ingredient because there are no longer any active FIFRA pesticide product registrations for pesticide products containing sperm oil. Additionally, since sperm oil is derived from the sperm whale and the sperm whale is a federally listed endangered species, taking (or harming) this species to obtain sperm oil is prohibited by the Endangered Species Act. EPA does not expect there to be existing stocks of pesticides containing sperm oil in the hands of users because the sperm whale has been listed as an endangered species since 1970. Also, EPA is not aware of any food or feed commodities treated with pesticides containing sperm oil imported into the United States.

Therefore, for the reasons stated herein, EPA is revoking the existing exemption from the requirement of a tolerance for residues of sperm oil conforming to 21 CFR 172.210 under 40 CFR 180.910.

B. What is the Agency's Authority for Taking this Action?

This rule is issued pursuant to section 408(l) of FFDCA (21 U.S.C. 346a(l)). Section 408(l) of FFDCA authorizes the establishment of tolerances, exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA. If food containing pesticide residues is found to be adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342(a)).

EPA's general practice is to revoke tolerances and tolerance exemptions for residues of pesticide chemicals on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances and tolerance exemptions that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances and tolerance exemptions even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances and tolerance exemptions for unregistered pesticide chemicals in order to prevent potential misuse.

C. When do These Actions Become Effective?

This action becomes effective on the date of publication of this final rule in the **Federal Register**. Any commodities listed in the regulatory text of this document that are treated with Sperm oil, and that are in the channels of trade following the tolerance exemption revocations, shall be subject to FFDCA section 408(l)(5), as established by the FQPA. Under this section, any residues of this pesticide chemical in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration (FDA) that:

1. The residue is present as the result of an application or use of the pesticide chemical at a time and in a manner that was lawful under FIFRA.

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under an exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide chemical was applied to such food.

III. Statutory and Executive Order Reviews

In this final rule, EPA is revoking a specific tolerance exemption established under FFDCA section 408. EPA establishes tolerances under FFDCA section 408(e), and also modifies and revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this 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). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to

the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticide listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Furthermore, for the inert ingredient named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocation that would change the EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 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 final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175, 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.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IV. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 23, 2009.

Donald J. Rosenblatt,

Acting Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.910 [Amended]

■ 2. Section 180.910 is amended by removing from the table the entry for ''Sperm oil conforming to 21 CFR 172.210.''

[FR Doc. E9–26540 Filed 11–3–09 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0261; FRL–8796–1]

Methamidophos; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking tolerances for the insecticide methamidophos on cucumber, eggplant and melon. The regulatory actions finalized in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 4, 2009. Objections and requests for hearings must be received on or before January 4, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0261. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Joy Schnackenbeck, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8072; e-mail address: *schnackenbeck.joy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing electronically available documents at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007-0261 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 4, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2007-0261, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of May 23, 2007 (72 FR 28912) (FRL–8130–8), EPA issued a proposed rule concerning tolerance actions for certain pesticide active ingredients, including methamidophos. In that proposed rule, the Agency proposed to revoke specific tolerances for residues of the insecticide methamidophos, which included tolerances in 40 CFR 180.315(a) on broccoli, cabbage, cucumber, eggplant and melon because there were no active U.S. registrations and therefore, the tolerances were no longer needed. Also, the proposal of May 23, 2007 provided a 60–day comment period which invited public comment for consideration and for support of tolerance retention under FFDCA standards. EPA only received comments regarding the methamidophos tolerance revocations from Bayer CropScience and the Canadian Horticultural Council requesting EPA to reconsider their proposal to revoke the tolerances of methamidophos on cabbage and broccoli in order to allow imports of these commodities from Canada. In the September 26, 2007 **Federal Register** (72 FR 54574) (FRL–8147–6), EPA issued a final rule in follow up to the May 23, 2007 proposal. In that final rule, EPA included an announcement that the Agency would not take action on methamdiophos tolerances, at that time based on the comments received during the public comment period.

In this final rule, EPA is now proceeding to revoke tolerances for residues of methamidophos in or on cucumber, eggplant and melon. EPA is finalizing these tolerance actions in order to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of ''reasonable certainty of no harm'' is discussed in detail in each Reregistration Eligibility Decision (RED) and Report on Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Interim Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications, to reflect current use patterns, to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419; telephone number: 1–800–490–9198; fax number: 1–513–489–8695; Internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161; telephone number: 1–800–553–6847 or (703) 605–6000; Internet at *http://www.ntis.gov*. Electronic copies of REDs and TREDs are available on the Internet at *http://www.regulations.gov* and *http:// www.epa.gov/pesticides/reregistration/status.htm*.

This final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained. In response to the proposal published in the **Federal Register** of (May 23, 2007) (72 FR 28912), EPA received no comments during the 60–day public comment period for the proposed revocation of methamidophos tolerances on cucumber, eggplant and melon. Therefore, EPA is revoking the tolerances in 40 CFR 180.315(a) on cucumber, eggplant, and melon.

B. What is the Agency's Authority for Taking this Action?

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). In this final rule, EPA is and revoking tolerances to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes, and as follow-up on canceled uses of pesticides. As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standards under FFDCA. The safety finding determination is found in detail in each post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy.

EPA has issued a post-FQPA RED for methamidophos. REDs and TREDs contain the Agency's evaluation of the database for these pesticides, including statements regarding additional data on the active ingredients that may be needed to confirm the potential human health and environmental risk assessments associated with current product uses, and REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of ''reasonable certainty of no harm.'' However, tolerance revocations recommended in REDs and TREDs that are made final in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to revoke tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, the Agency gives consideration to possible pesticide residues in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, then tolerances do not need to be established for these commodities (40 CFR 180.6(b) and (c)).

C. When Do These Actions Become Effective?

These actions become effective on the date of publication of this final rule in the **Federal Register**. The tolerances revoked in this rule are associated with uses that have been canceled for several years. The Agency believes that treated commodities have had sufficient time for passage through the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(l)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA.

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

III. Are There Any International Trade Issues Raised by this Final Action?

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international Maximum Residue Limits (MRLs) established by the Codex Alimentarius Commission, as required by section 408(b)(4) of FFDCA. The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports the RED and TRED, as mentioned in the proposed rule cited in Unit II.A. Specific tolerance actions in this rule and how they compare to Codex MRLs (if any) is discussed in Unit II.A. of the proposed rule.

IV. Statutory and Executive Order Reviews

In this final rule, EPA revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary

consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–13, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020) (FRL–5753–1), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of the proposed rule, as mentioned in Unit II.A.) Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 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 final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175, 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.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 23, 2009.

Steven Bradbury,

Acting Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371

§ 180.315 [Amended]

■ 2. Section 180.315 is amended by removing the entries ''cucumber,'' ''eggplant,'' and ''melon'' from the table in paragraph (a).

[FR Doc. E9–26603 Filed 11–03–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0478; FRL–8796–3]

Certain Polyurethane Polymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl), when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl), on food or feed commodities.

DATES: This regulation is effective November 4, 2009. Objections and requests for hearings must be received on or before January 4, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket

identification (ID) number EPA–HQ–OPP–2009–0478. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Elizabeth Fertich, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8560; e-mail address: *fertich.elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

•Crop production (NAICS code 111).

•Animal production (NAICS code 112).

•Food manufacturing (NAICS code 311).

•Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Electronic Access to other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0478 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 4, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2009–0478, by one of the following methods.

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

•*Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

•*Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of September 4, 2009 (74 FR 45848) (FRL–8434–4), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 9E7575) filed by BASF Corporation, 100 Campus Drive, Florham Park, NJ 07932. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl); CAS Reg. No. 1147260–65–8. That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any substantive comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other

exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl) conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl) meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl).

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl) could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl) is 1,900 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl) conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' For the purposes of this tolerance action, EPA has not assumed that carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl) has a common mechanism of toxicity with other substances, based on the anticipated absence of mammalian toxicity. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1),

ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl), EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl).

VIII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Tolerances

The Agency is not aware of any country requiring a tolerance for carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl) nor have any CODEX Maximum Residue Levels been established for any food crops at this time.

IX. Conclusion

Accordingly, EPA finds that exempting residues of carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl] methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl) from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts on local governments. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 23, 2009.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In §180.960, the table is amended by adding alphabetically the following polymer to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * *	* *
Carbonic acid, diethyl ester, polymer with α-hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with α-[[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]-ω-methoxypoly(oxy-1,2-ethanediyl), minimum number average molecular weight (in amu), 1,900	1147260–65–8
* * *	* *

[FR Doc. E9–26608 Filed 11–03–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2009–0062, EPA–HQ–SFUND–2009–0066, EPA–HQ–SFUND–2008–0584; FRL–8977–5]

RIN 2050–AD75

National Priorities List, Final Rule No. 48

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds three sites to the NPL, all to the General Superfund Section.

DATES: *Effective Date:* The effective date for this amendment to the NCP is December 4, 2009.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see section II, ''Availability of Information to the Public'' in the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, email: *jeng.terry@epa.gov*, Site Assessment and Remedy Decisions Branch; Assessment and Remediation Division; Office of Superfund Remediation and Technology Innovation (mail code 5204P); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and

Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites that are owned or operated by other Federal agencies (the ''Federal Facilities Section''). With respect to sites in the Federal Facilities Section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing a Hazard Ranking System (''HRS'') score and determining whether the facility is placed on the NPL.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Pursuant to 42 U.S.C. 9605(a)(8)(B), each State may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each State as the greatest danger to public health, welfare, or the environment among known facilities in the State. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions * * *.'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL Define the Boundaries of Sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.,* the ''Jones Co. plant site'') in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (*e.g.,* it may extend beyond the property due to contaminant migration), and conversely

may not occupy the full extent of the property (*e.g.,* where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the Remedial Investigation (''RI'') ''is a process undertaken * * * to determine the nature and extent of the problem presented by the release'' as more information is developed on site contamination, and which is generally performed in an interactive fashion with the Feasibility Study (''FS'') (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the Agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May EPA Delete Portions of Sites From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.,* institutional controls); or (3) the site qualifies for deletion from the NPL. For the most up-to-date information on the CCL, see EPA's Internet site at: *http://www.epa.gov/superfund/cleanup/ccl.htm.*

J. What Is the Sitewide Ready for Anticipated Use Measure?

The Sitewide Ready for Anticipated Use measure (formerly called Sitewide Ready-for-Reuse) represents important Superfund accomplishments and the measure reflects the high priority EPA places on considering anticipated future land use as part of our remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment, including current and future land users, in a manner that allows contaminated properties to be restored to environmental and economic vitality while ensuring protectiveness for current and future land users. For further information, please go to *http://www.epa.gov/superfund/programs/recycle/tools/index.html.*

II. Availability of Information to the Public

A. May I Review the Documents Relevant to This Final Rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at EPA Headquarters and in the Regional offices.

An electronic version of the public docket is available through *http://www.regulations.gov* (see table below for Docket Identification numbers). Although not all Docket materials may be available electronically, you may still access any of the publicly available Docket materials through the Docket facilities identified below in section II D.

Site name	City/county, state	Docket ID No.
Raritan Bay Slag	Old Bridge Township/Sayreville, NJ	EPA–HQ–SFUND–2009–0062.
Peck Iron and Metal	Portsmouth, VA	EPA–HQ–SFUND–2009–0066.
U.S. Magnesium	Toole County, UT	EPA–HQ–SFUND–2008–0584.

B. What Documents Are Available for Review at the Headquarters Docket?

The Headquarters Docket for this rule contains, for each site, the HRS score sheets, the Documentation Record describing the information used to compute the score, pertinent information regarding statutory requirements or EPA listing policies that affect the site, and a list of documents referenced in the Documentation Record. For sites that received comments during the comment period, the Headquarters Docket also contains a Support Document that includes EPA's responses to comments.

C. What Documents Are Available for Review at the Regional Dockets?

The Regional Dockets contain all the information in the Headquarters Docket, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score for the sites located in their Region. These reference documents are available only in the Regional Dockets. For sites that received comments during the comment period, the Regional Docket also contains a Support Document that includes EPA's responses to comments.

D. How Do I Access the Documents?

You may view the documents, by appointment only, after the publication of this rule. The hours of operation for the Headquarters Docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional Dockets for hours.

Following is the contact information for the EPA Headquarters: Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue, NW; EPA West, Room 3334, Washington, DC 20004, 202/566–0276.

The contact information for the Regional Dockets is as follows:

Dennis Munhall, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4343.

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364.

Gwen Christiansen, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6463.

E. How May I Obtain a Current List of NPL Sites?

You may obtain a current list of NPL sites via the Internet at *http://www.epa.gov/superfund/* (look under the Superfund sites category) or by contacting the Superfund Docket (see contact information above).

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds the following three sites to the NPL, all to the General Superfund Section. The sites are presented in the table below:

State	Site name	City/county
NJ	Raritan Bay Slag	Old Bridge Township/Sayreville.
UT	U.S. Magnesium	Tooele County.
VA	Peck Iron and Metal	Portsmouth.

B. What Did EPA Do With the Public Comments It Received?

EPA has received comments on all three sites being added to the NPL in this rule. For two of the sites, U.S. Magnesium (UT) and Peck Iron and Metal (VA), the comments, EPA's responses to the comments, and the impacts, if any, on the HRS scores, are presented in support documents responding to the comments for each of the two sites. These support documents are being placed in the Headquarters and regional dockets concurrently with the publication of this rule.

The third site is Raritan Bay Slag (NJ). More than 35 comments were received on this site, all in favor of placing the site on the NPL. Commenters expressed concern over the human and ecological effects of the contamination, and the impacts of the contamination on the economic viability of the area. In response, EPA is placing the Raritan Bay Slag site on the NPL. After listing, EPA will continue to study the site to determine the most appropriate means to address the contamination causing the concerns reflected in the above comments.

In addition, commenters provided suggestions for how best to assess and address the contamination at Raritan Bay Slag and other nearby slag sites. Commenters expressed concern about the adequacy of measures taken to restrict public access to the contamination, suggested that a removal action is appropriate at the site, and urged EPA to quickly address the contamination. Commenters further requested establishing public information sharing venues, including a Community Advisory Group and a public file sharing system for the dissemination of information to the public. One commenter stated that the site also raised unspecified environmental justice concerns. In response, EPA will proceed as quickly as possible to gather additional information through an RI and determine the best approach for site cleanup. While listing a site on the NPL is a prerequisite for initiating a Fund-financed remedial action, it is not a prerequisite to EPA taking removal action at the site. With respect to the comments that the measures taken to date to restrict public access are inadequate, EPA has to date taken several measures to limit access. These include the installation of chain-link fence, in most cases 6-foot high, along documented source areas containing slag material and along access points along U.S. Highway 35. In addition, warning signs were placed along the entire length of the fenced area at approximately 125-foot intervals. Since the water bodies are either heavily fished or used for other recreational purposes (bathing, rafting, etc.), preventing access to the shoreline from those water bodies is extremely difficult. EPA, through public outreach to both residents and local fishing centers, has attempted to educate these local users of the waterfront to the hazards associated with this material. To date, EPA has held 4 availability sessions, maintained an on-site office from April though September 2009 and coordinated with local schools to send over 800 informational flyers home with students. EPA will evaluate additional means of restricting both public and environmental exposure. EPA implements its commitment to environmental justice by ensuring fair treatment and meaningful involvement for minority, low income, tribal, and other disproportionately burdened communities. As previously explained, EPA is taking steps to ensure full protection for citizens affected by this site. EPA also intends to keep the community informed of its activities and provide opportunities for public

comment and suggestions on EPA's investigation and cleanup approach, and will provide a mechanism to ensure that information EPA generates will be readily available to the public.

All comments that were received by EPA are contained in the Headquarters Docket and are also listed in EPA's electronic public Docket and comment system at *http://www.regulations.gov.*

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

1. What Is Executive Order 12866?

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a 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.

2. Is This Final Rule Subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

1. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9.

2. Does the Paperwork Reduction Act Apply to This Final Rule?

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

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.

C. Regulatory Flexibility Act

1. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

2. How Has EPA Complied With the Regulatory Flexibility Act?

This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this rule does not impose any requirements on any small entities. For the foregoing reasons, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

1. What Is the Unfunded Mandates Reform Act (UMRA)?

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 by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule where 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, 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.

2. Does UMRA Apply to This Final Rule?

This final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL. Thus, this rule is not subject to the requirements of section 202 and 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. As is mentioned above, site listing does not impose any costs and would not require any action of a small government.

E. Executive Order 13132: Federalism

1. What Is Executive Order 13132 and

Executive Order 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.''

2. Is Executive Order 13132 Applicable to This Final Rule?

This final 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, because it does not contain any requirements applicable to States or other levels of government. Thus, the requirements of the Executive Order do not apply to this final rule.

EPA believes, however, that this final rule may be of significant interest to State governments. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA therefore consulted with State officials and/or representatives of State governments early in the process of developing the rule to permit them to have meaningful and timely input into its development. All sites included in this final rule were referred to EPA by States for listing. For all sites in this rule, EPA received letters of support either from the Governor or a State official who was delegated the authority by the Governor to speak on their behalf regarding NPL listing decisions.

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

1. What Is Executive Order 13175?

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 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.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

2. Does Executive Order 13175 Apply to This Final Rule?

This final rule does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this final rule.

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

1. What Is Executive Order 13045?

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.

2. Does Executive Order 13045 Apply to This Final Rule?

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this section present a disproportionate risk to children.

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

Is This Rule Subject to Executive Order 13211?

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy impacts because proposing a site to the NPL does not require an entity to conduct any action that would require energy use, let alone that which would significantly affect energy supply, distribution, or usage. Thus, Executive Order 13175 does not apply to this action.

I. National Technology Transfer and Advancement Act

1. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 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 law 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 decides not to use available and applicable voluntary consensus standards.

2. Does the National Technology Transfer and Advancement Act Apply to This Final Rule?

No. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

1. What Is Executive Order 12898?

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

2. Does Executive Order 12898 Apply to This Rule?

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. As this rule does not impose any enforceable duty upon State, tribal or local governments, this rule will neither increase nor decrease environmental protection.

K. Congressional Review Act

1. Has EPA Submitted This Rule to Congress and the Government Accountability Office?

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, that includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A ''major rule'' cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

2. Could the Effective Date of This Final Rule Change?

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation.

Under the CRA, 5 U.S.C. 801(a), before a rule can take effect the federal agency promulgating the rule must submit a report to each House of the Congress and to the Comptroller General. This report must contain a copy of the rule, a concise general statement relating to the rule (including whether it is a major rule), a copy of the cost-benefit analysis of the rule (if any), the agency's actions relevant to provisions of the Regulatory Flexibility Act (affecting small businesses) and the Unfunded Mandates Reform Act of 1995 (describing unfunded federal requirements imposed on state and local governments and the private sector), and any other relevant information or requirements and any relevant Executive Orders.

EPA has submitted a report under the CRA for this rule. The rule will take effect, as provided by law, within 30 days of publication of this document, since it is not a major rule. Section 804(2) defines a major rule as any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in: An annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. NPL listing is not a major rule because, as explained above, the listing, itself, imposes no monetary costs on any person. It establishes no enforceable duties, does not establish that EPA necessarily will undertake remedial action, nor does it require any action by any party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Section 801(a)(3) provides for a delay in the effective date of major rules after this report is submitted.

3. What Could Cause a Change in the Effective Date of This Rule?

Under 5 U.S.C. 801(b)(1) a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802.

Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha,* 462 U.S. 919,103 S. Ct. 2764 (1983) and *Bd. of Regents of the University of Washington* v. *EPA,* 86 F.3d 1214,1222 (D.C. Cir. 1996) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, EPA will publish a document of clarification in the **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 29, 2009.

Barry N. Breen,

Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

■ 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by adding the following sites in alphabetical order to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes [a]
* *	* *	* *	*
NJ	Raritan Bay Slag	Old Bridge Township/Sayreville.	
* *	* *	* *	*
UT	U.S. Magnesium	Tooele County.	
* *	* *	* *	*
VA	Peck Iron and Metal	Portsmouth.	
* *	* *	* *	*

[a] A = Based on issuance of health advisory by Agency for Toxic Substance and Disease Registry (if scored, HRS score need not be ≤28.50).
C = Sites on construction completion list.
S = State top priority (included among the 100 top priority sites regardless of score).
P = Sites with partial deletion(s).

* * * * *

[FR Doc. E9–26539 Filed 11–3–09; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[IB Docket No. 07–101; FCC 09–64]

Amendment of the Commission's Rules To Allocate Spectrum and Adopt Service Rules and Procedures To Govern the Use of Vehicle-Mounted Earth Stations in Certain Frequency Bands Allocated to the Fixed-Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission amends its rules to allocate spectrum and adopt service rules and procedures to govern the use of Vehicle-Mounted Earth Stations (VMES) in the Ku-band. These allocation, technical and licensing rules permit the domestic, U.S. licensing of VMES as a primary application of the Fixed-Satellite Service (FSS) in the relevant conventional and extended Ku-band frequencies.

DATES: Effective December 4, 2009, except for 47 CFR 25.132(b)(3), 25.226(a)(6), (b), (c), (d)(1), and (d)(3), which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of these rules after it receives OMB approval for the information collection requirements.

FOR FURTHER INFORMATION CONTACT: Kathleen Collins or Howard Griboff, Policy Division, International Bureau, FCC, (202) 418–1460 or via the Internet at: *Kathleen.Collins@fcc.gov* and *Howard.Griboff@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in IB Docket No. 07–101, FCC 09–64, adopted July 30, 2009, and released July 31, 2009. The full text of the Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The document also is available for download over the Internet at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-64A1.pdf*. The complete text also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), located in Room CY–B402, 445 12th Street, SW., Washington, DC 20554. Customers may contact BCPI at its Web site: *http://www.bcpiweb.com* or call 1–800–378–3160.

Paperwork Reduction Act of 1995 Analysis

The Report and Order contains rules with new information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13 (44 U.S.C. 3501–3520). Implementation of these rules will be subject to approval by OMB as prescribed by the PRA. The Commission has published a separate notice in the **Federal Register** inviting OMB, the general public, and other Federal agencies to comment on the information collection requirements contained in this document. *See* 74 FR 41902, August 19, 2009. In addition, the Commission notes pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–298, *see* 44 U.S.C. 3506(c)(4), that the Commission previously sought specific comment on how the Commission may ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Notice of Proposed Rulemaking (NPRM) in this proceeding, *Amendment of Parts 2 and 25 of the Commission's Rules to Allocate Spectrum and Adopt Service Rules and Procedures to Govern the Use of Vehicle-Mounted Earth Stations in Certain Frequency Bands Allocated to the Fixed-Satellite Service,* IB Docket No. 07–101, adopted on May 9, 2007 and released on May 15, 2007, 72 FR 39357, July 18, 2007, incorporated an Initial Regulatory Flexibility Analysis (IRFA). The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Report and Order

The NPRM sought to promote innovative and flexible use of satellite technology to provide advanced communications capabilities from VMES that would operate as a licensed application of the FSS in certain Ku-band frequencies within the United States. It sought comment and developed a record on the capability of VMES to meet the interference avoidance requirements of the Ku-band FSS.

The objective of the Report and Order is to adopt domestic U.S. allocation, service and licensing rules to permit the licensing of VMES in the conventional and extended Ku-band frequencies where such systems will meet the Commission's two-degree satellite spacing interference avoidance

requirements of the Ku-band FSS. In this regard, the ''conventional'' Ku-band refers to frequencies in the 11.7–12.2 GHz (downlink) and 14.0–14.5 GHz (uplink) bands and the covered ''extended Ku-band'' includes the 10.95–11.2 GHz and 11.45–11.7 GHz (downlink) bands. The rules will permit VMES to operate as a primary application of the FSS in the conventional bands. In the extended band frequencies, VMES may be authorized to communicate with geostationary satellite orbit (GSO) FSS space stations but must accept interference from stations of the Fixed Service (FS) operating in accordance with the Commission's rules. The rules promote spectrum sharing with certain secondary operations in the uplink bands, including government space research service and radio astronomy service stations.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No parties filed comments that separately or specifically addressed the IRFA.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

The RFA, at 5 U.S.C. 604(a)(3), directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA, at 5 U.S.C. 601(6), generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). See Small Business Act, 15 U.S.C. 632 (1996). Below, we further describe and estimate the number of small entity licensees that may be affected by the adopted rules.

Satellite Telecommunications and All Other Telecommunications. These two economic census categories address the satellite industry. The first category has a small business size standard of $15 million or less in average annual receipts, under SBA rules (13 CFR 121.201, NAICS code 517410). The second has a size standard of $25 million or less in annual receipts (13 CFR 121.201, NAICS code 517919). The most current Census Bureau data in this context, however, are from the (last) economic census of 2002, and we will use those figures to gauge the prevalence of small businesses in these categories (13 CFR 121.201, NAICS codes 517410 and 517910 (2002)).

The category of Satellite Telecommunications ''comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications'' (U.S. Census Bureau, 2007 NAICS Definitions, ''517410 Satellite Telecommunications''; *http://www.census.gov/naics/2007/def/ND517410.HTM*). For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year (U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization),'' Table 4, NAICS code 517410 (issued Nov. 2005)). Of this total, 307 firms had annual receipts of under $10 million, 26 firms had receipts of $10 million to $24,999,999, and an additional 38 firms had annual receipts of $25 million or more. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

The second category of All Other Telecommunications comprises, *inter alia,* ''establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems'' (U.S. Census Bureau, 2007 NAICS Definitions, ''517919 All Other Telecommunications''; *http://www.census.gov/naics/2007/def/ND517919.HTM#N517919*). For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year (U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization),'' Table 4, NAICS code 517910 (issued Nov. 2005)). Of this total, 303 firms had annual receipts of under $10 million, 15 firms had annual receipts of $10 million to $24,999,999, and an additional 14 firms had annual receipts of $25 million or more. Consequently, we estimate that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

Space Station Licensees (Geostationary). Commission records reveal that there are 20 space station licensees and operators in the Ku-band. We do not request or collect annual revenue information concerning such licensees and operators, and thus are unable to estimate the number of geostationary space station licensees and operators that would constitute a small business under the SBA definition cited above, or apply any rules providing special consideration for geostationary space station licensees and operators that are small businesses.

Fixed-Satellite Service Transmit/Receive Earth Stations. Currently there are approximately 2,879 operational fixed-satellite service transmit/receive earth stations authorized for use in the Ku-band. The Commission does not request or collect annual revenue information, and thus is unable to estimate the number of earth stations that would constitute a small business under the SBA definition.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The NPRM sought comment on whether to extend the current rules for Earth Stations on Vessels (ESVs)—an existing mobile application of the FSS—to VMES, a new mobile application of the FSS. The ESV rules, and the VMES rules adopted in the Report and Order, require satellite telecommunications operators to establish a database for tracking the location of VMES remote earth stations. This database will assist investigations of radio frequency interference claims. Application of the ESV rules to VMES requires VMES operators to name a point of contact to maintain information about location and frequencies used by VMES terminals. Such information will assist in investigating radio frequency interference claims. The Commission does not expect significant costs associated with these proposals. Therefore, we do not anticipate that the burden of compliance will be greater for smaller entities.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires that, to the extent consistent with the objectives of

applicable statutes, the analysis shall discuss significant alternatives such as: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities (5 U.S.C. 603(c)(1), (c)(4)).

The NPRM solicited comment on alternatives for more efficient processing of VMES applications and simplification of VMES procedures, for example, by migrating from non-conforming use licensing to a licensing method that would provide for licenses with terms of fifteen years. The NPRM also sought comment on streamlining the application process for VMES operations by permitting blanket licensing of multiple VMES terminals in a single application, as an alternative to requiring all VMES terminals to be licensed individually. In adopting blanket licensing with fifteen-year terms for conforming VMES terminals, the Report and Order simplifies the application process for VMES and establishes licensing terms consistent with other satellite-based services, such as ESV. Thus, adoption of the rules should reduce the costs associated with obtaining and maintaining authority to operate a VMES network.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

G. Report to Congress

The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) also will be published in the **Federal Register** (*See* 5 U.S.C. 604(b)).

Summary of Report and Order

The Commission, in the Report and Order, adopts new VMES rules and concludes that the rules will promote innovative and flexible use of satellite technology while ensuring that VMES operations will avoid interfering with existing and future FSS operators and their customers. The part 25 rules define VMES as an earth station operating from a motorized vehicle that travels primarily on land, receives from and transmits to GSO FSS space stations, and operates within the United States pursuant to the requirements set out in part 25 of the rules. The part 25 rules require VMES licensees to coordinate their proposed operations with Federal Space Research Service and Radio Astronomy Service stations in, respectively, the 14.0–14.2 GHz and 14.47–14.5 GHz bands, and they adopt VMES off-axis density mask, antenna pointing, and other technical and licensing rules. The part 2 rules adopt two new non-Federal footnotes to the U.S. Table of Frequency Allocations: (1) In the conventional Ku-bands (14.0–14.5 GHz and 11.7–12.2 GHz), VMES as regulated under a revised part 25 of Commission's rules is an application of the FSS and licensees may be authorized to communicate with space stations of the FSS on a primary basis; and (2) in the relevant extended Ku-bands (10.95–11.2 GHz and 11.45–11.7 GHz), VMES licensees must accept interference from stations in the FS operating in accordance with Commission rules.

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 7(a), 302(a), 303(c), 303(e), 303(f), 303(g), 303(j), 303(r), and 303(y) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 157(a), 302(a), 303(c), 303(e), 303(f), 303(g), 303(j), 303(r), 303(y), this Report and Order in IB Docket No. 07–101 *is adopted,* effective December 4, 2009.

It is further ordered that parts 2 and 25 of the Commission's rules *are amended* as set forth in Appendix B. An announcement of the effective date of these rule revisions will be published in the **Federal Register**.

It is further ordered that the final regulatory flexibility analysis, as required by section 604 of the Regulatory Flexibility Act, *is adopted.*

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center *shall send* a copy of this Report and Order, including the final regulatory flexibility analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

It is further ordered that the Commission *shall send* a copy of this Report and Order in a report to be sent to Congress and the General Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Parts 2 and 25

Radio, Satellites, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 25 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Section 2.106 is amended as follows:

■ a. Revise pages 45, 46, and 47.

■ b. Add footnotes NG186 and NG187 to the list of Non-Federal Government (NG) Footnotes.

§ 2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712–01–P

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
10-10.45 FIXED MOBILE RADIOLOCATION Amateur 5.479	10-10.45 RADIOLOCATION Amateur 5.479 5.480	10-10.45 FIXED MOBILE RADIOLOCATION Amateur 5.479	10-10.45 RADIOLOCATION G32 5.479 US58 US108	10-10.45 Amateur Radiolocation 5.479 US58 US108 NG42	Private Land Mobile (90) Amateur (97)
10.45-10.5 RADIOLOCATION Amateur Amateur-satellite 5.481			10.45-10.5 RADIOLOCATION G32 US58 US108	10.45-10.5 Amateur Amateur-satellite Radiolocation US58 US108 NG42 NG134	
10.5-10.55 FIXED MOBILE Radiolocation	10.5-10.55 FIXED MOBILE RADIOLOCATION		10.5-10.55 RADIOLOCATION US59		Private Land Mobile (90)
10.55-10.6 FIXED MOBILE except aeronautical mobile Radiolocation			10.55-10.6	10.55-10.6 FIXED	Fixed Microwave (101)
10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) Radiolocation 5.149 5.482			10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US265 US277	10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED US265 SPACE RESEARCH (passive) US277	
10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.483			10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246 US355		
10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 5.484A (Earth-to-space) 5.484 MOBILE except aeronautical mobile	10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 5.484A MOBILE except aeronautical mobile		10.7-11.7 US211	10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 US211 US355 NG104 NG182 NG186	Satellite Communications (25) Fixed Microwave (101)
11.7-12.5 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	11.7-12.1 FIXED 5.486 FIXED-SATELLITE (space-to-Earth) 5.484A Mobile except aeronautical mobile 5.485 5.488 12.1-12.2 FIXED-SATELLITE (space-to-Earth) 5.484A 5.485 5.488 5.489	11.7-12.2 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 5.487 5.487A 5.492	11.7-12.2	11.7-12.2 FIXED-SATELLITE (space-to-Earth) NG143 NG145 NG183 NG187 5.488 NG184	Satellite Communications (25)

5.487 5.487A 5.492	12.2-12.7 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 5.487A 5.488 5.490 5.492	12.2-12.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile BROADCASTING 5.484A 5.487	12.2-12.75	12.2-12.7 FIXED BROADCASTING-SATELLITE 5.487A 5.488 5.490	Satellite Communications (25) Fixed Microwave (101)
12.5-12.75 FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.494 5.495 5.496	12.7-12.75 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile	12.5-12.75 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE except aeronautical mobile BROADCASTING-SATELLITE 5.493		12.7-12.75 FIXED NG118 FIXED-SATELLITE (Earth-to-space) MOBILE	TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
12.75-13.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.441 MOBILE Space research (deep space) (space-to-Earth)			12.75-13.25 US251	12.75-13.25 FIXED NG118 FIXED-SATELLITE (Earth-to-space) 5.441 NG104 MOBILE US251 NG53	Satellite Communications (25) TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
13.25-13.4 EARTH EXPLORATION-SATELLITE (active) AERONAUTICAL RADIONAVIGATION 5.497 SPACE RESEARCH (active) 5.498A 5.499			13.25-13.4 EARTH EXPLORATION-SATELLITE (active) AERONAUTICAL RADIONAVIGATION 5.497 SPACE RESEARCH (active) 5.498A	13.25-13.4 AERONAUTICAL RADIONAVIGATION 5.497 Earth exploration-satellite (active) Space research (active)	Aviation (87)
13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.499 5.500 5.501 5.501B			13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.501B	13.4-13.75 Earth exploration-satellite (active) Radiolocation Space research Standard frequency and time signal-satellite (Earth-to-space)	Private Land Mobile (90)
13.75-14 FIXED-SATELLITE (Earth-to-space) 5.484A RADIOLOCATION Earth exploration-satellite Standard frequency and time signal-satellite (Earth-to-space) Space research 5.499 5.500 5.501 5.502 5.503			13.75-14 RADIOLOCATION G59 Standard frequency and time signal-satellite (Earth-to-space) Space research US337 US356 US357	13.75-14 FIXED-SATELLITE (Earth-to-space) US337 Standard frequency and time signal-satellite (Earth-to-space) Space research Radiolocation US356 US357	Satellite Communications (25) Private Land Mobile (90)
14-14.25 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.504C 5.506A Space research 5.504A 5.505			14-14.2 Space research	14-14.2 FIXED-SATELLITE (Earth-to-space) NG183 NG187 Mobile-satellite (Earth-to-space) Space research	Satellite Communications (25)

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
(See previous page)			14.2-14.4	14.2-14.47 FIXED-SATELLITE (Earth-to-space) NG183 NG187 Mobile-satellite (Earth-to-space)	Satellite Communications (25)
14.25-14.3 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.506A 5.508A Space research 5.504A 5.505 5.508 5.509					
14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.506A 5.509A Radionavigation-satellite 5.504A	14.3-14.4 FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.506 5.506B Mobile-satellite (Earth-to-space) 5.506A Radionavigation-satellite 5.504A	14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.506A 5.509A Radionavigation-satellite 5.504A			
14.4-14.47 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.506A 5.509A Space research (space-to-Earth) 5.504A			14.4-14.47 Fixed Mobile	NG184	
14.47-14.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Radio astronomy 5.149 5.504A			14.47-14.5 Fixed Mobile US203 US342	14.47-14.5 FIXED-SATELLITE (Earth-to-space) NG183 NG187 Mobile-satellite (Earth-to-space) US203 US342	
14.5-14.8 FIXED FIXED-SATELLITE (Earth-to-space) 5.510 MOBILE Space research			14.5-14.7145 FIXED Mobile Space research 14.7145-14.8 MOBILE Fixed Space research	14.5-14.8	
14.8-15.35 FIXED MOBILE Space research			14.8-15.1365 MOBILE SPACE RESEARCH Fixed US310	14.8-15.1365 US310	
5.339			15.1365-15.35 FIXED SPACE RESEARCH Mobile 5.339 US211	15.1365-15.35 5.339 US211	

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Non-Federal Government (NG) Footnotes

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NG186 In the bands 10.95–11.2 GHz and 11.45–11.7 GHz (space-to-Earth), Vehicle-Mounted Earth Stations (VMES) as regulated under 47 CFR part 25 may be authorized to communicate with geostationary satellite orbit space stations of the fixed-satellite service but must accept interference from stations of the fixed service operating in accordance with the Commission's rules.

NG187 In the bands 11.7–12.2 GHz (space-to-Earth) and 14.0–14.5 GHz (Earth-to-space), Vehicle-Mounted Earth Stations (VMES) as regulated under 47 CFR part 25 are an application of the fixed-satellite service and may be authorized to communicate with geostationary satellite orbit space stations of the fixed-satellite service on a primary basis.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

■ 3. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

■ 4. Section 25.115 is amended by revising paragraph (a)(2)(iii) to read as follows:

§ 25.115 Application for earth station authorizations.

(a) * * *

(2) * * *

(iii) The earth station is not an ESV or a VMES.

* * * * *

■ 5. Section 25.130 is amended by revising paragraph (a) to read as follows:

§ 25.130 Filing requirements for transmitting earth stations.

(a) Applications for a new or modified transmitting earth station facility shall be submitted on FCC Form 312, and associated Schedule B, accompanied by any required exhibits, except for those earth station applications filed on FCC Form 312EZ pursuant to § 25.115(a). All such earth station license applications must be filed electronically through the International Bureau Filing System (IBFS) in accordance with the applicable provisions of part 1, subpart Y of this chapter. Additional filing requirements for Earth Stations on Vessels are described in §§ 25.221 and 25.222. Additional filing requirements for Vehicle-Mounted Earth Stations are described in § 25.226. In addition, applicants not required to submit applications on Form 312EZ, other than ESV or VMES applicants, must submit the following information to be used as an ''informative'' in the public notice issued under § 25.151 as an attachment to their application:

* * * * *

■ 6. Section 25.132 is amended by revising paragraph (b)(3) to read as follows:

§ 25.132 Verification of earth station antenna performance standards.

* * * * *

(b) * * *

(3) Applicants seeking authority to use an antenna that does not meet the standards set forth in §§ 25.209(a) and (b), pursuant to the procedure set forth in § 25.220, § 25.221, § 25.222, § 25.223 or § 25.226, are required to submit a copy of the manufacturer's range test plots of the antenna gain patterns specified in paragraph (b)(1) of this section.

* * * * *

■ 7. Section 25.201 is amended by adding the following definition in alphabetical order to read as follows:

§ 25.201 Definitions.

* * * * *

Vehicle-mounted earth station (VMES). A VMES is an earth station, operating from a motorized vehicle that travels primarily on land, that receives from and transmits to geostationary satellite orbit fixed-satellite service space stations and operates within the United States pursuant to the requirements set out § 25.226.

■ 8. Section 25.202 is amended by adding paragraph (a)(10) to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

* * * * *

(a) * * *

(10)(i) The following frequencies are available for use by Vehicle-Mounted Earth Stations (VMESs):

10.95–11.2GHz (space-to-Earth)
11.45–11.7GHz (space-to-Earth)
11.7–12.2GHz (space-to-Earth)
14.0–14.5GHz (Earth-to-space)

(ii) VMESs shall be authorized as set forth in § 25.226.

* * * * *

■ 9. Section 25.203 is amended by revising the introductory text in paragraph (c) and by revising paragraphs (d) and (k) to read as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(c) Prior to the filing of its application, an applicant for operation of an earth station, other than an ESV or a VMES, shall coordinate the proposed frequency usage with existing terrestrial users and with applicants for terrestrial station authorizations with previously filed applications in accordance with the following procedure:

* * * * *

(d) An applicant for operation of an earth station, other than an ESV or a VMES, shall also ascertain whether the great circle coordination distance contours and rain scatter coordination distance contours, computed for those values of parameters indicated in § 25.251 (Appendix 7 of the ITU RR) for international coordination, cross the boundaries of another Administration. In this case, the applicant shall furnish the Commission copies of these contours on maps drawn to appropriate scale for use by the Commission in effecting coordination of the proposed earth station with the Administration(s) affected.

* * * * *

(k) An applicant for operation of an earth station, other than an ESV or a VMES, that will operate with a geostationary satellite or non-geostationary satellite in a shared frequency band in which the non-geostationary system is (or is proposed to be) licensed for feeder links, shall demonstrate in its applications that its proposed earth station will not cause unacceptable interference to any other satellite network that is authorized to operate in the same frequency band, or certify that the operations of its earth station shall conform to established coordination agreements between the operator(s) of the space station(s) with which the earth station is to communicate and the operator(s) of any other space station licensed to use the band.

* * * * *

■ 10. Section 25.204 is amended by adding paragraph (j) to read as follows:

§ 25.204 Power limits.

* * * * *

(j) Within 125 km of the Tracking and Data Relay System Satellite (TDRSS) sites identified in § 25.226(c), VMES transmissions in the 14.0–14.2 GHz (Earth-to-space) band shall not exceed an EIRP spectral density towards the horizon of 12.5 dBW/MHz, and shall not

exceed an EIRP towards the horizon of 16.3 dBW.

■ 11. Section 25.205 is amended by adding paragraph (c) to read as follows:

§ 25.205 Minimum angle of antenna elevation.

* * * * *

(c) VMESs making a special showing requesting angles of elevation less than 5° measured from the horizontal plane to the direction of maximum radiation pursuant to (a) of this section must still meet the EIRP and EIRP density towards the horizon limits contained in § 25.204(j).

■ 12. Section 25.209 is amended by revising paragraph (f) to read as follows:

§ 25.209 Antenna performance standards.

* * * * *

(f) An earth station with an antenna not conforming to the standards of paragraphs (a) and (b) of this section will be authorized only if the applicant meets its burden of demonstrating that its antenna will not cause unacceptable interference. For ESVs in the C-band, this demonstration must comply with the procedures set forth in § 25.221. For ESVs in the Ku-band, this demonstration must comply with the procedures set forth in § 25.222. For VMES, this demonstration shall comply with the procedures set forth in § 25.226. For feeder-link earth stations in the 17/24 GHz BSS, this demonstration must comply with the procedures set forth in § 25.223. For other FSS earth stations, this demonstration must comply with the procedures set forth in §§ 25.218 or 25.220. In any case, the Commission will impose appropriate terms and conditions in its authorization of such facilities and operations.

* * * * *

■ 13. Section 25.218 is amended by revising paragraph (a)(1) to read as follows:

§ 25.218 Off-axis EIRP envelope for FSS earth station operations.

(a)* * *

(1) ESV and VMES applications,

* * * * *

■ 14. Section 25.220 is amended by revising paragraph (a)(1) to read as follows:

§ 25.220 Non-conforming transmit/receive earth station operations.

(a)(1) This section applies to earth station applications other than ESV, VMES and 17/24 GHz BSS feeder link applications in which the proposed earth station operations do not fall within the applicable off-axis EIRP envelope specified in § 25.218.

* * * * *

■ 15. Add § 25.226 to read as follows:

§ 25.226 Blanket licensing provisions for domestic, U.S. Vehicle-Mounted Earth Stations (VMESs) receiving in the 10.95–11.2 GHz (space-to-Earth), 11.45–11.7 GHz (space-to-Earth), and 11.7–12.2 GHz (space-to-Earth) frequency bands and transmitting in the 14.0–14.5 GHz (Earth-to-space) frequency band, operating with Geostationary Satellites in the Fixed-Satellite Service.

(a) The following ongoing requirements govern all VMES licensees and operations in the 10.95–11.2 GHz (space-to-Earth), 11.45–11.7 GHz (space-to-Earth), 11.7–12.2 GHz (space-to-Earth) and 14.0–14.5 GHz (Earth-to-space) frequency bands receiving from and transmitting to geostationary orbit satellites in the fixed-satellite service. VMES licensees shall comply with the requirements in either paragraph (a)(1), (a)(2) or (a)(3) of this section and all of the requirements set forth in paragraphs (a)(4) through (a)(9) and paragraphs (c), (d), and (e) of this section. Paragraph (b) of this section identifies items that shall be included in the application for VMES operations to demonstrate that these ongoing requirements will be met.

(1) The following requirements shall apply to a VMES that uses transmitters with off-axis EIRP spectral-densities lower than or equal to the levels in paragraph (a)(1)(i) of this section. A VMES, or VMES system, operating under this section shall provide a detailed demonstration as described in paragraph (b)(1) of this section. The VMES transmitter also shall comply with the antenna pointing and cessation of emission requirements in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section.

(i) A VMES system shall not exceed the off-axis EIRP spectral-density limits and conditions defined in paragraphs (a)(1)(i)(A) through (D) of this section.

(A) The off-axis EIRP spectral-density emitted from the VMES, in the plane of the geostationary satellite orbit (GSO) as it appears at the particular earth station location, shall not exceed the following values:

$15-10\log(N)-25\log\theta$ dBW/4kHz for $1.5° \leq \theta \leq 7°$

$-6 - 10\log(N)$ dBW/4kHz for $7° < \theta \leq 9.2°$

$18 - 10\log(N)-25\log\theta$ dBW/4kHz for $9.2° < \theta \leq 48°$

$-24 - 10\log(N)$ dBW/4kHz for $48° < \theta \leq 85°$

$-14 - 10\log(N)$ dBW/4kHz for $85° < \theta \leq 180°$

where theta (θ) is the angle in degrees from the line connecting the focal point of the antenna to the orbital location of the target satellite, the plane of the GSO is determined by the focal point of the antenna and the line tangent to the arc of the GSO at the orbital location of the target satellite. For VMES networks using frequency division multiple access (FDMA) or time division multiple access (TDMA) techniques, N is equal to one. For VMES networks using multiple co-frequency transmitters that have the same EIRP, N is the maximum expected number of co-frequency simultaneously transmitting VMES earth stations in the same satellite receiving beam. For the purpose of this section, the peak EIRP of an individual sidelobe shall not exceed the envelope defined above for θ between 1.5° and 7.0°. For θ greater than 7.0°, the envelope shall be exceeded by no more than 10% of the sidelobes, provided no individual sidelobe exceeds the envelope given above by more than 3 dB.

(B) In all directions other than along the GSO, the off-axis EIRP spectral-density for co-polarized signals emitted from the VMES shall not exceed the following values:

$18 - 10\log(N) - 25\log\theta$ dBW/4kHz for $3.0° \leq \theta \leq 48°$

$-24 - 10\log(N)$ dBW/4kHz for $48° < \theta \leq 85°$

$-14 - 10\log(N)$ dBW/4kHz for $85° < \theta \leq 180°$

where θ and N are defined in paragraph (a)(1)(i)(A) of this section. This off-axis EIRP spectral-density applies in any plane that includes the line connecting the focal point of the antenna to the orbital location of the target satellite with the exception of the plane of the GSO as defined in paragraph (a)(1)(i)(A) of this section. For the purpose of this subsection, the envelope shall be exceeded by no more than 10% of the sidelobes provided no individual sidelobe exceeds the gain envelope given above by more than 6 dB. The region of the main reflector spillover energy is to be interpreted as a single lobe and shall not exceed the envelope by more than 6 dB.

(C) In all directions, the off-axis EIRP spectral-density for cross-polarized signals emitted from the VMES shall not exceed the following values:

$5 - 10\log(N) - 25\log\theta$ dBW/4kHz for $1.8° \leq \theta \leq 7.0°$

$-16 - 10\log(N)$ dBW/4kHz for $7.0° < \theta \leq 9.2°$

where θ and N are defined as set forth in paragraph (a)(1)(i)(A) of this section. This EIRP spectral-density applies in any plane that includes the line connecting the focal point of the antenna to the target satellite.

(D) For non-circular VMES antennas, the major axis of the antenna shall be aligned with the tangent to the arc of the GSO at the orbital location of the target satellite, to the extent required to meet the specified off-axis EIRP spectral-density criteria.

(ii) Each VMES transmitter shall meet one of the following antenna pointing requirements:

(A) Each VMES transmitter shall maintain a pointing error of less than or equal to 0.2° between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna, or

(B) Each VMES transmitter shall declare a maximum antenna pointing error that may be greater than 0.2° provided that the VMES does not exceed the off-axis EIRP spectral-density limits in paragraph (a)(1)(i) of this section, taking into account the antenna pointing error.

(iii) Each VMES transmitter shall meet one of the following cessation of emission requirements:

(A) For VMESs operating under paragraph (a)(1)(ii)(A) of this section, all emissions from the VMES shall automatically cease within 100 milliseconds if the angle between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna exceeds 0.5°, and transmission shall not resume until such angle is less than or equal to 0.2°, or

(B) For VMES transmitters operating under paragraph (a)(1)(ii)(B) of this section, all emissions from the VMES shall automatically cease within 100 milliseconds if the angle between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna exceeds the declared maximum antenna pointing error and shall not resume transmissions until such angle is less than or equal to the declared maximum antenna pointing error.

(2) The following requirements shall apply to a VMES that uses off-axis EIRP spectral-densities in excess of the levels in paragraph (a)(1)(i) of this section. A VMES, or VMES system, operating under this subsection shall file certifications and provide a detailed demonstration as described in paragraph (b)(2) of this section.

(i) The VMES shall transmit only to the target satellite system(s) referred to in the certifications required by paragraph (b)(2) of this section.

(ii) If a good faith agreement cannot be reached between the target satellite operator and the operator of a future satellite that is located within 6 degrees longitude of the target satellite, the VMES operator shall accept the power-density levels that would accommodate that adjacent satellite.

(iii) The VMES shall operate in accordance with the off-axis EIRP spectral-densities that the VMES supplied to the target satellite operator in order to obtain the certifications listed in paragraph (b)(2) of this section. The VMES shall automatically cease emissions within 100 milliseconds if the VMES transmitter exceeds the off-axis EIRP spectral-densities supplied to the target satellite operator.

(3) The following requirements shall apply to a VMES system that uses variable power-density control of individual simultaneously transmitting co-frequency VMES earth stations in the same satellite receiving beam. A VMES system operating under this subsection shall file certifications and provide a detailed demonstration as described in paragraph (b)(3) of this section.

(i) Except as defined under paragraph (a)(3)(ii) of this section, the effective aggregate EIRP-density from all terminals shall be at least 1 dB below the off-axis EIRP-density limits defined in paragraphs (a)(1)(i)(A) through (C) of this section. In this context the term ''effective'' means that the resultant co-polarized and cross-polarized EIRP-density experienced by any GSO or non-GSO satellite shall not exceed that produced by a single VMES transmitter operating 1 dB below the limits defined in paragraphs (a)(1)(i)(A) through (C) of this section. A VMES system operating under this section shall file certifications and provide a detailed demonstration as described in paragraphs (b)(3)(i) and (b)(3)(iii) of this section.

(ii) The following requirements shall apply to a VMES that uses off-axis EIRP spectral-densities in excess of the levels in paragraph (a)(3)(i) of this section. A VMES system operating under this section shall file certifications and provide a detailed demonstration as described in paragraphs (b)(3)(ii) and (b)(3)(iii) of this section.

(A) If a good faith agreement cannot be reached between the target satellite operator and the operator of a future satellite that is located within 6 degrees longitude of the target satellite, the VMES shall operate at an EIRP-density defined in paragraph (a)(3)(i) of this section.

(B) The VMES shall operate in accordance with the off-axis EIRP spectral-densities that the VMES supplied to the target satellite operator in order to obtain the certifications listed in paragraph (b)(3)(ii) of this section. The individual VMES terminals shall automatically cease emissions within 100 milliseconds if the VMES transmitter exceeds the off-axis EIRP spectral-densities supplied to the target satellite operator. The overall system shall be capable of shutting off an individual transmitter or the entire system if the aggregate off-axis EIRP spectral-densities exceed those supplied to the target satellite operator.

(C) The VMES shall transmit only to the target satellite system(s) referred to in the certifications required by paragraph (b)(3) of this section.

(iii) The VMES shall file a report one year following license issuance detailing the effective aggregate EIRP-density levels resulting from its operation, in compliance with paragraph (b)(3)(iii) of this section.

(4) An applicant filing to operate a VMES terminal or system and planning to use a contention protocol shall certify that its contention protocol use will be reasonable.

(5) There shall be a point of contact in the United States, with phone number and address, available 24 hours a day, seven days a week, with authority and ability to cease all emissions from the VMESs.

(6) For each VMES transmitter, a record of the vehicle location (i.e., latitude/longitude), transmit frequency, channel bandwidth and satellite used shall be time annotated and maintained for a period of not less than one (1) year. Records shall be recorded at time intervals no greater than every five (5) minutes while the VMES is transmitting. The VMES operator shall make this data available upon request to a coordinator, fixed system operator, fixed-satellite system operator, NTIA, or the Commission within 24 hours of the request.

(7) In the 10.95–11.2 GHz (space-to-Earth) and 11.45–11.7 GHz (space-to-Earth) frequency bands VMESs shall not claim protection from interference from any authorized terrestrial stations to which frequencies are either already assigned, or may be assigned in the future.

(8) A VMES terminal receiving in the 10.95–11.2 GHz (space-to-Earth), 11.45–11.7 GHz (space-to-Earth) and 11.7–12.2 GHz (space-to-Earth) bands shall receive protection from interference caused by space stations other than the target space station only to the degree to which harmful interference would not be expected to be caused to an earth station employing an antenna conforming to the referenced patterns defined in § 25.209(a) and (b) and stationary at the location at which any interference occurred.

(9) Each VMES terminal shall automatically cease transmitting within 100 milliseconds upon loss of reception of the satellite downlink signal.

(b) Applications for VMES operation in the 14.0–14.5 GHz (Earth-to-space) band to GSO satellites in the fixed-satellite service shall include, in addition to the particulars of operation identified on Form 312, and associated Schedule B, the applicable technical

demonstrations in paragraphs (b)(1), (b)(2) or (b)(3) of this section and the documentation identified in paragraphs (b)(4) through (b)(8) of this section.

(1) A VMES applicant proposing to implement a transmitter under paragraph (a)(1) of this section shall demonstrate that the transmitter meets the off-axis EIRP spectral-density limits contained in paragraph (a)(1)(i) of this section. To provide this demonstration, the application shall include the tables described in paragraph (b)(1)(i) of this section or the certification described in paragraph (b)(1)(ii) of this section. The VMES applicant also shall provide the value N described in paragraph (a)(1)(i)(A) of this section. A VMES applicant proposing to implement a transmitter under paragraph (a)(1)(ii)(A) of this section shall provide the certifications identified in paragraph (b)(1)(iii) of this section. A VMES applicant proposing to implement a transmitter under paragraph (a)(1)(ii)(B) of this section shall provide the demonstrations identified in paragraph (b)(1)(iv) of this section.

(i) Any VMES applicant filing an application pursuant to paragraph (a)(1) of this section shall file three tables showing the off-axis EIRP level of the proposed earth station antenna in the direction of the plane of the GSO; the co-polarized EIRP in the elevation plane, that is, the plane perpendicular to the plane of the GSO; and cross polarized EIRP. Each table shall provide the EIRP level at increments of 0.1° for angles between 0° and 10° off-axis, and at increments of 5° for angles between 10° and 180° off-axis.

(A) For purposes of the off-axis EIRP table in the plane of the GSO, the off-axis angle is the angle in degrees from the line connecting the focal point of the antenna to the orbital location of the target satellite, and the plane of the GSO is determined by the focal point of the antenna and the line tangent to the arc of the GSO at the orbital position of the target satellite.

(B) For purposes of the off-axis co-polarized EIRP table in the elevation plane, the off-axis angle is the angle in degrees from the line connecting the focal point of the antenna to the orbital location of the target satellite, and the elevation plane is defined as the plane perpendicular to the plane of the GSO defined in paragraph (b)(1)(i)(A) of this section.

(C) For purposes of the cross-polarized EIRP table, the off-axis angle is the angle in degrees from the line connecting the focal point of the antenna to the orbital location of the target satellite and the plane of the GSO as defined in paragraph (b)(1)(i)(A) of this section will be used.

(ii) A VMES applicant shall include a certification, in Schedule B, that the VMES antenna conforms to the gain pattern criteria of § 25.209(a) and (b), that, combined with the maximum input power density calculated from the EIRP density less the antenna gain, which is entered in Schedule B, demonstrates that the off-axis EIRP spectral density envelope set forth in paragraphs (a)(1)(i)(A) through (a)(1)(i)(C) of this section will be met under the assumption that the antenna is pointed at the target satellite.

(iii) A VMES applicant proposing to implement a transmitter under paragraph (a)(1)(ii)(A) of this section shall provide a certification from the equipment manufacturer stating that the antenna tracking system will maintain a pointing error of less than or equal to 0.2° between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna and that the antenna tracking system is capable of ceasing emissions within 100 milliseconds if the angle between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna exceeds 0.5°.

(iv) A VMES applicant proposing to implement a transmitter under paragraph (a)(1)(ii)(B) of this section shall:

(A) Declare, in its application, a maximum antenna pointing error and demonstrate that the maximum antenna pointing error can be achieved without exceeding the off-axis EIRP spectral-density limits in paragraph (a)(1)(i) of this section; and

(B) Demonstrate that the VMES transmitter can detect if the transmitter exceeds the declared maximum antenna pointing error and can cease transmission within 100 milliseconds if the angle between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna exceeds the declared maximum antenna pointing error, and will not resume transmissions until the angle between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna is less than or equal to the declared maximum antenna pointing error.

(2) A VMES applicant proposing to implement a transmitter under paragraph (a)(2) of this section and using off-axis EIRP spectral-densities in excess of the levels in paragraph (a)(1)(i) of this section shall provide the following certifications and demonstration as exhibits to its earth station application:

(i) A statement from the target satellite operator certifying that the proposed operation of the VMES has the potential to create harmful interference to satellite networks adjacent to the target satellite(s) that may be unacceptable.

(ii) A statement from the target satellite operator certifying that the power density levels that the VMES applicant provided to the target satellite operator are consistent with the existing coordination agreements between its satellite(s) and the adjacent satellite systems within 6° of orbital separation from its satellite(s).

(iii) A statement from the target satellite operator certifying that it will include the power-density levels of the VMES applicant in all future coordination agreements.

(iv) A demonstration from the VMES operator that the VMES system is capable of detecting and automatically ceasing emissions within 100 milliseconds when the transmitter exceeds the off-axis EIRP spectral-densities supplied to the target satellite operator.

(3) A VMES applicant proposing to implement VMES system under paragraph (a)(3) of this section and using variable power-density control of individual simultaneously transmitting co-frequency VMES earth stations in the same satellite receiving beam shall provide the following certifications and demonstration as exhibits to its earth station application:

(i) The applicant shall make a detailed showing of the measures it intends to employ to maintain the effective aggregate EIRP-density from all simultaneously transmitting co-frequency terminals operating with the same satellite transponder at least 1 dB below the EIRP-density limits defined in paragraphs (a)(1)(i)(A) through (C) of this section. In this context the term ''effective'' means that the resultant co-polarized and cross-polarized EIRP-density experienced by any GSO or non-GSO satellite shall not exceed that produced by a single VMES transmitter operating at 1 dB below the limits defined in paragraphs (a)(1)(i)(A) through (C) of this section. The International Bureau will place this showing on public notice along with the application.

(ii) An applicant proposing to implement a VMES under paragraph (a)(3)(ii) of this section that uses off-axis EIRP spectral-densities in excess of the levels in paragraph (a)(3)(i) of this section shall provide the following certifications, demonstration and list of satellites as exhibits to its earth station application:

(A) A detailed showing of the measures the applicant intends to employ to maintain the effective aggregate EIRP-density from all simultaneously transmitting co-frequency terminals operating with the same satellite transponder at the EIRP-density limits supplied to the target satellite operator. The International Bureau will place this showing on public notice along with the application.

(B) A statement from the target satellite operator certifying that the proposed operation of the VMES has the potential to create harmful interference to satellite networks adjacent to the target satellite(s) that may be unacceptable.

(C) A statement from the target satellite operator certifying that the aggregate power density levels that the VMES applicant provided to the target satellite operator are consistent with the existing coordination agreements between its satellite(s) and the adjacent satellite systems within 6° of orbital separation from its satellite(s).

(D) A statement from the target satellite operator certifying that it will include the aggregate power-density levels of the VMES applicant in all future coordination agreements.

(E) A demonstration from the VMES operator that the VMES system is capable of detecting and automatically ceasing emissions within 100 milliseconds when an individual transmitter exceeds the off-axis EIRP spectral-densities supplied to the target satellite operator and that the overall system is capable of shutting off an individual transmitter or the entire system if the aggregate off-axis EIRP spectral-densities exceed those supplied to the target satellite operator.

(F) An identification of the specific satellite or satellites with which the VMES system will operate.

(iii) The applicant shall acknowledge that it will maintain sufficient statistical and technical information on the individual terminals and overall system operation to file a detailed report, one year after license issuance, describing the effective aggregate EIRP-density levels resulting from the operation of the VMES system.

(4) There shall be an exhibit included with the application describing the geographic area(s) in which the VMESs will operate.

(5) Any VMES applicant filing for a VMES terminal or system and planning to use a contention protocol shall include in its application a certification that will comply with the requirements of paragraph (a)(4) of this section.

(6) The point of contact referred to in paragraph (a)(5) of this section shall be included in the application.

(7) Any VMES applicant filing for a VMES terminal or system shall include in its application a certification that will comply with the requirements of paragraph (a)(6) of this section.

(8) All VMES applicants shall submit a radio frequency hazard analysis determining via calculation, simulation, or field measurement whether VMES terminals, or classes of terminals, will produce power densities that will exceed the Commission's radio frequency exposure criteria. VMES applicants with VMES terminals that will exceed the guidelines in § 1.1310 of this chapter for radio frequency radiation exposure shall provide, with their environmental assessment, a plan for mitigation of radiation exposure to the extent required to meet those guidelines. All VMES licensees shall ensure installation of VMES terminals on vehicles by qualified installers who have an understanding of the antenna's radiation environment and the measures best suited to maximize protection of the general public and persons operating the vehicle and equipment. A VMES terminal exhibiting radiation exposure levels exceeding 1.0 mW/cm^2 in accessible areas, such as at the exterior surface of the radome, shall have a label attached to the surface of the terminal warning about the radiation hazard and shall include thereon a diagram showing the regions around the terminal where the radiation levels could exceed 1.0 mW/cm^2. All VMES licensees shall ensure that a VMES terminal ceases transmission upon encountering an obstruction that degrades the VMES downlink signal.

(c)(1) Operations of VMESs in the 14.0–14.2 GHz (Earth-to-space) frequency band within 125 km of the NASA TDRSS facilities on Guam (latitude 13°36′55″ N, longitude 144°51′22″ E) or White Sands, New Mexico (latitude 32°20′59″ N, longitude 106°36′31″ W and latitude 32°32′40″ N, longitude 106°36′48″ W) are subject to coordination with the National Aeronautics and Space Administration (NASA) through the National Telecommunications and Information Administration (NTIA) Interdepartment Radio Advisory Committee (IRAC). Licensees shall notify the International Bureau once they have completed coordination. Upon receipt of such notification from a licensee, the International Bureau will issue a public notice stating that the licensee may commence operations within the coordination zone in 30 days if no party has opposed the operations.

(2) When NTIA seeks to provide similar protection to future TDRSS sites that have been coordinated through the IRAC Frequency Assignment Subcommittee process, NTIA will notify the Commission's International Bureau that the site is nearing operational status. Upon public notice from the International Bureau, all Ku-band VMES licensees shall cease operations in the 14.0–14.2 GHz band within 125 km of the new TDRSS site until the licensees complete coordination with NTIA/IRAC for the new TDRSS facility. Licensees shall notify the International Bureau once they have completed coordination for the new TDRSS site. Upon receipt of such notification from a licensee, the International Bureau will issue a public notice stating that the licensee may commence operations within the coordination zone in 30 days if no party has opposed the operations. The VMES licensee then will be permitted to commence operations in the 14.0–14.2 GHz band within 125 km of the new TDRSS site, subject to any operational constraints developed in the coordination process.

(d)(1) Operations of VMESs in the 14.47–14.5 GHz (Earth-to-space) frequency band in the vicinity of radio astronomy service (RAS) observatories observing in the 14.47–14.5 GHz band are subject to coordination with the National Science Foundation (NSF). The appropriate NSF contact point to initiate coordination is Electromagnetic Spectrum Manager, NSF, 4201 Wilson Blvd., Suite 1045, Arlington VA 22203, fax 703–292–9034, e-mail *esm@nsf.gov*. Licensees shall notify the International Bureau once they have completed coordination. Upon receipt of the coordination agreement from a licensee, the International Bureau will issue a public notice stating that the licensee may commence operations within the coordination zone in 30 days if no party has opposed the operations.

(2) Table 1 provides a list of each applicable RAS site, its location, and the applicable coordination zone.

TABLE 1—APPLICABLE RADIO ASTRONOMY SERVICE (RAS) FACILITIES AND ASSOCIATED COORDINATION DISTANCES

Observatory	Latitude (north)	Longitude (west)	Radius (km) of coordination zone
Arecibo, Observatory, Arecibo, PR	18°20′37″	66°45′11″	Island of Puerto Rico.
Green Bank, WV	38°25′59″	79°50′23″	160.
Very Large Array, near Socorro, NM	34°04′44″	107°37′06″	160.
Pisgah Astronomical Research Institute, Rosman, NC	35°11′59″	82°52′19″	160.
U of Michigan Radio Astronomy Observatory, Stinchfield Woods, MI	42°23′56″	83°56′11″	160.
Very Long Baseline Array (VLBA) stations:			
Owens Valley, CA	37°13′54″	118°16′37″	160*.
Mauna Kea, HI	19°48′05″	155°27′20″	50.
Brewster, WA	48°07′52″	119°41′00″	
Kitt Peak, AZ	31°57′23″	111°36′45″	
Pie Town, NM	34°18′04″	108°07′09″	
Los Alamos, NM	35°46′30″	106°14′44″	
Fort Davis, TX	30°38′06″	103°56′41″	
North Liberty, IA	41°46′17″	91°34′27″	
Hancock, NH	42°56′01″	71°59′12″	
St. Croix, VI	17°45′24″	64°35′01″	

* Owens Valley, CA operates both a VLBA station and single-dish telescopes.

(3) When NTIA seeks to provide similar protection to future RAS sites that have been coordinated through the IRAC Frequency Assignment Subcommittee process, NTIA will notify the Commission's International Bureau that the site is nearing operational status. Upon public notice from the International Bureau, all Ku-band VMES licensees shall cease operations in the 14.47–14.5 GHz band within the relevant geographic zone (160 kms for single-dish radio observatories and Very Large Array antenna systems and 50 kms for Very Long Baseline Array antenna systems) of the new RAS site until the licensees complete coordination for the new RAS facility. Licensees shall notify the International Bureau once they have completed coordination for the new RAS site and shall submit the coordination agreement to the Commission. Upon receipt of such notification from a licensee, the International Bureau will issue a public notice stating that the licensee may commence operations within the coordination zone in 30 days if no party opposed the operations. The VMES licensee then will be permitted to commence operations in the 14.47–14.5 GHz band within the relevant coordination distance around the new RAS site, subject to any operational constraints developed in the coordination process.

(e) VMES licensees shall use Global Positioning Satellite-related or other similar position location technology to ensure compliance with paragraphs (c) and (d) of this section.

[FR Doc. E9–26215 Filed 11–3–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–2281; MB Docket No. 08–62]

FM Table of Allotment; Crandon, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, on its own motion, substitutes Channel 276A for vacant Channel 276C3 at Crandon, Wisconsin to enable Station WGLX–FM to increase it current service area and eliminate the substandard spacing to the Crandon, Wisconsin allotment. A staff engineering analysis indicates that Channel 276A can be allotted to Crandon consistent with the minimum distance separation requirements of the Commission's rules at reference coordinates 45–34–18 NL and 88–53–54 WL.

DATES: Effective December 7, 2009.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MB Docket No. 08–62, adopted October 21, 2009, and released October 23, 2009. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC.

The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY–B402, Washington, DC 20554, 800–378–3160 or via the company's Web site, *http://www.bcpiweb.com*.

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 does not apply to this proceeding.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comment may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1988).

Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov*. For submitting comments, filers should follow the instructions provided on the Web site.

For ECFS filer, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filer must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the

caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e–mail. To get filing instructions, filers should send an e–mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

For Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rule making number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first–class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand–delivered or messenger–delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelope must be disposed of before entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first–class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e–mail to *fcc504@fcc.gov* or call the Consumer & Government Affairs Bureau at 202–418–0530 (voice) , 202–418–0432 (tty).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73 – RADIO BRAODCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 276C3 and by adding Channel 276A at Crandon.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E9–26504 Filed 11–3–09; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–2274; MB Docket No. 09–162; RM–11559]

Television Broadcasting Services; Opelika, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Pappas Telecasting of Opelika, LP, licensee of station WLGA(TV), channel 47, Opelika, Alabama, requesting the substitution of channel 30 for its allotted channel 47 at Opelika and to make related changes to its technical parameters.

DATES: This rule is effective November 4, 2009.

FOR FURTHER INFORMATION CONTACT: David J. Brown, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 09–162, adopted October 21, 2009, and released October 22, 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 Alabama, is amended by adding channel 30 and removing channel 47 at Opelika.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau, Federal Communications Commission.

[FR Doc. E9–26609 Filed 11–3–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–2291; MB Docket No. 09–163; RM–11562]

Television Broadcasting Services; Lexington, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Gray Television Licensee, LLC, the licensee of WKYT–TV, channel 13, Lexington, Kentucky, requesting the substitution of channel 36 for channel 13 at Lexington.

DATES: This rule is effective November 4, 2009.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 09–163, adopted October 22, 2009, and released October 23, 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 Kentucky, is amended by adding channel 36 and removing channel 13 at Lexington.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–26610 Filed 11–3–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 0812191631–91238–03]

RIN 0648–AX53

Pacific Halibut Fisheries; Subsistence Fishing

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to revise the criteria for rural residents to participate in the subsistence fishery for Pacific halibut in waters in and off Alaska. This action is necessary to allow subsistence halibut fishing opportunities for rural residents who reside in locations outside the legal boundaries of specified communities and who were prohibited from participating in the subsistence halibut fishery by previous regulations. This action is intended to allow these inadvertently-excluded rural residents to participate in the subsistence halibut fishery and to support the conservation and management provisions of the Northern Pacific Halibut Act of 1982.

DATES: This rule is effective December 4, 2009.

ADDRESSES: Electronic copies of the Regulatory Impact Review (RIR) prepared for this action, and the environmental assessment (EA) prepared for the original subsistence halibut action (68 FR 18145; April 15, 2003) may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://www.alaskafisheries.noaa.gov*.

Written comments regarding the burden–hour estimates or other aspects of the collection–of–information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska; and by e–mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Management of the Pacific halibut (*Hippoglossus stenolepis*) (hereafter ''halibut'') fishery in and off Alaska is based on an international agreement between Canada and the United States. This agreement, entitled the ''Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea'' (Convention), was signed at Ottawa, Canada, on March 2, 1953, and amended by the ''Protocol Amending the Convention,'' signed at Washington, D.C., March 29, 1979. The Convention, administered by the International Pacific Halibut Commission (IPHC), is given effect in the United States by the Northern Pacific Halibut Act of 1982 (Halibut Act).

The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. NMFS published the IPHC's current annual management measures on March 19, 2009 (74 FR 11681).

The Halibut Act also authorizes the North Pacific Fishery Management Council (Council) to develop halibut fishery regulations, including limited access regulations, in its geographic area of concern that would apply to nationals or vessels of the United States (Halibut Act, section 773c(c)). Such an action by the Council is limited to only those regulations that are in addition to, and not in conflict with, IPHC regulations. Council-developed regulations must be approved and implemented by the Secretary. Any allocation of halibut fishing privileges must be fair and equitable and consistent with other

applicable federal law. The Council used its authority under the Halibut Act to recommend a subsistence halibut program in October 2000 to recognize and manage the subsistence fishery for halibut. Like the original subsistence halibut program and subsequent amendments to it, this action was developed by the Council under the authority of the Halibut Act.

The Halibut Act at sections 773c (a) and (b) provides the Secretary with the general responsibility to carry out the Convention with the authority to, in consultation with the Secretary of the department in which the U.S. Coast Guard is operating (currently the Secretary of Homeland Security), adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary has delegated authority to NMFS to implement the Halibut Act.

Need for Action

The need for this action was described in detail in the preamble to the proposed rule for this action (74 FR 39270; August 6, 2009) and is summarized below. The proposed rule is available via the Internet (see **ADDRESSES**). No substantive changes were made to the proposed regulatory text in this final rule; however, minor technical edits that are specified below were made to the regulatory text.

The subsistence halibut regulations authorize eligible persons who possess subsistence halibut registration certificates (SHARCs) to conduct subsistence halibut fishing in waters in and off Alaska. Under regulations in effect prior to this rule, a person was eligible for a SHARC to harvest subsistence halibut only if he or she were a rural resident of a community with customary and traditional uses of halibut that is listed in the tables at § 300.65(g)(1) (hereafter ''listed community''), or a member of an Alaska Native tribe with customary and traditional uses of halibut that is listed in the tables at § 300.65(g)(2). Members of Alaska Native tribes are not directly affected by this action. Therefore, the discussion of rural versus non-rural eligibility in the preamble of this final rule does not apply to Alaska Native tribal members. The definition of the term ''rural resident'' is the primary issue in this action. The previous definition that limited rural residents to persons residing in listed communities had inadvertent, adverse impacts on some rural residents; individuals who resided outside the boundaries of listed communities did not qualify for SHARCs.

Under this final rule, rural residents of south of Cape Espenberg who reside within a designated ten-statute-mile boundary adjacent to the waters of the Bering Sea and Pacific Ocean or in other designated places outside of specified non-rural areas are eligible to subsistence fish for halibut. In June 2008, the Council recommended a wider geographic scope for rural resident eligibility to include individuals who reside in remote locations outside the boundaries of listed communities. The Council determined that those individuals or families in remote locations within the subsistence halibut use areas practice the same patterns of halibut use as residents of nearby listed communities that have customary and traditional uses and, therefore, should be eligible to participate in subsistence fishing for halibut. NMFS agrees with the Council's recommendation and determination concerning rural resident eligibility and, therefore, approves this final rule to allow inadvertently-excluded rural residents who reside in certain locations outside the legal boundaries of specified communities to participate in the subsistence halibut fishery. The land areas adjacent to the current non-subsistence marine waters areas are now designated as non-rural areas.

Under this action, rural residents are considered eligible to participate in the subsistence halibut program if they meet the criteria for rural residency under one of two options. First, a person continues to be considered a rural resident if he or she is domiciled in a community specified at § 300.65(g)(1). Second, under the new definition for a rural area, a person is considered a rural resident if he or she is domiciled in one of the following rural areas listed at § 300.65(g)(3):

- Southeast Alaska east of 141° W. long., except for the land areas of the Ketchikan Gateway Borough as these areas are described below, the land areas of the City and Borough of Juneau, and the Ketchikan and Juneau non-subsistence marine waters areas (see Figures 2 and 3);
- The Alaska Peninsula, Aleutian Islands, Kodiak Island Archipelago, and the area south of the northern boundary of the Bristol Bay Borough and south of 58°39.2' N. lat. (see Figures 5, 6, and 7);
- Nelson, Nunivak, and Saint Lawrence Islands (see Figure 6); and
- All other areas of Alaska within ten statute miles of mean high water on the Bering Sea and Pacific Ocean coasts, south of Cape Espenberg, including along the Kuskokwim River to Bethel, and that are not specified as non-rural areas and that are not specified as the Anchorage-Matsu-Kenai or Valdez non-subsistence marine waters areas (see Figures 4, 5, 6, and 7).

Qualifications for a rural SHARC continue to require domicile in a designated rural area for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and no claim of residency in another state, territory, or country. The definitions for ''rural'' and ''rural resident'' listed at § 300.61 are revised to include the residents of the newly described rural areas.

Expansion of the rural resident definition requires definitive specification of non-rural areas as exceptions to the rural areas because a resident of a non-rural area does not qualify for a SHARC. In general, the non-rural areas are those land areas adjacent to the existing non-subsistence marine waters areas, the definitions of which are retained, and include the non-subsistence marine waters areas. Under this action, the land areas of the following cities and boroughs are non-rural areas for the purposes of the subsistence halibut fishery: the Ketchikan Gateway Borough as those boundaries existed on May 18, 2008; the City and Borough of Juneau; the Greater Anchorage Area Borough; the Matanuska-Susitna Borough; the Kenai Peninsula Borough, excluding the southern tip of the Kenai Peninsula that includes the Seldovia Census Designated Place; and the City of Valdez.

The previous figures that displayed the ''non-subsistence marine waters areas'' described at § 300.65(h)(3) in which subsistence fishing for halibut is prohibited are revised to include the adjacent non-rural land areas. These revised figures show the rural and non-rural areas of Southern Southeast Alaska, including Ketchikan; Northern Southeast Alaska, including Juneau; Prince William Sound, including Valdez; and Anchorage-Matsu-Kenai. Two new figures are added to show the rural and non-rural areas of the Alaska Peninsula and Aleutian Islands and of Western and Central Alaska.

The SHARC application is revised to incorporate changes necessitated by this action. Prior to this action, one combined application was used by rural residents and by Alaska Native tribal members. To simplify the application process for the public, separate applications will be used by rural residents and by Alaska Native tribal members. Additionally, the regulations at § 300.65(i)(2) are revised to simplify the application requirements that are listed in the regulations. The SHARC application requirements for a rural

resident include indicating the basis upon which the applicant is eligible to harvest subsistence halibut as a rural resident. Additional requirements include listing a post office box number, describing the physical location of the domicile if there is no street address, and adding ''or area'' to the requirement to list the community that qualifies the fisherman as eligible to fish for subsistence halibut. The SHARC application for an Alaska Native tribal member clearly states what is needed for address or location information and includes listing the community or area of residence, and no longer requires the dates of residence in a community because that information is not necessary for an Alaska Native tribal member.

The specific location of any SHARC holder's domicile must be provided on the SHARC application due to existing regulations limiting cash reimbursement for subsistence halibut fishing expenses. These regulations, at § 300.66(j)(1) and § 300.66(j)(2), are revised to include (A) references to the new qualification for a rural resident that is described at § 300.65(g)(3), and (B) a limit on reimbursement of actual expenses of qualified subsistence fishermen who reside outside listed rural communities–the fisherman's actual expenses may be reimbursed only by rural residents who reside within ten statute miles of the rural location listed on the fisherman's SHARC application. Additionally, the text at § 300.66(j)(2) is revised to parallel the construction used at § 300.66(j)(1) regarding reimbursement of rural residents and specifies that Alaska Native tribal members may be reimbursed for only actual expenses for ice, bait, food, and fuel. The words ''actual expenses'' were inadvertently omitted from the previous regulatory text.

The SHARC application for a rural resident includes the requirement to provide the name, complete mailing address, and phone number of an adult age 18 years or older who can verify that the residence listed by the applicant is the applicant's domicile and that it was the applicant's domicile for 12 months prior to the date of the application. The verifying person may not be the applicant's wife, husband, parent, or child and may not be living at the rural residence listed by the applicant. This requirement for a verifier enhances the ability of NMFS to determine whether a SHARC applicant is truly qualified as a rural resident eligible to fish for subsistence halibut.

Under this action, there are several other minor changes to the regulations. First, added to the regulations at § 300.61, is a definition for SHARC, which is the documentation issued by NMFS of the registration required to participate in subsistence fishing. Second, the regulations at § 300.65(g) include a reference to the new qualification for a rural resident described at § 300.65(g)(3). Third, a misspelling of Sheldon Point (Nunam Iqua) is corrected in the regulations at § 300.65(g)(2) in the table for the IPHC halibut regulatory area 4E. Fourth, the regulations at § 300.65(h)(3) no longer specify ''non-rural areas'' but ''non-subsistence marine waters areas'' instead; therefore, regulations at §§ 300.65(h)(4) and 300.66(g) are revised to reflect that change. Finally, the meaning of the ''area of tribal membership'' that is defined at § 300.65(h)(4)(iii) is revised to specify that this means the IPHC regulatory area under which an organized tribal entity is listed at § 300.65(g)(2), or the area of the Bering Sea that is closed to commercial halibut fishing and adjacent to the rural area in which the Alaska Native tribal headquarters is located.

Response to Comments

The proposed rule published in the **Federal Register** on August 6, 2008 (74 FR 39269). The 30-day comment period on the proposed rule ended September 8, 2009. NMFS received a total of three letters that contained five unique comments on the proposed rule. Two letters were received from private citizens and one letter was received from a fishing industry association. A summary of these comments and NMFS's responses follows.

Comment 1: One commenter was concerned about continuing to be excluded from the subsistence halibut fishery. The commenter resides full time in Resolute Cove, Day Harbor, Alaska, which is accessible only by water. The nearest road access is about 33 miles away in Seward, Alaska. The commenter is retired and depends on local fishing, especially in winter when travel is difficult.

Response: Day Harbor, Alaska, which is located in the Kenai Peninsula Borough, is a non-rural area under this action. ''Therefore residents of this area are excluded from the subsistence halibut fishery.'' The marine waters in that area that are within the State of Alaska (State) have been classified as non-subsistence marine waters areas since the inception of the program. The Council recommended that the boundaries for non-subsistence areas match the boundaries for Anon-subsistence use areas established by the State of Alaska Joint Board of Fisheries and Game. These boundaries are based on whether customary and traditional use is a principal part of the economy of the area and are not based on population size or remoteness. Substantively changing the boundaries of the non-subsistence marine waters areas or the adjacent land areas is beyond the scope of this action. A request to change the classification of the marine waters and land in this area to be qualified for subsistence halibut purposes may be made by the public to the Council.

Comment 2: It appears that the proposed changes would exclude Loring, Alaska, from the subsistence halibut fishery. Loring is a small rural community located on Naha Bay, which is near Ketchikan and about 12 miles from the road system on Revillagigedo Island. Most of the permanent residents of Loring fish and hunt to supplement their food supply. Loring was excluded as an eligible community under the earlier requirements for subsistence halibut fishing as the population was less than 20. This latest development continues to exclude Loring residents from subsistence halibut fishing even though Loring is a well-defined remote and rural community whose residents have subsistence fished for halibut since the early 1800s. The town of Loring and its residents should be included in the revised proposals for subsistence halibut fishing. The total number of families who would benefit would be around two or three, so it would not significantly impact the halibut stocks.

Response: Residents of Loring, Alaska, are excluded from the subsistence halibut fishery under this rule.''The marine waters near Loring have been classified as a non-subsistence marine waters area since the inception of the program.'' Loring is 11 nautical miles from the closest waters that are open to subsistence halibut fishing. Please see the response to Comment 1 for how the boundaries for non-subsistence areas were established. Substantively changing the boundaries of the non-subsistence marine waters areas or the adjacent land areas is beyond the scope of this action. A request may be made by the public to the Council to change the classification of the marine waters and land in this area to be qualified for subsistence halibut purposes.

Comment 3: The commenter supports this action to allow inadvertently excluded rural residents who reside outside the city limits of Petersburg to participate in the subsistence halibut fishery.

Response: NMFS notes the support for this action.

Comment 4: The commenter is very apprehensive that the most recent information regarding subsistence halibut in this proposed rule is from 2007, and supports action to gather accurate harvest numbers as quickly as possible. The commenter supports additional efforts for a harvest logbook or harvest report that must be submitted within one week of completion of subsistence harvest.

Response: Information on subsistence halibut harvests is submitted voluntarily through a survey of SHARC holders. Although mandatory subsistence halibut harvest information is not required, 58 percent of SHARC holders participated in the 2007 harvest survey according to the report on subsistence harvests of halibut in Alaska published by the State in December 2008. This amount of participation is sufficient for a reasonably accurate harvest estimate. The collection of catch information from subsistence halibut participants is modeled on the State-wide sport fish harvest survey, a similar voluntary harvest reporting program.

The data from 2007 are the most recent data available from all areas of the State of total halibut removals that include subsistence halibut harvest estimates. These data indicate that sport fisheries harvested 10.3 percent of the total and subsistence fisheries harvested 1.4 percent of the total. Rigorous recordkeeping and reporting requirements for these two fisheries likely would increase the precision of these estimates. This is unnecessary, however, for the relatively small proportions of the total harvest. More rigorous recordkeeping and reporting requirements are imposed on fisheries that remove larger amounts of halibu– the commercial harvest of halibut and bycatch of halibut during directed commercial fisheries for other species.

For those who live in remote locations, requiring the submission of the information within a week of the conclusion of fishing is an unreasonable reporting burden that is not justified based on the amount of halibut harvested in subsistence fishing State-wide. However, the suggestion to require a harvest logbook or other reporting tools for subsistence halibut fishermen in specific areas may be made to the Council.

Comment 5: The commenter appreciates the emphasis on legal participation in the program being limited to Alaska residents and is concerned with the number of ''part-time'' Alaska residents who are in the State for only a few months of the year in the summer, yet claim Alaska residency.

Response: The subsistence halibut program is not limited to Alaska residents. Alaska Native tribal members who reside outside the State may qualify to subsistence fish for halibut. For rural residents, the program is limited to those persons who reside in certain designated locations with customary and traditional use in waters in and off the geographical area under the Council's jurisdiction.

Changes from the Proposed Rule

No substantive changes are made in this final rule from the proposed rule. The regulations at § 300.65(i)(2) were revised to more precisely delineate the application submission requirements for a SHARC, which are detailed on the application form. To correct errors that occurred in the proposed rule, minor technical edits are made as follows: (1) add degree signs in the geographic coordinates at § 300.65(g)(3)(i) and § 300.65(g)(4)(v), (2) correct the spelling of ''Behm Narrows'' at § 300.65(g)(4)(i), (3) add italics to text at § 300.65(h)(3)(iii) and § 300.65(h)(3)(iv), and (4) insert quotation marks around the phrase ''area of tribal membership'' at § 300.65(h)(4)(iii).

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the Council, and the Secretary. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) allows the regional council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. This action is consistent with the Council's authority and the Secretary's authority to allocate halibut catches among fishery participants in the waters in and off Alaska.

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule also complies with the Secretary's authority under the Halibut Act to implement management measures for the halibut fishery.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This rule contains collection–of–information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under control number 0648–0460. Public reporting burden for the SHARC applications for a rural resident or an Alaska Native tribal member are each estimated to average ten minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e–mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 note), the Executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of the NMFS in matters affecting tribal interests. Section 161 of Public Law 108–199 (188 Stat 452), as amended by section 518 of Public Law 108–447 (118 Stat 3267), extends the consultation requirements of Executive Order 13175 to Alaska Native corporations. Consultations occurred with the Alaska Native Subsistence Halibut Working Group in December 2008, pursuant to the requirements of Executive Order 13175.

List of Subjects in 50 CFR Part 300

Alaska, Alaska Natives, Fisheries, Pacific halibut fisheries, Recordkeeping and reporting requirements.

Dated: October 30, 2009.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 300, subpart E is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E—Pacific Halibut Fisheries

■ 1. The authority citation for 50 CFR part 300, subpart E continues to read as follows:

Authority: 16 U.S.C. 773–773k.

■ 2. In § 300.61 revise the definitions for ''Rural'' and ''Rural resident'' and add a new definition for ''Subsistence halibut registration certificate (SHARC)'' in alphabetical order to read as follows:

§ 300.61 Definitions.

* * * * *

Rural means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a community of Alaska listed at § 300.65(g)(1) or an area of Alaska described at § 300.65(g)(3) in which the non-commercial, customary, and traditional use of fish and game for personal or family consumption is a principal characteristic of the economy or area and in which there is a long-term, customary, and traditional use of halibut.

Rural resident means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska:

(1) An individual domiciled in a rural community listed in the table at § 300.65(g)(1) and who has maintained a domicile in rural communities listed in the table at § 300.65(g)(1), or in rural areas described at § 300.65(g)(3), for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another state, territory, or country; or

(2) An individual domiciled in a rural area described at § 300.65(g)(3) and who has maintained a domicile in rural areas described at § 300.65(g)(3), or in rural communities listed in the table at § 300.65(g)(1), for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another state, territory, or country.

* * * * *

Subsistence halibut registration certificate (SHARC) means documentation, issued by NMFS, of the registration required at § 300.65(i).

* * * * *

■ 3. In § 300.65:

A. Revise paragraphs (g) introductory text, (h)(3) introductory text, (h)(3)(iii) introductory text, (h)(3)(iv), (h)(4) introductory text, (h)(4)(iii), (i)(2), (j)(3)(i)(B), (k)(3)(i)(A) introductory text, and (k)(3)(i)(B).

B. In paragraph (g)(2), in the table entitled (Halibut Regulatory Area 4E,(revise the entry for ''Sheldon Point (Nuna Iqua)''.

C. Add new paragraphs (g)(3) and (g)(4).

The additions and revisions read as follows:

§ 300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.

* * * * *

(g) *Subsistence fishing in and off Alaska.* No person shall engage in subsistence fishing for halibut unless that person meets the requirements in paragraphs (g)(1), (g)(2), or (g)(3) of this section.

* * * * *

(2) * * *

HALIBUT REGULATORY AREA 4E

Place with Tribal Headquarters	Organized Tribal Entity
* * *	* *
Sheldon Point (Nunam Iqua)	Native Village of Sheldon's Point
* * *	* *

(3) A person is eligible to harvest subsistence halibut if he or she is a rural resident in one of the rural areas of Alaska described as follows:

(i) Southeast Alaska east of 141° W. long., except for the land areas of the Ketchikan Gateway Borough as described at paragraph (g)(4)(i) of this section, the land areas of the City and Borough of Juneau, and the Ketchikan and Juneau non-subsistence marine waters areas as defined in paragraphs (h)(3)(i) and (h)(3)(ii) of this section (see figures 2 and 3 to this subpart E).

(ii) The Alaska Peninsula, Aleutian Islands, Kodiak Island Archipelago, and the area south of the northern boundary of the Bristol Bay Borough and south of 58°39.2′ N. lat. (see figures 5, 6, and 7 to this subpart E).

(iii) Nelson, Nunivak, and Saint Lawrence Islands (see figure 6 to this subpart E).

(iv) All other areas of Alaska within ten statute miles of mean high water on the Bering Sea and Pacific Ocean coasts, south of Cape Espenberg, including along the Kuskokwim River to Bethel, and that are not specified as non-rural land or water areas as defined in paragraph (g)(4) of this section (see figures 4, 5, 6, and 7 to this subpart E).

(4) Non-rural areas consist of the non-subsistence marine waters areas defined in paragraph (h)(3) of this section and the land areas of the following cities and boroughs for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska:

(i) The Ketchikan Gateway Borough on May 18, 2008. This area encompasses all those islands bounded on the east, north, and west by Behm Canal, Behm Narrows, and Clarence Strait to its junction with Nichols Passage, and on the south by Nichols and Revillagigedo Channel to its junction with Behm Canal. The designated boundaries extend to the center line of Behm Canal, Behm Narrows, Clarence Strait, Nichols Passage, and Revillagigedo Channel, and include all the area of Revillagigedo, Gravina, Pennock, Betton, Grant and other Clover Passage and Naha Bay Islands, Hassler, Gedney, Black, Smeaton, Manzanita, Rudyerd, and Bold Islands, and all other offshore and adjacent islands and inlets thereto (see figure 2 to this subpart E).

(ii) The City and Borough of Juneau (see figure 3 to this subpart E).

(iii) The Greater Anchorage Area Borough (see figures 4 and 5 to this subpart E).

(iv) The Matanuska-Susitna Borough (see figure 5 to this subpart E).

(v) The Kenai Peninsula Borough excluding the area of the Seldovia Census Designated Place, the area south and west of that place, and the area south and west of a line that runs from 59°27.5′ N. lat., 151°31.7′ W. long. to 59°12.5′ N. lat., 151°18.5′ W. long (see figure 5 to this subpart E).

(vi) The City of Valdez (see figures 4 and 5 to this subpart E).

(h) * * *

(3) Subsistence fishing may be conducted in any waters in and off Alaska except in the four non-subsistence marine waters areas defined as follows:

* * * * *

(iii) *The Anchorage-Matsu-Kenai non-subsistence marine waters area in Commission Regulatory Area 3A* (see figures 4, 5, 6, and 7 to this subpart E) is defined as:

* * * * *

(iv) *Valdez non–subsistence marine waters area in Commission regulatory area 3A* (see figures 4 and 5 to this subpart E) is defined as the waters of Port Valdez and Valdez Arm located north of 61°01.38′ N. lat., and east of 146°43.80′ W. long.

(4) Waters in and off Alaska that are not specifically identified as non-subsistence marine waters areas in paragraph (h)(3) of this section are rural

for purposes of subsistence fishing for halibut. Subsistence fishing may be conducted in any rural area by any person with a valid subsistence halibut registration certificate in his or her name issued by NMFS under paragraph (i) of this section, except that:

* * * * *

(iii) For purposes of this paragraph (h)(4), Aarea of tribal membership@ means rural areas of the Commission regulatory area under which the Organized Tribal Entity is listed in the tables set out in paragraph (g)(2) of this section, or the Bering Sea closed area adjacent to the rural area in which the Alaska Native tribal headquarters is located.

(i) * * *

(2) *Registration*. To register as a subsistence halibut fisherman, a person may request a cooperating Alaska Native tribal government or other entity designated by NMFS to submit an application on his or her behalf to the Alaska Region, NMFS. Alternatively, a person may apply by submitting a completed application to the Alaska Region, NMFS. Application forms are available on the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*, or by contacting NMFS at 800–304–4846, Option 2. NMFS will process a SHARC Application for an Alaska Native Tribal Member or a SHARC Application for a Rural Resident provided that an application is completed, with all applicable fields accurately filled-in, and all required additional documentation is submitted. Initial applications for a SHARC must be signed and mailed or faxed to NMFS (see instructions on form). Renewals may be submitted electronically, mailed, or faxed.

(i) *Non-electronic submittal*. The applicant must sign and date the application certifying that all information is true, correct, and complete. The applicant must submit the paper application as indicated on the application.

(ii) *Electronic submittal*. An individual can submit a SHARC renewal on-line using an application available at the Alaska Region website. By using the SHARC number and date of birth, and by submitting the application form, the applicant certifies that all information is true, correct, and complete.

* * * * *

(j) * * *

(3) * * *

(i) * * *

(B) Within the Ketchikan, Juneau, Anchorage–Matsu–Kenai, and Valdez non–subsistence marine waters areas as defined in paragraph (h)(3) of this section (see figures 2, 3, 4, 5, 6, and 7 to this subpart E).

* * * * *

(k) * * *

(3) * * *

(i) * * *

(A) In the Anchorage–Matsu–Kenai non–subsistence marine waters area defined in paragraph (h)(3) of this section (see figures 4, 5, 6, and 7 to this subpart E), only the following tribes may use a Ceremonial or Educational permit:

* * * * *

(B) In the Valdez non–subsistence marine waters area defined in paragraph (h)(3) of this section (see figures 4 and 5 to this subpart E), only the Native Village of Tatitlek may use a Ceremonial or Educational permit.

* * * * *

■ 4. In § 300.66, revise paragraphs (g), (j)(1), and (j)(2) to read as follows:

§ 300.66 Prohibitions.

* * * * *

(g) Fish for subsistence halibut in and off Alaska in a non-subsistence marine waters area specified at § 300.65(h)(3).

* * * * *

(j) * * *

(1) Persons who qualify as rural residents under § 300.65(g)(1) or (g)(3) and hold a SHARC in the person's name under § 300.65(i) may be reimbursed for actual expenses for ice, bait, food, and fuel directly related to subsistence fishing for halibut, by residents of the same rural community or by rural residents residing within ten statute miles of the rural location listed on the person's SHARC application; or

(2) Persons who qualify as Alaska Native tribal members under § 300.65(g)(2) and hold a SHARC in the person's name under § 300.65(i) may be reimbursed for actual expenses for ice, bait, food, and fuel directly related to subsistence fishing for halibut, by any Alaska Native tribe, or its members, or residents of the same rural community or by rural residents residing within ten statute miles of the rural location listed on the person's SHARC application.

* * * * *

5. Revise figures 2, 3, 4, and 5 to subpart E of part 300 and add figures 6 and 7 to subpart E of part 300 to read as follows:

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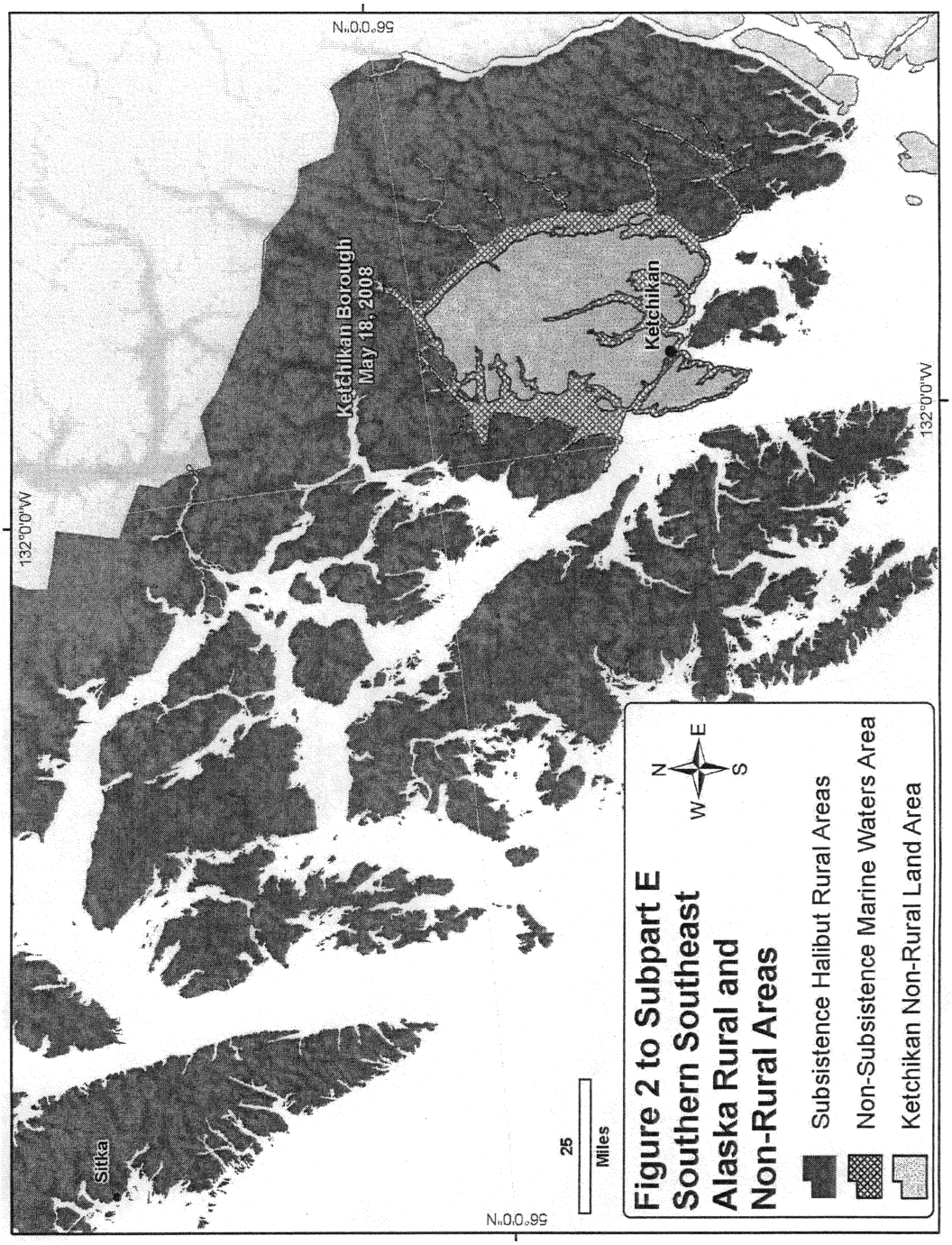


Figure 2 to Subpart E Southern Southeast Alaska Rural and Non-Rural Areas

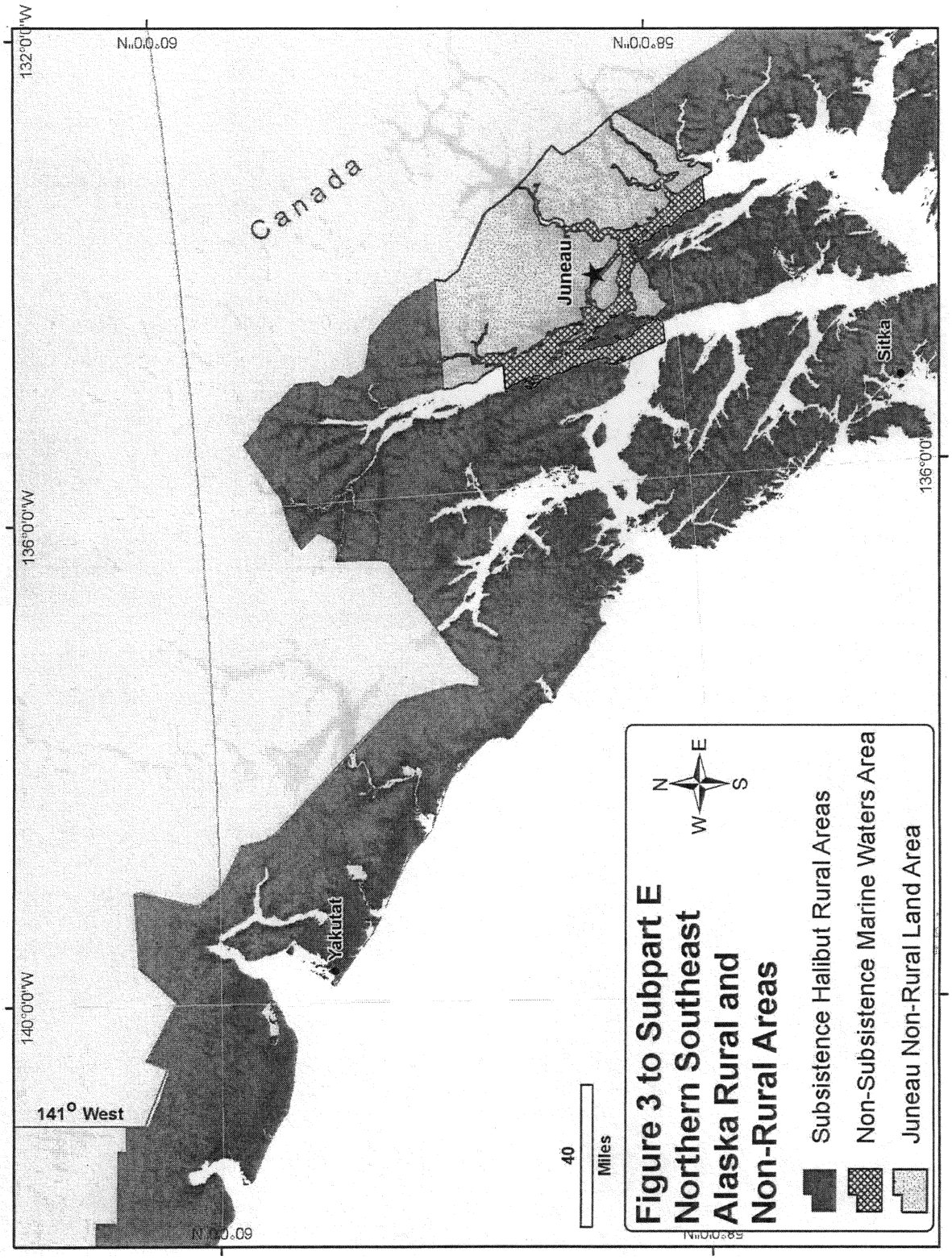


Figure 3 to Subpart E Northern Southeast Alaska Rural and Non-Rural Areas

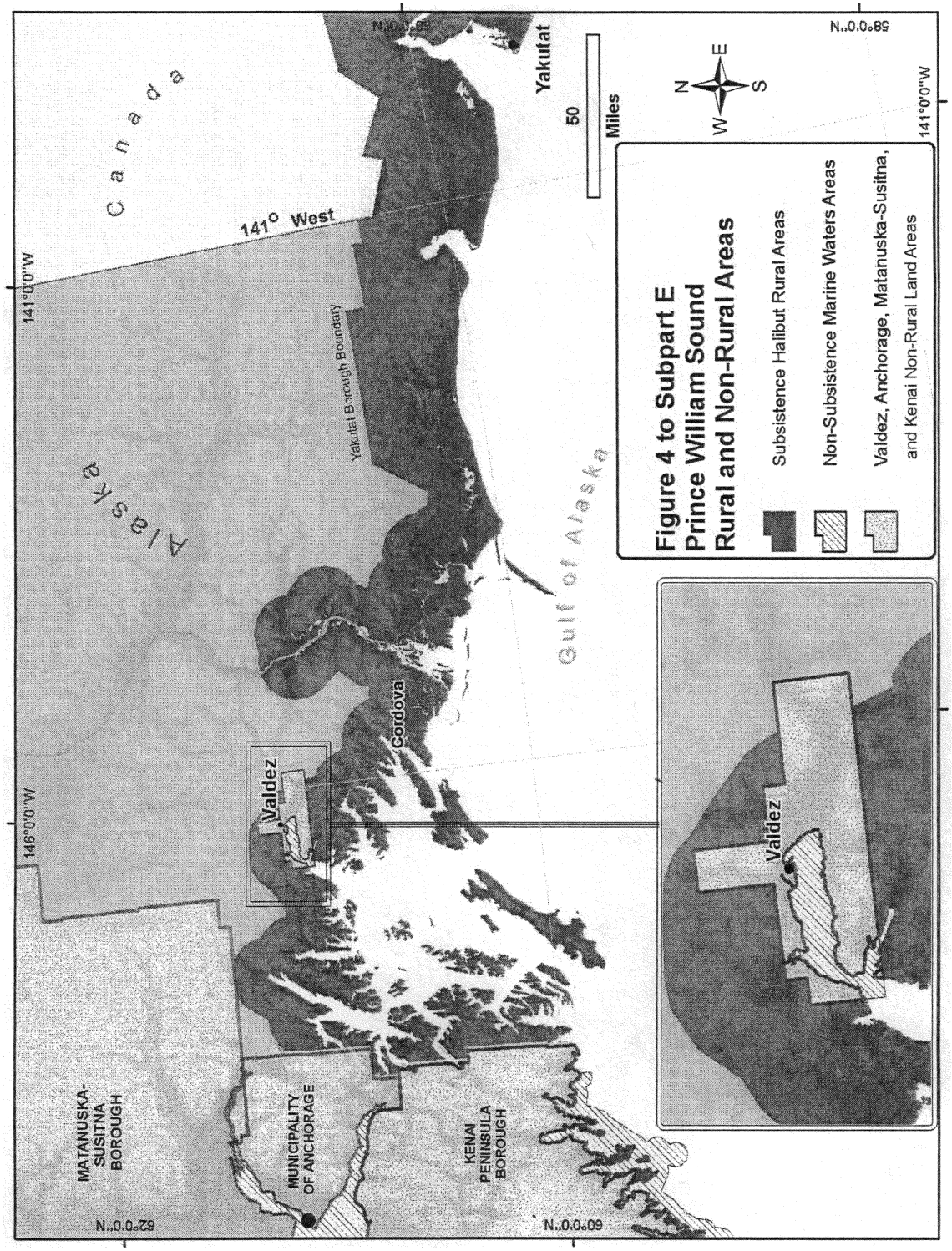
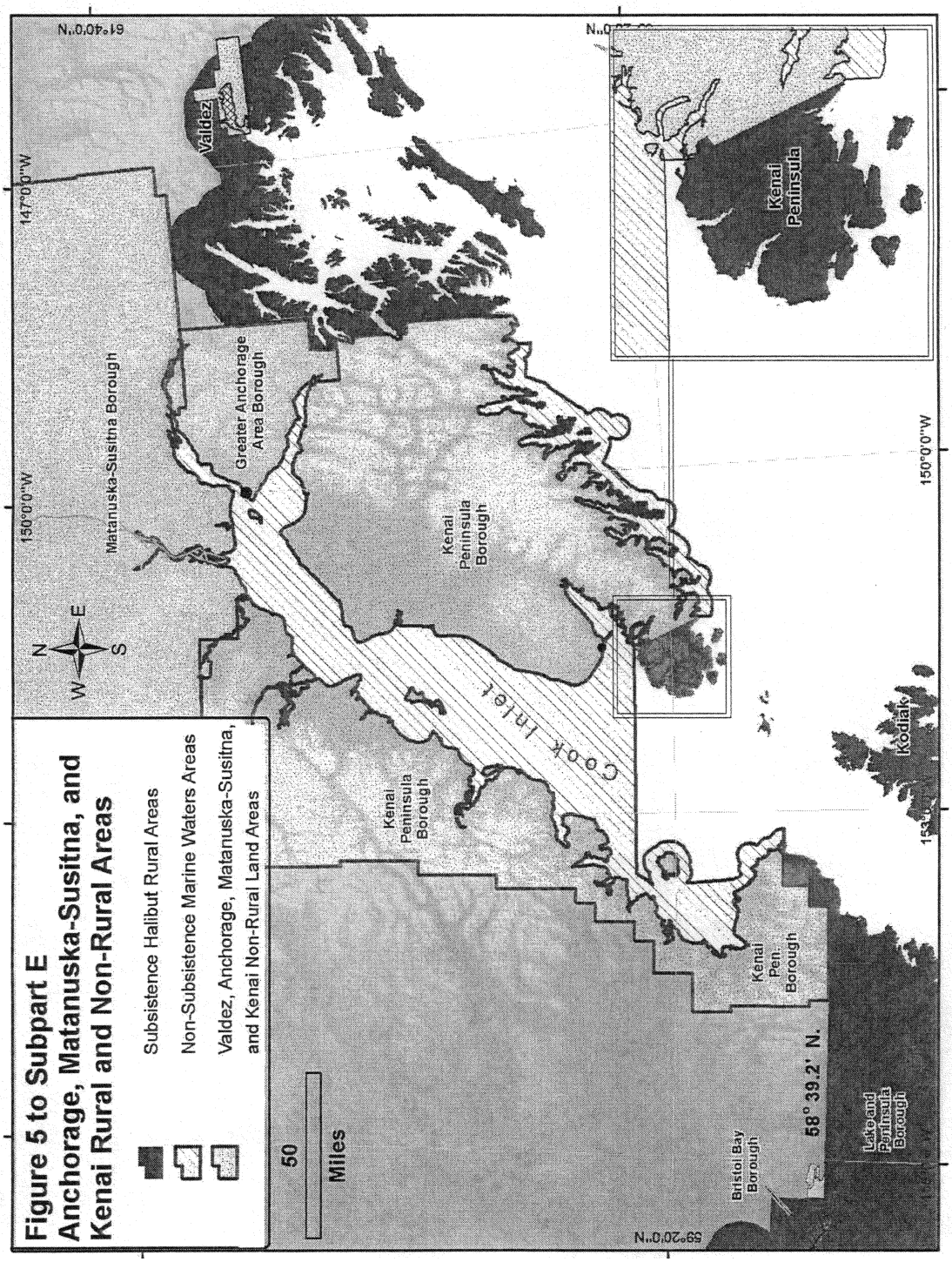


Figure 4 to Subpart E
Prince William Sound
Rural and Non-Rural Areas
Subsistence Halibut Rural Areas
Non-Subsistence Marine Waters Areas
Valdez, Anchorage, Matanuska-Susitna, and Kenai Non-Rural Land Areas
Canada
Alaska
141° West
141°0'0"W
146°0'0"W
Yakutat Borough Boundary
Yakutat
Gulf of Alaska
Cordova
Valdez
MATANUSKA-SUSITNA BOROUGH
MUNICIPALITY OF ANCHORAGE
KENAI PENINSULA BOROUGH
50
Miles
N
S
E
W
62°0'0"N
60°0'0"N
58°0'0"N

Figure 5 to Subpart E of Part 300—Anchorage, Matanuska-Susitna, and Kenai Rural and Non-Rural Areas



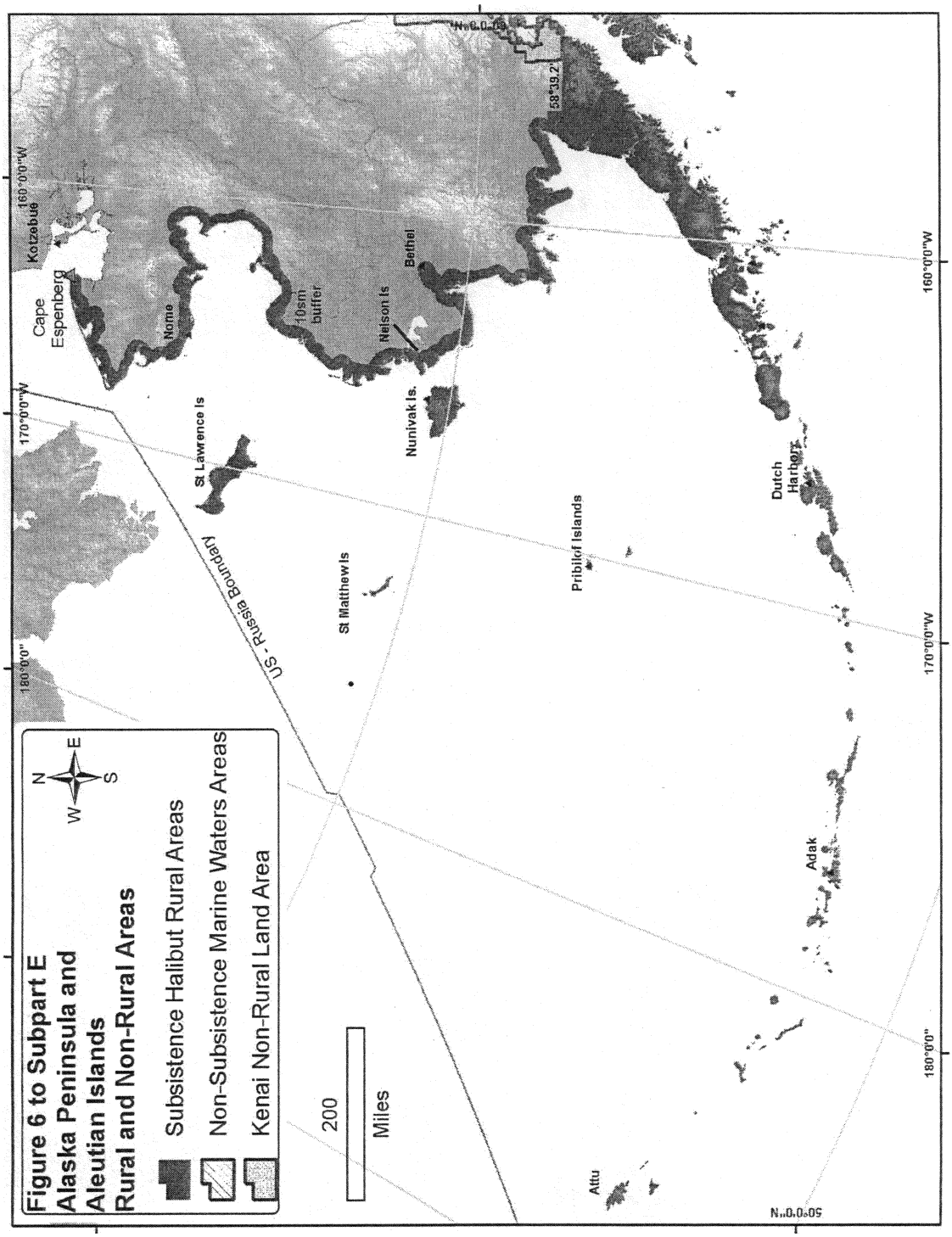
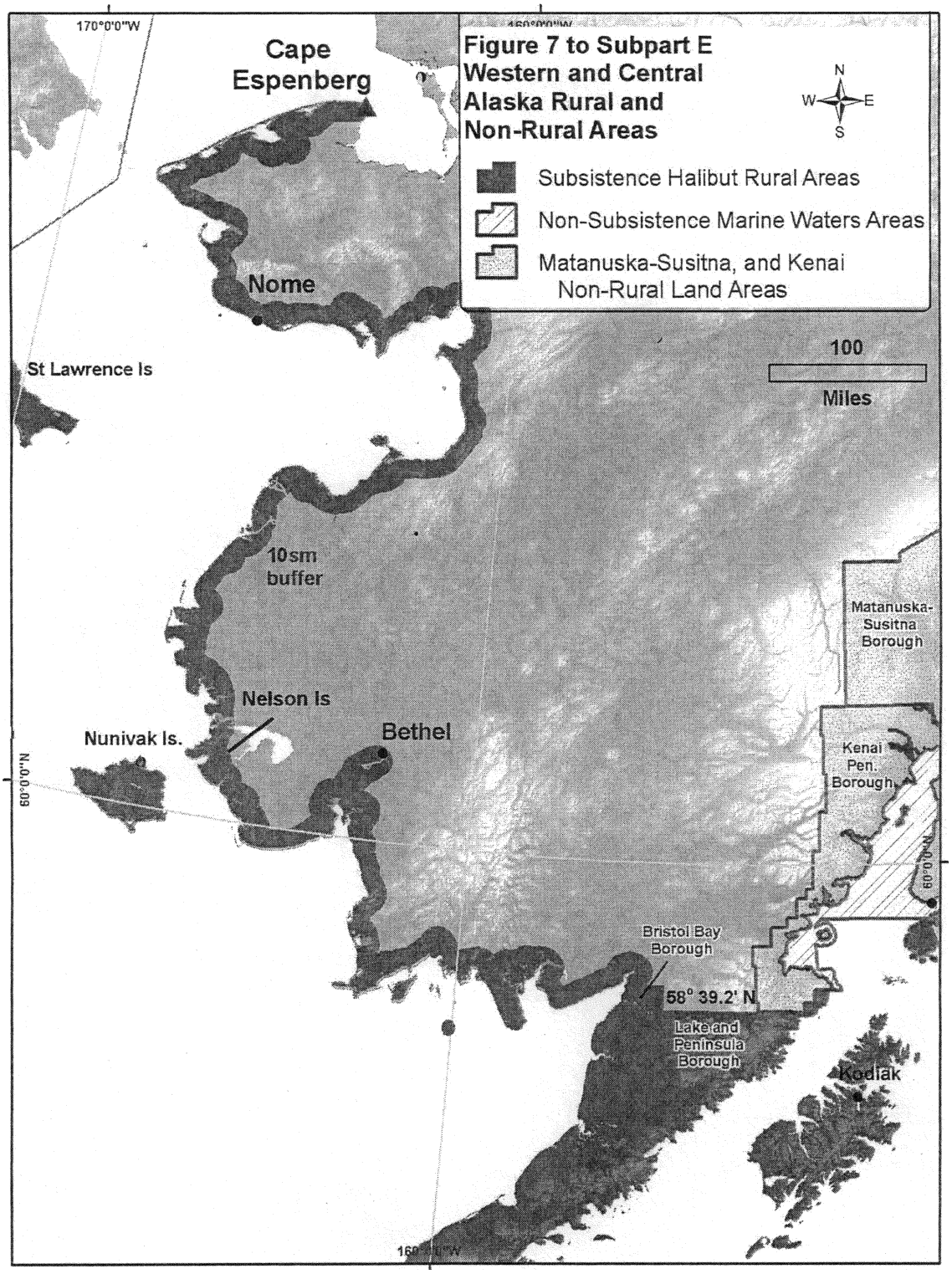


Figure 6 to Subpart E
Alaska Peninsula and
Aleutian Islands
Rural and Non-Rural Areas
Subsistence Halibut Rural Areas
Non-Subsistence Marine Waters Areas
Kenai Non-Rural Land Area
N
E
S
W
200
Miles
Kotzebue
Cape Espenberg
Nome
10sm buffer
Nelson Is
Bethel
Nunivak Is.
St Lawrence Is
St Matthew Is
US - Russia Boundary
Pribilof Islands
Dutch Harbor
Adak
Attu
180°0'0"
170°0'0"W
160°0'0"W
160°0'0"W
170°0'0"W
180°0'0"
58°39.2'
N



[FR Doc. E9–26559 Filed 11–03–09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 0907301200–91380–02]

RIN 0648–AY07

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; 2009 Management Measures for Petrale Sole

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

ACTION: Final rule.

SUMMARY: This final rule revises the November-December 2009 management measures for petrale sole taken in the U.S. exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California.

DATES: Effective November 1, 2009.

FOR FURTHER INFORMATION CONTACT: Gretchen Arentzen (Northwest Region, NMFS), phone: 206–526–6147, fax: 206–526–6736 and e-mail *gretchen.arentzen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the **Federal Register**'s Website at *http://www.gpoaccess.gov/fr/index.html*. Background information and documents are available at the Pacific Fishery Management Council's (the Council) website at *http://www.pcouncil.org/*. An Environmental Assessment (EA) was prepared for the revisions to the 2009–2010 harvest specifications and management measures for petrale sole and canary rockfish. A copy of the EA is available online at *http://www.nwr.noaa.gov/*.

Background

The 2009 and 2010 Acceptable Biological Catches (ABCs), Optimal Yields (OYs) and Harvest Guidelines (HGs) for Pacific coast groundfish species were established in the final rule for the 2009–2010 groundfish harvest specifications and management measures (74 FR 9874, March 6, 2009). On September 11, 2009, NMFS proposed taking interim measures for two species during 2009 and 2010 (74 FR 46714). Those changes were proposed because the PFMC received new stock assessments in June 2009 that indicated the stocks are in worse shape than we had thought at the beginning of 2009. This final rule implements only a portion of the action described in the proposed rule; specifically, interim measures for petrale sole to reduce catches in 2009 by implementing more restrictive management measures. The proposed rule for this action included other interim changes for petrale sole and canary rockfish in 2010. Those changes will be considered by the Council at its November 2009 meeting in Costa Mesa, California, and if action is recommended by the Council and approved by NMFS it will be implemented in a separate final rule, likely issued in December 2009, pending a final recommendation by the Council.

This final action is taken to respond to the most recently available stock status information during the remainder of 2009, while NMFS and the Council consider the results of new rebuilding analyses for potential additional action for 2010, and they complete the stock assessments, revised rebuilding plans, Environmental Impact Statement (EIS), and full rulemaking for the 2011 and 2012 specifications and management measures for the entire groundfish fishery.

The interim measures being implemented in this rule, in combination with the existing regulations, are designed to prevent the stock status of petrale sole from falling below the overfished threshold at the beginning of 2011, or to speed the rebuilding of petrale sole if it is found in near-future evaluations to be overfished.

The Council's policies on setting ABCs, OYs, other harvest specifications, and management measures are discussed in the preamble to the December 31, 2008, proposed rule (73 FR 80516) for 2009–2010 harvest specifications and management measures.

Routine management measures, as described in the preamble to the 2009–2010 harvest specifications and management measure proposed rule (73 FR 80516, December 31, 2008), will continue to be adjusted to modify fishing behavior during the fishing year to allow a harvest specification to be achieved, or to prevent a harvest specification from being exceeded.

Additional information regarding considerations for interim changes to 2009 management measures for petrale sole can be found in the preamble to the proposed rule (74 FR 46714, September 11, 2009).

Comments and Responses

During the comment period for the proposed rule, NMFS received two letters of comment. The first was from the Department of the Interior, stating that it had no comment. The second was from Oceana, an environmental advocacy group, concerning the most recent petrale sole stock assessment and supporting interim measures to reduce petrale sole catch. Oceana's comments primarily focused on biological reference points for petrale sole that the Council will be considering at its November 2009 meeting. NMFS forwarded Oceana's letter of comment to the Council so that it may consider these comments prior to its November 2009 decision. Oceana also expressed its support for reducing trip limits and implementing area closures to reduce coastwide petrale sole catch levels for the remainder of 2009.

Changes from the Proposed Rule

The proposed rule included reductions to 2010 harvest specifications, specifically OYs, for canary rockfish and petrale sole. The proposed rule also included a description of management measures that would be implemented to approach, but not exceed, those new, lower, 2010 OYs. At its September meeting, the Council chose to postpone its final decisions for interim 2010 harvest specifications and management measures for petrale sole and canary rockfish, so that the new rebuilding analyses could be completed and considered prior to making its final recommendation. The Council will consider the rebuilding analyses and public comments when making its final recommendation on the proposed interim 2010 harvest specifications and management measures at its November meeting. Therefore, this final rule implements only the 2009 portion of the petrale sole interim measures that were included in the proposed rule.

At its September 2009 meeting, the Council recommended routine adjustments to fishery management measures for arrowtooth flounder, slope rockfish and sablefish in the limited entry bottom trawl fishery. Those measures were implemented in an October 28, 2009 final rule (74 FR 55468), and are reflected in the attached trip limit tables 3 (North) and 3 (South).

Classification

The Administrator, Northwest Region, NMFS, has determined that the revisions to 2009 management measures for petrale sole, which this final rule implements, are consistent with the national standards of the Magnuson-Stevens Act, 16 U.S.C. §§ 1361–1423h, and other applicable laws.

An EA was prepared for the revisions to the 2009–2010 harvest specifications and management measures for petrale sole and canary rockfish. A copy of the EA is available online at *http://www.nwr.noaa.gov/*. NMFS issued a Finding of No Significant Impact (FONSI) for this action. A copy of the FONSI is available from NMFS (see **ADDRESSES**).

NMFS utilizes the most recently available fishery information, scientific information, and stock assessments, to implement specifications and management measures biennially. Generally these management measures are implemented on January 1 of odd numbered years. The 2009–2010 biennial specifications and management measures were developed using the most recently available scientific information, stock assessments, and fishery information available at the time, and were implemented on March 1, 2009. A new, more pessimistic, stock assessment for petrale sole became available to the Council in June 2009. In response to this assessment, the Council and NMFS took immediate action to reduce catches of petrale sole in order to facilitate rebuilding if the stock is declared overfished. The Council recommended, and NMFS published, a proposed rule on September 11, 2009, to, among other things, reduce harvest of petrale sole in November and December 2009. The comment period closed on October 13, 2009. In order that this final rule adjusting management measures for petrale sole in 2009 may become effective November 1, 2009, and thus protect the petrale sole in 2009, NMFS finds good cause to waive the 30 day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3). Leaving the 2009 management measures that directly affect catch of petrale sole in place could cause harm to petrale sole, because those management measures are not based on the most current scientific information. The commercial fishery is managed with two-month cumulative limits, so even a short delay in effectiveness could allow the fleets to harvest the entire period six (6) (November-December) two-month limit before the new, more restrictive, measures are effective. Delaying the effectiveness of this rule would also be confusing to the public, because with delayed effectiveness this rule would change trip limits and closed areas in the midst of the two-month November-December cumulative trip limit period. Finally, delaying the effectiveness of these measures could require emergency action in 2010 to reduce petrale sole catch, including possible fishery closures, to make up for harvest that would be allowed under the current 2009 management measures. Thus, a delay in effectiveness could ultimately cause economic harm to the fishing industry and associated fishing communities. These reasons constitute good cause under authority contained in 5 U.S.C. 553(d)(3), to establish an effective date less than 30 days after date of publication.

The Council considered alternatives for revising the 2009–2010 harvest specifications and management measures for petrale sole. The range of alternatives considered included more restrictive management measures to reduce catch of petrale sole in 2009, new harvest specifications for petrale sole in 2010 and management measures necessary to keep projected impacts to petrale sole below the new 2010 OY. As described above in Changes from the Proposed Rule, only the interim changes to management measures during the end of 2009 are implemented in this final rule, due to the Council's decision to postpone a final recommendation for 2010 until the rebuilding analysis for petrale sole was available.

NMFS has determined that this rule is not significant for purposes of Executive Order 12866.

NMFS prepared a final Regulatory Flexibility Analysis (FRFA) as part of the regulatory impact review. Among other things, the FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA) and a summary of the analyses completed to support the action. A copy of the FRFA is available from NMFS (see **ADDRESSES**). To summarize the FRFA, per the requirements of 5 U.S.C. § 604(a), most of the estimated 2,600 entities that harvest groundfish are considered small businesses under the RFA. Entities involved in the fishery that are not small businesses include the catcher vessels that also fish off Alaska, some shoreside processors, and all catcher-processors and motherships (less than 30) that are affiliated with larger processing companies or large international seafood companies. Although this rule will reduce the overall take and per vessel take of petrale sole, the total reduction in the catch level of petrale sole for the remainder of 2009 is relatively low, such that there are no significant economic impacts on small entities as the result of this rule. However, in order to mitigate against the effect of lower petrale sole catches this year, additional opportunities for trawlers to harvest arrowtooth flounder, slope rockfish, and sablefish are being provided under a separate rulemaking. These are species where additional harvest amounts can be accommodated without exceeding an OY.

There are no reporting, recordkeeping or other compliance requirements in this final rule.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

NMFS issued Biological Opinions under the Endangered Species Act (ESA) on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the Pacific Coast groundfish fishery management plan (FMP) fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS reinitiated a formal Section 7 consultation under the ESA in 2005 for both the Pacific whiting midwater trawl fishery and the groundfish bottom trawl fishery. Also in 2005, new data from the West Coast Groundfish Observer Program became available, allowing NMFS to complete an analysis of salmon take in the bottom trawl fishery.

NMFS prepared a Supplemental Biological Opinion dated March 11, 2006, which addressed salmon take in both the Pacific whiting midwater trawl and groundfish bottom trawl fisheries. In its 2006 Supplemental Biological Opinion, NMFS concluded that incidental take of salmon in the groundfish fisheries is within the overall limits articulated in the Incidental Take Statement of the 1999 Biological Opinion. The groundfish bottom trawl limit from that opinion was 9,000 fish annually. NMFS will continue to monitor and collect data to analyze take levels. NMFS also reaffirmed its prior determination that implementation of the Groundfish FMP

is not likely to jeopardize the continued existence of any of the affected ESUs.

Lower Columbia River coho were recently listed (70 FR 37160, June 28, 2005) and Oregon Coastal coho were recently relisted (73 FR 7816, February 11, 2008) as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead. The Southern Distinct Population Segment (DPS) of green sturgeon were also recently listed as threatened under the ESA (71 FR 17757, April 7, 2006). As a consequence, NMFS has reinitiated its Section 7 consultation on the PFMC's Groundfish FMP.

After reviewing the available information, NMFS concluded that, in keeping with sections 7(a)(2) and 7(d) of the ESA, the proposed action would not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

With regards to marine mammals, sea turtles, and seabirds, NMFS is reviewing the available data on fishery interactions. In addition, NMFS has begun discussions with Council staff on the process to address the concerns, if any, that arise from our review of the data.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: October 30, 2009.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 USC 773 *et seq.*

■ 2. Table 3 (North) to Part 660, Subpart G and Table 3 (South) to Part 660, Subpart G are revised to read as follows:

Table 3 (North) to Part 660, Subpart G -- 2009-2010 Trip Limits for Limited Entry Trawl Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table 110109

TABLE 3 (North)

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
1	North of 48°10' N. lat.	shore - modified[7/] 200 fm line[6/]	shore - 200 fm line[6/]	shore - 150 fm line[6/]		shore - 200 fm line[6/]	shore - 200 fm line[6/]
2	48°10' N. lat. - 45°46' N. lat.	75 fm line[6/] - modified[7/] 200 fm line[6/]	75 fm line[6/] - 200 fm line[6/]	75 fm line[6/] - 150 fm line[6/]	100 fm line[6/] - 150 fm line[6/]	75 fm line[6/] - 200 fm line[6/]	75 fm line[6/] - 200 fm line[6/]
3	45°46' N. lat. - 40°10' N. lat.			75 fm line[6/] - 200 fm line[6/]	100 fm line[6/] - 200 fm line[6/]		

Selective flatfish trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope and small footrope trawl gears (except for selective flatfish trawl gear) are prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season.

See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).

State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

4	**Minor slope rockfish[2/] & Darkblotched rockfish**	1,500 lb/ 2 months				4,000 lb/ 2 months	
5	**Pacific ocean perch**	1,500 lb/ 2 months					
6	**DTS complex**						
7	Sablefish						
8	large & small footrope gear	18,000 lb/ 2 months		22,000 lb/ 2 months	24,000 lb/ 2 months	27,000 lb/ 2 months	
9	selective flatfish trawl gear	5,000 lb/ 2 months	7,500 lb/ 2months		11,000 lb/ 2 months		
10	multiple bottom trawl gear[8/]	5,000 lb/ 2 months	7,500 lb/ 2months		11,000 lb/ 2 months		
11	Longspine thornyhead						
12	large & small footrope gear	22,000 lb/ 2 months					
13	selective flatfish trawl gear	3,000 lb/ 2 months	5,000 lb/ 2 months				3,000 lb/ 2 months
14	multiple bottom trawl gear[8/]	3,000 lb/ 2 months	5,000 lb/ 2 months				3,000 lb/ 2 months
15	Shortspine thornyhead						
16	large & small footrope gear	17,000 lb/2 months					
17	selective flatfish trawl gear	3,000 lb/ 2 months					
18	multiple bottom trawl gear[8/]	3,000 lb/ 2 months					
19	Dover sole						
20	large & small footrope gear	110,000 lb/ 2 months					
21	selective flatfish trawl gear	40,000 lb/ 2 months	45,000 lb/ 2 months				40,000 lb/ 2 months

Table 3 (North). Continued

23	**Whiting**					
24	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED.				
25	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.				
26	**Flatfish** (except Dover sole)					
27	Arrowtooth flounder					
28	large & small footrope gear	150,000 lb/ 2 months			180 000 lb/ 2 months	
29	selective flatfish trawl gear	90,000 lb/ 2 months				
30	multiple bottom trawl gear [8/]	90,000 lb/ 2 months				
31	Other flatfish [3/], English sole, starry flounder, & Petrale sole					
32	large & small footrope gear for Other flatfish [3/], English sole, & starry flounder	110,000 lb/ 2 months	110,000 lb/ 2 months, no more than 25,000 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months, no more than 30,000 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months, no more than 5,000 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months
33	large & small footrope gear for Petrale sole	25,000 lb/ 2 months				2,000 lb/ 2 months
34	selective flatfish trawl gear for Other flatfish [3/], English sole, & starry flounder	90,000 lb/ 2 months, no more than 16,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole.		90,000 lb/ 2 months, no more than 5,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 2,000 lb/ 2 months of which may be petrale sole.
35	selective flatfish trawl gear for Petrale sole					
36	multiple bottom trawl gear [8/]	90,000 lb/ 2 months, no more than 16,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole.		90,000 lb/ 2 months, no more than 5,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 2,000 lb/ 2 months of which may be petrale sole.
37	**Minor shelf rockfish [1/], Shortbelly, Widow & Yelloweye rockfish**					
38	midwater trawl for Widow rockfish	Before the primary whiting season: CLOSED. -- During primary whiting season: In trips of at least 10,000 lb of whiting, combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED.				
39	large & small footrope gear	300 lb/ 2 months				
40	selective flatfish trawl gear	300 lb/ month		1,000 lb/ month, no more than 200 lb/ month of which may be yelloweye rockfish		300 lb/ month
41	multiple bottom trawl gear [8/]	300 lb/ month		300 lb/ 2 months, no more than 200 lb/ month of which may be yelloweye rockfish		300 lb/ month

TABLE 3 (North) con't

Table 3 (North). Continued

42	**Canary rockfish**				
43	large & small footrope gear	CLOSED			
44	selective flatfish trawl gear	100 lb/ month	300 lb/ month	100 lb/ month	
45	multiple bottom trawl gear 8/	CLOSED			
46	**Yellowtail**				
47	midwater trawl	Before the primary whiting season: CLOSED. -- During primary whiting season: In trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED.			
48	large & small footrope gear	300 lb/ 2 months			
49	selective flatfish trawl gear	2,000 lb/ 2 months			
50	multiple bottom trawl gear 8/	300 lb/ 2 months			
51	**Minor nearshore rockfish & Black rockfish**				
52	large & small footrope gear	CLOSED			
53	selective flatfish trawl gear	300 lb/ month			
54	multiple bottom trawl gear 8/	CLOSED			
55	**Lingcod** 4/				
56	large & small footrope gear	1,200 lb/ 2 months	4,000 lb/ 2 months		
57	selective flatfish trawl gear		1,200 lb/2 months		
58	multiple bottom trawl gear 8/				
59	**Pacific cod**	30,000 lb/ 2 months	70,000 lb/ 2 months		30,000 lb/ 2 months
60	**Spiny dogfish**	200,000 lb/ 2 months	150,000 lb/ 2 months	100,000 lb/ 2 months	
61	**Other Fish** 5/	Not limited			

TABLE 3 (North) con't

1/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish.
2/ Splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
4/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat.
5/ "Other fish" are defined at § 660.302 and include sharks, skates (including longnose skate), ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.391-660.394. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.
7/ The "modified" fathom lines are modified to exclude certain petrale sole areas from the RCA.
8/ If a vessel has both selective flatfish gear and large or small footrope gear on board during a cumulative limit period (either simultaneously or successively), the most restrictive cumulative limit for any gear on board during the cumulative limit period applies for the entire cumulative limit period.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart G -- 2009-2010 Trip Limits for Limited Entry Trawl Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table

110109

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
1	South of 40°10' N. lat.	100 fm line[6/] - 150 fm line[6/ 7/]					
All trawl gear (large footrope, selective flatfish trawl, midwater trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope trawl gear and midwater trawl gear are prohibited shoreward of the RCA.							
See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.							
2	**Minor slope rockfish[2/] & Darkblotched rockfish**						
3	40°10' - 38° N. lat.	15,000 lb/ 2 months			10,000 lb/ 2 months	15,000 lb/ 2 months	15,000 lb/ 2 months
4	South of 38° N. lat.	55,000 lb/ 2 months					
5	**Splitnose**						
6	40°10' - 38° N. lat.	15,000 lb/ 2 months			10,000 lb/ 2 months		15,000 lb/ 2 months
7	South of 38° N. lat.	55,000 lb/ 2 months					
8	**DTS complex**						
9	Sablefish	20,000 lb/ 2 months				27,000 lb/ 2 months	
10	Longspine thornyhead	22,000 lb/ 2 months					
11	Shortspine thornyhead	17,000 lb/ 2 months					
12	Dover sole	110,000 lb/ 2 months					
13	**Flatfish** (except Dover sole)						
14	Other flatfish[3/], English sole, & starry flounder	110,000 lb/ 2 months	110,000 lb/ 2 months, no more than 30,000 lb/ 2 months of which may be petrale sole.			110,000 lb/ 2 months, no more than 5,000 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months
15	Petrale sole	50,000 lb/ 2 months					2,000 lb/ 2 months
16	Arrowtooth flounder	10,000 lb/ 2 months					
17	**Whiting**						
18	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED.					
19	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					

TABLE 3 (South)

Table 3 (South). Continued

20	**Minor shelf rockfish[1/], Chilipepper, Shortbelly, Widow, & Yelloweye rockfish**				
21	large footrope or midwater trawl for Minor shelf rockfish & Shortbelly	300 lb/ month			
22	large footrope or midwater trawl for Chilipepper	5,000 lb/ 2 months	12,000 lb/ 2 months		
23	large footrope or midwater trawl for Widow & Yelloweye	CLOSED			
24	small footrope trawl for Minor Shelf, Shortbelly, Widow & Yelloweye	300 lb/ month			
25	small footrope trawl for Chilipepper	5,000 lb/ 2 months	12,000 lb/ 2 months		
26	**Bocaccio**				
27	large footrope or midwater trawl	300 lb/ 2 months			
28	small footrope trawl	CLOSED			
29	**Canary rockfish**				
30	large footrope or midwater trawl	CLOSED			
31	small footrope trawl	100 lb/ month	300 lb/ month	100 lb/ month	
32	**Cowcod**	CLOSED			
33	**Bronzespotted rockfish**	CLOSED			
34	**Minor nearshore rockfish & Black rockfish**				
35	large footrope or midwater trawl	CLOSED			
36	small footrope trawl	300 lb/ month			
37	**Lingcod[4/]**				
38	large footrope or midwater trawl	1,200 lb/ 2 months	4,000 lb/ 2 months		
39	small footrope trawl		1,200 lb/ 2 months		
40	**Pacific cod**	30,000 lb/ 2 months	70,000 lb/ 2 months	30,000 lb/ 2 months	
41	**Spiny dogfish**	200,000 lb/ 2 months	150,000 lb/ 2 months	100,000 lb/ 2 months	
42	**Other Fish[5/] & Cabezon**	Not limited			

TABLE 3 (South) con't

1/ Yellowtail is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.
2/ POP is included in the trip limits for minor slope rockfish
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.
5/ Other fish are defined at § 660.302 and include sharks, skates (including longnose skate), ratfish, morids, grenadiers, and kelp greenling.
6/ The Rockfish Conservation Area is an area closed to fishing by particulary gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.391-660.394. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.
7/ South of 34°27' N. lat., the RCA is 100 fm line - 150 fm line along the mainland coast; shoreline - 150 fm line around islands.

[FR Doc. E9–26543 Filed 10–30–09; 4:15 pm]
BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 74, No. 212

Wednesday, November 4, 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.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1604, 1651, 1653, and 1690

Uniformed Services Accounts; Death Benefits; Court Orders and Legal Processes Affecting Thrift Savings Plan Accounts; Thrift Savings Plan; Correction

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rules; correction.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) corrects its statement regarding the Regulatory Flexibility Act in proposed rules that appeared in the **Federal Register** of October 22, 2009. The correction clarifies that the proposed rules will not have a significant economic impact on a substantial number of small entities because they will only affect Federal employees and members of the uniformed services.

FOR FURTHER INFORMATION CONTACT: Tim Carey at 202–942–1666 or Laurissa Stokes at 202–942–1645.

Correction

In proposed rules FR Doc. 09–25426, beginning on page 54491 in the issue of October 22, 2009, make the following correction in the **SUPPLEMENTARY INFORMATION** section. On page 54492 in the second column, under the heading ''Regulatory Flexibility Act,'' after the sentence ''I certify that this regulation will not have a significant economic impact on a substantial number of small entities.'', add the following:

''This regulation will affect Federal employees and members of the uniformed services who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514, and which is administered by the Agency.''

Dated: October 30, 2009.

Thomas K. Emswiler,

General Counsel.

[FR Doc. E9–26583 Filed 11–3–09; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 113 and 191

[USCBP–2009–0021]

RIN 1505–AC18

Drawback of Internal Revenue Excise Tax

AGENCIES: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This document provides an additional 30 days for interested parties to submit comments on the proposal to amend title 19 of the Code of Federal Regulations to preclude the filing of substitution drawback claims for internal revenue excise tax paid on imported merchandise in situations where no excise tax was paid upon the substituted merchandise or where the substituted merchandise is the subject of a different claim for refund or drawback of excise tax under any provision of the Internal Revenue Code. The proposed rule was published in the **Federal Register** on October 15, 2009, with comments due on or before November 16, 2009. A related proposed rulemaking prepared by the Alcohol and Tobacco Tax and Trade Bureau (TTB) within the Department of the Treasury was published in the same edition of the **Federal Register**, with comments due on or before December 14, 2009. In an effort to provide the public with equal opportunity to comment on these related proposals, CBP is extending the comment period to December 14, 2009.

DATES: Comments on the proposed rule must be received on or before December 14, 2009.

ADDRESSES: You may submit comments, identified by *USCBP docket number,* by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2009–0021.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW. (Mint Annex), Washington, DC 20229–1179.

Instructions: All submissions received must include the agency name and USCBP docket number for this proposed rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. 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.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: William Rosoff, Entry Process and Duty Refunds, Regulations and Rulings, Office of International Trade, (202) 325–0047.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or

authority that support such recommended change.

Background

Customs and Border Protection (CBP) published a document in the **Federal Register** (74 FR 52928) on October 15, 2009 proposing to amend title 19 of the Code of Federal Regulations to preclude the filing of substitution drawback claims for internal revenue excise tax paid on imported merchandise in situations where no excise tax was paid upon the substituted merchandise or where the substituted merchandise is the subject of a different claim for refund or drawback of excise tax under any provision of the Internal Revenue Code. The document solicited public comment on the proposed amendments, and requested that submitted comments be received by CBP on or before November 16, 2009.

A related proposed rulemaking prepared by the Alcohol and Tobacco Tax and Trade Bureau (TTB) within the Department of the Treasury was published in the same edition of the **Federal Register** (74 FR 52937, October 15, 2009). Comments on TTB's proposed rule are due on or before December 14, 2009.

Extension of Comment Period

On October 21, 2009, CBP received a written submission from the trade requesting that the 30-day comment period be extended to align with the 60-day period designated in the TTB proposed rule so as to provide adequate time to prepare comments. Upon review, a decision has been made to grant the request in order to provide the public with equal opportunity to comment on the related proposals. Accordingly, the comment period is extended to December 14, 2009, and comments must be received by CBP on or before that date.

Dated: October 27, 2009.

Sandra L. Bell,

Executive Director, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection.

[FR Doc. E9–26268 Filed 11–3–09; 8:45 am]

BILLING CODE 9111–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 70, and 71

[EPA–HQ–OAR–2009–0517; FRL–8977–3]

RIN 2060–AP86

Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearings.

SUMMARY: The EPA is announcing 2 public hearings to be held for the proposed rule ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' which published in the **Federal Register** on October 27, 2009. The hearings will be held on Wednesday, November 18, 2009, in Arlington, VA, and on Thursday, November 19, 2009, in Rosemont, IL.

DATES: The public hearings will be held on November 18, 2009, and November 19, 2009.

ADDRESSES: The November 18, 2009 hearing will be held at the Hyatt Regency Crystal City at Reagan National Airport, Second Floor, Room Tidewater 2, 2799 Jefferson Davis Highway, Arlington, VA 22202; phone number (703) 418–1234. The November 19, 2009 will be held at the Donald E. Stephens Convention Center, Level 2, Room 46, 5555 North River Road, Rosemont, IL 60018; phone number (847) 692–2220. Both public hearings will convene at 10 a.m. and continue until 7 p.m. (local time) or later, if necessary, depending on the number of speakers wishing to participate. The EPA will make every effort to accommodate all speakers that arrive and register before 7 p.m. A lunch break is scheduled from 12:30 p.m. until 2 p.m. during both hearings. The EPA Web site for the rulemaking, which includes the proposal and information about the public hearings, can be found at: *http://www.epa.gov/nsr.*

FOR FURTHER INFORMATION CONTACT: If you would like to speak at the public hearing, please contact Ms. Pamela Long, U.S. Environmental Protection Agency, OAQPS, Air Quality Planning Division, (C504–03), Research Triangle Park, NC 27711, telephone (919) 541–0641, fax number (919) 541–5509, e-mail address *long.pam@epa.gov,* no later than November 13, 2009. If you have any questions relating to the public hearing, please contact Ms. Long at the above number.

Questions concerning the October 27, 2009, proposed rule should be addressed to Mr. Joseph Mangino, U.S. EPA, Office of Air Quality Planning and Standards, Operating Permits Group, (C504–05), Research Triangle Park, NC 27711, telephone number (919) 541–9778, e-mail at *mangino.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: The October 27, 2009, notice of proposed rulemaking proposes to tailor the major source applicability thresholds for greenhouse gas (GHG) emissions under the Prevention of Significant Deterioration (PSD) and title V programs of the Clean Air Act (CAA or Act) and to set a PSD significance level for GHG emissions. This proposal is necessary because EPA expects soon to promulgate regulations under the CAA to control GHG emissions and, as a result, trigger PSD and title V applicability requirements for GHG emissions. If PSD and title V requirements apply at the applicability levels provided under the CAA, State permitting authorities would be paralyzed by permit applications in numbers that are orders of magnitude greater than their current administrative resources could accommodate. On the basis of the legal doctrines of ''absurd results'' and ''administrative necessity,'' this proposed rule would phase in the applicability thresholds for both the PSD and title V programs for sources of GHG emissions. The first phase, which would last 6 years, would establish a temporary level for the PSD and title V applicability thresholds at 25,000 tons per year (tpy), on a ''carbon dioxide equivalent'' (CO_2e) basis, and a temporary PSD significance level for GHG emissions of between 10,000 and 25,000 tpy CO_2e. EPA would also take other streamlining actions during this time. Within 5 years of the final version of this rule, EPA would conduct a study to assess the administrability issues. Then, EPA would conduct another rulemaking, to be completed by the end of the sixth year, that would promulgate, as the second phase, revised applicability and significance level thresholds and other streamlining techniques, as appropriate.

Public hearing: The proposal for which EPA is holding the public hearings was published in the **Federal Register** on October 27, 2009, (74 FR 55292) and is available at: *http://www.epa.gov/nsr* and also in the docket identified below. The public hearings will provide interested parties the opportunity to present data, views, or arguments concerning the proposal. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting

information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments on the proposed rule must be postmarked by December 28, 2009.

Commenters should notify Ms. Long if they will need specific equipment, or if there are other special needs related to providing comments at the hearings. The EPA will provide equipment for commenters to show overhead slides or make computerized slide presentations if we receive special requests in advance. Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to provide EPA with a copy of their oral testimony electronically (via e-mail or CD) or in hard copy form.

The hearing schedules, including lists of speakers, will be posted on EPA's Web site *http://www.epa.gov/nsr.* Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking.

How Can I Get Copies of This Document and Other Related Information?

The EPA has established a docket for the proposed rule ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' under Docket ID No. EPA–HQ–OAR–2009–0517 (available at *http://www.regulations.gov*).

As stated previously, the proposed rule was published in the **Federal Register** on October 27, 2009 (74 FR 55292) and is available at *http://www.epa.gov/nsr* and in the above-cited docket.

Dated: October 29, 2009.

Mary Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E9–26537 Filed 11–3–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 410, 413 and 414

[CMS–1418–N]

RIN 0938–AP57

Medicare Programs; End-Stage Renal Disease Prospective Payment System; Extension of Comment Period

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

ACTION: Notice of extension of comment period for proposed rule.

SUMMARY: This notice extends the comment period for a proposed rule published in the **Federal Register** on September 29, 2009, (74 FR 49922). The proposed rule would implement a case-mix adjusted bundled prospective payment system (PPS) for Medicare outpatient end-stage renal disease (ESRD) dialysis facilities. The proposed ESRD PPS would also replace the current basic case-mix adjusted composite payment system and the methodologies for the reimbursement of separately billable outpatient ESRD services. The comment period for the proposed rule, which would have ended on November 16, 2009, is extended for 30 days.

DATES: *Effective Date:* The comment period is extended to 5 p.m. on December 16, 2009.

ADDRESSES: In commenting, please refer to file code CMS–1418–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.*

Follow the instructions under the ''More Search Options'' tab.

2. *By regular mail.* You may mail written comments to the following address only:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1418–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1418–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

FOR FURTHER INFORMATION CONTACT: William Cymer, (410) 786–4533. Lynn Riley, (410) 786–1286, (ESRD Quality Incentive Program).

SUPPLEMENTARY INFORMATION: On September 29, 2009, we published a proposed rule in the **Federal Register** (74 FR 49922 through 50102) that would implement a case-mix adjusted bundled PPS for Medicare outpatient ESRD dialysis facilities beginning January 1, 2011, in compliance with the statutory requirement of the Medicare Improvements for Patients and Providers Act (MIPPA), enacted July 15, 2008. The proposed ESRD PPS would replace the current basic case-mix adjusted composite payment system and the methodologies for the reimbursement of separately billable outpatient ESRD services.

The proposed rule, ''Medicare Program; End-Stage Renal Disease Prospective Payment System,'' is significant in that it proposes a completely new payment system for outpatient ESRD services. Due to the complexity and scope of the September 29, 2009 proposed rule, we believe additional time is necessary for the public to examine the proposed rule and to provide meaningful comments on its provisions. Therefore, we have decided to extend the comment period for an additional 30 days. This document announces the extension of the public comment period to December 16, 2009.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital

Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 26, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: October 30, 2009.

Kathleen Sebelius,

Secretary.

[FR Doc. E9–26529 Filed 11–3–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 090508897–91141–02]

RIN 0648–AX85

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Season and Retention Limit Adjustments

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

ACTION: Proposed rule; request for comments; notice of public hearings.

SUMMARY: NMFS proposes to adjust the Atlantic bluefin tuna (BFT) fishery regulations to increase the General category maximum daily retention limit, allow the General category season to remain open until the January subquota is reached, and increase the Harpoon category daily incidental retention limit. The intent of this proposed rule is to enable more thorough utilization of the available U.S. BFT quota, while ending BFT overfishing, rebuilding the BFT stock by 2019, and minimizing bycatch and bycatch mortality to the extent practicable. NMFS solicits written comments and will hold public hearings to receive oral comments on these proposed actions.

DATES: Written comments must be received on or before December 21, 2009.

The public hearing dates are:

1. December 14, 2009, 3 p.m. to 5 p.m., Silver Spring, MD.
2. December 15, 2009, 3 p.m. to 5 p.m., Gloucester, MA.

ADDRESSES: You may submit comments, identified by ''0648–AX85'', by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*
- Fax: 978–281–9340, Attn: Sarah McLaughlin
- Mail: Sarah McLaughlin, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930.

Instructions: All comments received are a part of the public record and will generally be posted to Portal *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.

The hearing locations are:

1. Silver Spring – NMFS Science Center, 1301 East West Highway, Silver Spring, MD 20910.
2. Gloucester – NMFS, 55 Great Republic Drive, Gloucester, MA 01930.

Supporting documents including the draft Environmental Assessment (EA), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) for this action are available by sending your request to Sarah McLaughlin at the mailing address specified above.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978–281–9260.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

I. Background

On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) final regulations, effective November 1, 2006, implementing the Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP), which consolidated management of all Atlantic HMS (i.e., sharks, swordfish, tunas, and billfish) into one comprehensive FMP. The implementing regulations for Atlantic HMS are at 50 CFR part 635.

In recent years, U.S. BFT landings have fallen below their respective ICCAT-recommended quotas. Factors that may have played a role in the underharvest of the domestic BFT fishery since 2004 include reduced availability of BFT for harvest, possibly due to recent changes in BFT regional availability and/or a reduced BFT population level, and reduced effort due to operational expenses (such as fuel costs). While the recreational Angling category and the commercial Longline category have been able to fill their subquotas in recent years, the commercial handgear categories (General and Harpoon) have not. In 2008, approximately 48 percent of the baseline and 31 percent of the adjusted General category quota was landed, and approximately 56 percent of the baseline and 36 percent of the adjusted Harpoon category quota was landed.

At its 2008 meeting, ICCAT recommended a reduction in the western Atlantic BFT Total Allowable Catch (TAC), set to allow for rebuilding of the stock through 2018, from 2,100 mt to 1,900 mt for 2009 and 1,800 mt for 2010. The baseline U.S. quotas for 2009 and 2010, respectively, are 1,009.9 and 952.4 mt, not including the annual allocation of 25 mt to account for incidental catch of BFT by pelagic longline vessels fishing in the Northeast Distant Area. Under the Consolidated HMS FMP, the General and Harpoon categories are allocated 47.1 and 3.9 percent, respectively, of the annual baseline BFT quota. For 2009, the General and Harpoon categories received base quotas of 475.7 mt and 39.4 mt, respectively, and adjusted quotas of 623.1 mt and 51.6 mt, respectively (74 FR 26110, June 1, 2009).

Over the last year, NMFS has received comments suggesting changes that could increase domestic BFT landings within existing quotas and subquotas. NMFS received these suggestions at the HMS Advisory Panel meetings in 2008 and 2009, during the 2009 BFT quota specifications public hearings, and in recent constituent and congressional correspondence. In response to these suggestions and related ones regarding the Atlantic swordfish fishery, NMFS published an Advance Notice of Proposed Rulemaking (ANPR) (74 FR 26174, June 1, 2009), requesting specific comment on potential regulatory changes that would potentially increase fishing opportunities in the BFT and

swordfish fisheries. NMFS specifically requested comment on the following potential changes to the BFT regulations: increasing the General category maximum daily retention limit (currently three BFT greater than 73 inches (185 cm)) or eliminating it; extending the General category season (currently closed February through May); decreasing the commercial minimum size for the General and Harpoon categories and reallocating quota within those categories to allow access to fish under 73 inches; eliminating a retention limit restriction for the Harpoon category; allowing HMS Charter/Headboats to fish both commercially and recreationally on the same day; and allowing removal of Atlantic tunas tails at sea.

Comment received on the ANPR ranged from complete support by some industry participants (who generally feel that the regulations were needed when established to limit landings to the quota but should be relaxed now that commercial landings are relatively low compared to available quota) to complete opposition by some recreational fishermen, environmental organizations, and other individuals (who generally are concerned that relaxation of the regulations would compromise NMFS' BFT rebuilding and bycatch reduction efforts). The latter were particularly concerned about the potential impacts of a reduction in the BFT commercial minimum size, and several commenters suggested more conservative protections for the BFT fishery, such as an increase in commercial minimum size to reflect recent research on the age of BFT maturity and the prohibition of pelagic longlining for other target species during BFT spawning season in known spawning areas.

Following consideration of the wide range of comments received on the ANPR, NMFS proposes this action to increase fishing opportunities for BFT within the existing U.S. quota, particularly within the General and Harpoon category subquotas, which have been underharvested for several years. These three effort controlling actions would affect only when and where BFT mortality occurs, and not the magnitude. The magnitude of mortality has been defined by finite quotas and fish size limits established under a 20–year rebuilding program for BFT (analyzed in the 1999 HMS FMP Environmental Impact Statement), and other recommendations by ICCAT. The 2008 ICCAT recommendation was made after consideration of scientific and statistical information, including the 2008 BFT stock assessment. The projected BFT rebuilding program is based on total allowable catch (in weight) and assumes that the pattern of fishing mortality (e.g., fish caught at each age) will not be changed dramatically. As long as the U.S. quota is not exceeded and there is no significant change in the selectivity of the fisheries, the proposed actions would not be expected to impact the rebuilding program.

Other than prohibiting directed fishing in the Gulf of Mexico, time period subquotas are used in the General category to regulate effort, which helps achieve optimum yield by considering the social and economic interests of the participants. This proposed action is intended to enable more thorough utilization of the available U.S. quota, while ending BFT overfishing, rebuilding the BFT stock by 2019, and minimizing bycatch and bycatch mortality to the extent practicable.

NMFS has prepared a draft EA/RIR/IRFA which presents and analyzes anticipated environmental, social, and economic impacts of several alternatives for each of the major issues contained in this proposed rule. The complete list of alternatives and their analysis is provided in the draft EA/RIR/IRFA, and is not repeated here in its entirety. A copy of the draft EA/RIR/IRFA is available from NMFS (see **ADDRESSES**).

II. Adjustment of the General Category Maximum Daily Retention Limit

Effort controls, such as daily retention limits and restricted-fishing days (not implemented for several years), are meant to maximize the opportunity for catching the quota and achieving biological, social, and economic benefits while balancing relative costs and negative impacts. For example, certain effort controls might provide more flexibility for the fishery by increasing retention limits when fish are known to be available on the fishing grounds in certain areas, and then reducing limits at other times so that limited quota may be available to other areas at other times.

Under the current BFT retention limit regulations at § 635.25, the default daily retention limit of large medium and giant BFT (measuring 73 inches or greater) is one fish per vessel. This limit has been in place since 1995. To provide for maximum utilization of the quota for BFT, NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on restricted fishing days, if applicable) to a maximum of three per vessel, under NMFS' inseason action authority. Such increase or decrease will be based on the determination criteria and other relevant factors provided under § 635.27(a)(8), which are:

(i) The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock.

(ii) The catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made.

(iii) The projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year.

(iv) The estimated amounts by which quotas for other gear categories of the fishery might be exceeded.

(v) Effects of the adjustment on BFT rebuilding and overfishing.

(vi) Effects of the adjustment on accomplishing the objectives of the fishery management plan.

(vii) Variations in seasonal distribution, abundance, or migration patterns of BFT.

(viii) Effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota.

(ix) Review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds.

The General category quota is utilized by vessels permitted in the Atlantic Tunas General category as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT. HMS Charter/Headboat category participants may retain and land BFT under the daily limits and quotas applicable to the Angling or the General category, except when fishing in the Gulf of Mexico (where only one recreational ''trophy'' large medium or giant BFT may be landed). The size of the first BFT retained determines the category applicable that day (e.g., if the first BFT retained is a large medium BFT, the vessel may fish only under the General category limit that day).

During the comment period for the 2009 BFT Quota Specifications and Effort Controls and for the ANPR, NMFS received comments requesting a change to or elimination of the General category maximum daily retention limit to increase opportunities to utilize the General category quota, which has been underharvested for several years.

NMFS proposes to increase the maximum daily retention limit to five fish per vessel, such that NMFS could increase or decrease the daily retention limit of large medium and giant BFT over a range from zero to a maximum of five per vessel via an inseason action

based on the determination criteria and other relevant factors provided under § 635.27(a)(8). The intent of this alternative would be to increase opportunities to harvest the General category quota.

Impacts of handgear used to fish for Atlantic tunas under the Atlantic Tunas General category and Harpoon categories are described in full in the Consolidated HMS FMP. NMFS anticipates that this action would have neutral to slightly negative ecological impacts. To the extent that large medium and giant BFT that would otherwise be discarded dead could be converted to landings, the impact would be neutral. Negative impacts could result from increased bycatch and bycatch mortality of small medium BFT (measuring 59 (150 cm) to less than 73 inches), which would have to be discarded as retention of BFT under 73 inches is prohibited in the commercial fisheries, and increased bycatch and bycatch mortality of large medium and giant BFT caught in excess of the five fish daily retention limit, if NMFS sets the limit at five fish via inseason action. The removal of a greater number of large medium and giant BFT than under current regulations may decrease spawning potential and subsequently have negative impacts on the stock. Some environmental organizations have commented during the ANPR that elimination of the maximum retention limit could also result in a substantial proportion of a school of BFT being taken at one time, having widespread age and/or genetic impacts on the stock. However, the limited nature of this action, particularly given the low General category success rate in retaining the current maximum daily retention limit of three fish, is unlikely to have any differential impacts on the life history or overall biological distribution of the western Atlantic BFT stock.

NMFS also considered a no action alternative, which is not preferred because of the potential negative socioeconomic impacts and likelihood of decreased optimum yield, and an alternative to increase the maximum daily retention limit to five large medium or giant BFT per vessel, which is not preferred because of the potential negative ecological impact of a relatively large potential increase in BFT mortality, including undersized fish.

Regardless of the alternative selected, NMFS would continue to maintain and exercise its authority to increase or decrease the daily retention limit as necessary following consideration of the determination criteria described above. This provision of the regulations provides some safeguard, if needed, to reduce potential negative impacts of fishing effort. Although few data are available, it is believed that the selective nature of hook and line and harpoon gear used by vessels fishing under the General category quota have minimal impact on discards or interactions with non-target species.

The potential socioeconomic impacts associated with this proposed action could consist of increased ex-vessel revenues per trip and increased optimum yield. Increased socioeconomic impacts would depend on availability of large medium and giant BFT to the fishery, as well as the daily retention limit set by NMFS through inseason action. Nonetheless, this action would provide General and Charter/Headboat category vessels a reasonable opportunity to harvest the allocated General category quota in its designated time frame and allow greater fishing efficiency (i.e., by allowing vessels to attain a higher level of landings in a fewer number of trips and by increasing incentives for vessel operators to take multi-day trips). This alternative also would have positive socioeconomic impacts associated with converting dead discards of large medium and giant BFT to landings.

III. Adjustment of the General Category Season

Prior to 2004, the General category quota was available to all commercial handgear tuna fishermen from the opening of the fishing year on June 1 through the end of the season on December 31. Due to high participation and limited quota, NMFS used effort controls such as restricted fishing days and time period subquotas to slow down the catch rate and distribute landings both geographically and over time. Prior to 1999, despite the implementation of effort controls in the General category, the quota was attained and the General category closed in mid to late summer while BFT were still off northern New England states. Despite the seasonal General category closure, a BFT fishery on large mediums and giants emerged off the coast of North Carolina during February and March. This southern fishery was recreational in nature because it occurred after the General category season closing. In later years, fish began to arrive in the region during the late fall/early winter, and interest in a commercial fishery developed.

During the development of the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks, the emergence of a General category BFT fishery in the southern Atlantic region was extensively discussed by the Highly Migratory Species Advisory Panel (HMS AP) and the public. At the time, the majority of General category fishing activity took place in the summer and fall off the New England and Mid-Atlantic coasts. However, the HMS AP did not agree on how the HMS FMP should address the scope of a southern area late season General category BFT fishery. In the early 2000s, NMFS performed a number of inseason quota transfers of BFT, consistent with the transfer criteria established in the HMS FMP, which allowed the General category BFT fishery to extend into the winter months (i.e., late November - December). In 2002, NMFS received a Petition for Rulemaking from the North Carolina Division of Marine Fisheries to formalize this winter fishery and extend fishing opportunities for the General category into January (67 FR 69502, November 18, 2002). In December 2003, NMFS extended the General category end date from December 31 to January 31 (68 FR 74504, December 24, 2003) to address some of the concerns raised in the Petition, as well as to increase fishing opportunities and optimum yield for the fishery overall. In the 2006, NMFS modified the General category time period subquotas to allow for a formalized winter fishery via the Consolidated HMS FMP. These subquotas remain effective and are shown, in Figure 1. The December and January time periods are currently allocated 5.2 percent and 5.3 percent of the General category base quota, respectively.

The BFT fishery was managed on a fishing year basis (June through May) versus a calendar year basis (January through December) starting with the implementation of the 1999 FMP in 2000. In January 2008, management reverted to a calendar year basis per implementation of the Consolidated HMS FMP. As of 2008, the January time period and associated fishing activities now occur at the beginning rather than the end of the General category season.

During the comment period for the 2009 BFT Quota Specifications and Effort Controls and for the ANPR, NMFS received comments requesting extension of the General category season as well as changes to the time period subquotas to increase opportunities to utilize the General category quota.

NMFS proposes to allow the General category to remain open at the beginning of the calendar year until the January subquota is determined to be fully harvested. To effect this change, NMFS would adjust the BFT quota regulation that specifies the time period

for which the first General category subquota is available, such that the period that begins January 1 would end upon the effective date of a closure notice that NMFS would file with the Office of the **Federal Register** when the quota apportioned to the period that begins January 1 is projected to be reached, or May 31, whichever comes first. NMFS would continue to carry forward unharvested General category quota from one time period to the next time period. NMFS expects that this action effectively would lengthen the General category season by a few weeks, but the duration of the extension would depend on weather conditions and availability of large medium and giant BFT to the fishery during the winter months.

This action may result in a shift in BFT landings, both temporally (to later in the season) and geographically to the South (i.e., off the South Atlantic states of North Carolina, South Carolina, Georgia, and the Florida East Coast). However, the number of BFT harvested from the large medium and giant size classes would remain consistent with the levels of BFT mortality used in the stock assessment. These temporal and spatial shifts in landings could result in a slight decrease or increase in protected resource interactions, discards, and incidental catch of other finfish. However, given the limited nature of this action, which would likely extend the winter fishery by less than a few weeks, NMFS does not expect any adverse ecological impacts.

NMFS expects that this proposed action would increase the likelihood of winter General category participants and Charter/Headboat participants, when fishing commercially, being able to harvest the full January subquota, particularly if the adjusted January quota is established during the winter portion of the season. An increase in optimum yield may result from a potential increase in the geographic and temporal distribution of landings. Increases in positive socioeconomic impacts would depend on the availability of large medium and giant BFT to the fishery from the beginning of February until the BFT January subquota (base or adjusted, as applicable) is reached.

NMFS also considered a no action alternative, which is not preferred because the potential negative socioeconomic impacts and likelihood of decreased optimum yield, as well as an alternative to establish a year-round General category fishing season and establish equal monthly time periods and subquotas, which is not preferred at this time as NMFS believes the topic of quota location merits further consideration and analyses.

IV. Adjustment of the Harpoon Category Daily Incidental Retention Limit

When the Harpoon category was created in 1980, it was allocated a small portion of the handgear quota of giant tuna in recognition that harpooning had long been used as a method of catching giant tuna in the northern fishery and merited a historical niche in the giant fishery. In 1992, NMFS limited incidental retention large medium BFT to one per day as well as an unlimited number of giant BFT (measuring 81 inches (205 cm) or greater), within the Harpoon category quota (57 FR 32905, July 24, 1992). This action was taken to reduce the fishing mortality on large medium BFT, thus allowing for an increase in the spawning potential of the western Atlantic BFT stock, while allowing for the incidental take of large medium BFT to minimize regulatory discards and negative economic impacts.

In 2003 (68 FR 74504, December 24, 2003), NMFS increased the large medium BFT tolerance limit to two fish per day to allow greater opportunity for Harpoon category participants to fully harvest its subquota and to address Harpoon vessel operator concerns about not being able to locate schools of exclusively giant BFT on the fishing grounds due to the mixing of the larger size classes within schools.

During the comment period for the 2009 BFT Quota Specifications and Effort Controls and for the ANPR, NMFS received comments requesting an increase to, or elimination of, the Harpoon category incidental retention limit of large medium BFT.

NMFS proposes to increase the daily incidental retention limit of large medium BFT to four per vessel. This action is intended to provide Harpoon category vessels a reasonable opportunity to harvest the allocated Harpoon category quota in its designated time frame and convert dead discards to landings.

This action is expected to have neutral to slightly negative ecological impacts with regard to large medium BFT. To the extent that large medium BFT discards could be converted to landings, the impact would be neutral. Negative impacts could result from increased bycatch and bycatch mortality of small medium BFT (measuring 59 to less than 73 inches) and large medium BFT in excess of the incidental limit while attempting to catch giant BFT, particularly as NMFS anticipates potential increases in large medium BFT abundance in the next few years. The removal of a greater number of large medium BFT than the status quo may decrease spawning potential and subsequently have negative ecological impacts on the stock. Although few data are available, it is believed that the selective nature of harpoon gear has minimal impact on discards or interactions with non-target species.

The potential socioeconomic impacts associated with this proposed action could consist of increased ex-vessel revenues per trip and increased optimum yield. Increased socioeconomic impacts would depend on availability of large medium BFT to the fishery. This alternative also would have positive socioeconomic impacts associated with converting dead discards of large medium BFT to landings.

NMFS also considered a no action alternative, which is not preferred because of the potential negative socioeconomic impacts (to the extent that the incidental limit constrains large medium BFT landings) and potential decreased optimum yield, as well as an alternative to eliminate the Harpoon category daily incidental retention limit, which is not preferred because of the potential negative ecological impact of a relatively large potential increase in large medium BFT mortality.

V. Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the 2006 Consolidated HMS FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

In compliance with section 603(b)(1) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the 2006 Consolidated HMS FMP objectives, the Magnuson-Stevens Act, and other applicable law, to analyze the impacts of the alternatives for adjusting the General category maximum daily retention limit, extending the General category season,

and adjusting the Harpoon category daily incidental retention limit on small entities. The IRFA assesses the impacts of the various alternatives on the vessels that participate in the BFT General and Harpoon category fisheries, all of which are considered ''small entities.'' In order to do this, NMFS has estimated the average impact that each alternative would have on individual categories and the vessels within those categories.

In compliance with section 603(b)(2) of the Regulatory Flexibility Act, the objectives of this proposed rulemaking are to enable more thorough utilization of the available U.S. BFT quota, while ending BFT overfishing, rebuilding the BFT stock by 2019, and minimizing bycatch and bycatch mortality to the extent practicable. Section 603(b)(3) requires Agencies to provide an estimate of the number of small entities to which the rule would apply. NMFS considers all HMS permit holders to be small entities because they either had average annual receipts less than $4.0 million for fish-harvesting, average annual receipts less than $6.5 million for charter/party boats, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. These are the Small Business Administration (SBA) size standards for defining a small versus large business entity in this industry. As of December 31, 2008, 9,871 vessels were permitted to land and sell BFT under four commercial BFT quota categories (including charter/headboat vessels), with specifically 4,721 vessels in the General category, 4,827 in the Charter/Headboat category, and 26 in the Harpoon category.

Under section 603(b)(4) of the Regulatory Flexibility Act, agencies are required to describe any new reporting, record-keeping and other compliance requirements. There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Under section 603(b)(5) of the Regulatory Flexibility Act, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed rule. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the Atlantic Tunas Convention Act, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. This proposed rule has also been determined not to duplicate, overlap, or conflict with any other Federal rules.

Under section 603(c) of the Regulatory Flexibility Act, agencies are required to describe any alternatives to the proposed rule which accomplish the stated objectives and which minimize any significant economic impacts. These impacts are discussed below and in the EA. Additionally, the Regulatory Flexibility Act (5 U.S.C. 603 (c) (1)-(4)) lists four general categories of significant alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and, (4) exemptions from coverage of the rule for small entities.

In order to meet the objectives of this proposed rule, consistent with Magnuson-Stevens Act and the Endangered Species Act (ESA), NMFS cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are considered small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. Thus, there are no alternatives considered under the third category. As described below, NMFS analyzed several different alternatives in this proposed rulemaking and provides rationale for identifying the preferred alternative to achieve the desired objective.

The alternatives considered and analyzed are described below. In 2008, the annual gross revenues from the commercial BFT fishery were approximately $5.0 million. The commercial quota categories and their 2008 gross revenues are General ($4.0 million), Harpoon ($313,781), Purse Seine ($0), and Longline ($722,016). The IRFA assumes that each vessel within a category will have similar catch and gross revenues to show the relative impact of the proposed action on vessels.

Three alternatives were analyzed for the adjustment of the General category maximum daily retention limit. Alternative A1, the status quo alternative, would maintain the current maximum daily retention limit of three large medium BFT. The status quo alternative could result in negative socioeconomic impacts to the extent that the daily retention limit constrains large medium and giant BFT landings. The inability of the General category to land and sell its full allotted quota results in decreased optimum yield.

Alternative A2, an increase in the maximum daily retention limit to five fish per vessel, could have positive economic impacts, if NMFS increases the daily retention limit from the default level of one fish to five fish via a separate action, due to the increased potential to land additional large medium and giant BFT rather than discarding fish in excess of the current maximum daily retention limit (e.g., if a fourth commercial size BFT is caught in one day). Ex-vessel revenues per trip could increase on average by approximately $8,500 per active vessel (2 fish x the 2008 average fish weight of 500 lb x $8.44 General category ex-vessel average price/lb), depending on availability of large medium and giant BFT to the fishery. Allowing a higher maximum daily retention limit could also reduce the trip costs per fish landed, and thus improve profitability of trips when additional fish are available. Alternative A2 is the preferred alternative, as it would increase opportunities for General and Charter/Headboat category vessels to land the General category quota while balancing concerns regarding BFT stock health.

Alternative A3, elimination of the maximum daily retention limit, would have positive socioeconomic impacts associated with the increased potential to land all large medium and giant BFT in excess of the current maximum daily retention limit rather than discarding them. Although this alternative would provide the most positive economic impacts, it is not preferred because of the potential negative ecological impact of a relatively large potential increase in BFT mortality, including undersized fish.

Three alternatives were analyzed for the adjustment of the General category season. Under Alternative B1, the status quo alternative, the General category season would end on January 31 of each fishing year or when the General category January subquota is harvested, whichever comes first. Under this alternative, NMFS anticipates neutral impacts on General and Charter/Headboat category vessels relative to 2008.

Under preferred Alternative B2, which would allow the General category

to remain open until the date NMFS determines that the January subquota (adjusted if applicable) has been met, NMFS anticipates that overall economic impacts of this alternative to the General category and Charter/Headboat BFT fishery as a whole would be neutral since the same overall amount of the General category quota would be landed and the value of the General category quota would not be changed. However, General category fishermen in the southern region (approximately 1,300 vessels) would be positively affected by this alternative as it would allow increased opportunities to land and sell BFT commercially and increased utilization of existing investment in gear and equipment, especially if quota is still available for harvest after January 31.

Under Alternative B3, which would establish a January through December General category season and establish 12 equal monthly General category time periods and subquotas (of 8.3 percent each), resulting impacts would be mixed, but positive overall. Winter fishery participants would benefit from increased opportunities to harvest large medium and giant BFT, if available, during the months of February through March. General category and Charter/Headboat category participants in the New England area, or those participants that pursue BFT in the summer months, might experience some adverse social and economic impacts due to the shift in quota to the earlier (winter) portion of the season. However, these effects would be mitigated by the effects of the carryforward of unharvested quota from one time period to the next. This is not the preferred alternative at this time as NMFS believes the topic of quota location merits further consideration and analyses.

Three alternatives were analyzed for the adjustment of the Harpoon category incidental daily retention limit. Alternative C1, the status quo alternative, would maintain the current incidental daily retention limit of two large medium BFT. The status quo alternative could result in negative socioeconomic impacts to the extent that the incidental limit constrains large medium BFT landings. The inability of the Harpoon category to land and sell its full allotted quota results in decreased optimum yield.

Alternative C2, an increase in the incidental daily retention limit to four large medium BFT, would have positive socioeconomic impacts associated with the increased potential to land additional large medium BFT rather than discarding fish in excess of the current incidental limit (e.g., if a third large medium is caught while pursuing giant BFT). Ex-vessel revenues per trip could increase, depending on availability of large medium BFT to the fishery. Ex-vessel revenues per trip could increase on average by approximately $4,600 per active vessel (2 fish x the 2008 average Harpoon category fish weight of 360 lb x $6.36 Harpoon category ex-vessel average price/lb), depending on availability of large medium BFT to the fishery. Allowing a higher daily incidental retention limit could also reduce the trip costs per fish landed, and thus improve profitability of trips when additional fish are available. Alternative C2 is the preferred alternative as it would increase opportunities for Harpoon category vessels to land the Harpoon category quota while balancing concerns regarding BFT stock health.

Alternative C3, elimination of the incidental limit, would have positive socioeconomic impacts associated with the increased potential to land all large medium BFT in excess of the current incidental limit rather than discarding them. Although this alternative would provide the most positive economic impacts, it is not preferred because of the potential negative ecological impact of a relatively large potential increase in large medium BFT mortality.

VI. Public Hearings

The hearing locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Sarah McLaughlin at (978) 281–9260, at least 7 days prior to the meeting.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Management, Treaties.

Dated: October 29, 2009.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.23, paragraphs (a)(4) and (d) are revised to read as follows:

§ 635.23 Retention limits for BFT.

* * * * *

(a) * * *

(4) To provide for maximum utilization of the quota for BFT, NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of five per vessel. Such increase or decrease will be based on the criteria provided under § 635.27(a)(8). NMFS will adjust the daily retention limit specified in paragraph (a)(2) of this section by filing an adjustment with the Office of the **Federal Register** for publication. In no case shall such adjustment be effective less than 3 calendar days after the date of filing with the Office of the **Federal Register**, except that previously designated RFDs may be waived effective upon closure of the General category fishery so that persons aboard vessels permitted in the General category may conduct tag-and-release fishing for BFT under § 635.26.

* * * * *

(d) *Harpoon category.* Persons aboard a vessel permitted in the Atlantic Tunas Harpoon category may retain, possess, or land an unlimited number of giant BFT per day. An incidental catch of only four large medium BFT per vessel per day may be retained, possessed, or landed.

* * * * *

3. In § 635.27, paragraph (a)(1)(i)(A) is revised to read as follows:

§ 635.27 Quotas.

(a) * * *

(1) * * *

(i) * * *

(A) January 1 through the effective date of a closure notice filed by NMFS announcing that the January subquota is reached, or projected to be reached under § 635.28(a)(1), or until May 31, whichever comes first - 5.3 percent (25.2 mt);

* * * * *

[FR Doc. E9–26575 Filed 11–03–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0908191244–91369–01]

RIN 0648–XR08

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2010 Summer Flounder, Scup, and Black Sea Bass Specifications; 2010 Research Set-Aside Projects

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes specifications for the 2010 summer flounder, scup, and black sea bass fisheries and provides notice of three projects that may be requesting Exempted Fishing Permits (EFPs) as part of the Mid-Atlantic Fishery Management Council's (Council) Research Set-Aside (RSA) program. The implementing regulations for the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) require NMFS to publish specifications for the upcoming fishing year for each of these species and to provide an opportunity for public comment. Furthermore, regulations under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) require a notice to be published to provide interested parties the opportunity to comment on applications for EFPs. The intent of this action is as follows: To establish 2010 harvest levels that assure that the target fishing mortality rates (F) specified for these species in the most recent stock assessment updates are not exceeded; to allow for summer flounder stock rebuilding; and to provide notice of EFP requests, all in accordance with the Magnuson-Stevens Act.

DATES: Comments must be received on or before November 19, 2009.

ADDRESSES: You may submit comments, identified by RIN 0648–XR08, 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.
- *Mail and hand delivery:* Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on 2010 Summer Flounder, Scup, and Black Sea Bass Specifications.''

Instructions: No comments will be posted for public viewing until after the comment period has closed. 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 the specifications document, including the Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the specifications are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790. These documents are also accessible via the Internet at *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, (978) 281–9104.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Council and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, North Carolina) northward to the U.S./Canada border. Implementing regulations for these fisheries are found at 50 CFR part 648, subpart A (General Provisions), subpart G (summer flounder), subpart H (scup), and subpart I (black sea bass).

The summer flounder, scup, and black sea bass regulations outline the process for specifying the annual commercial quotas and recreational harvest limits for the summer flounder, scup, and black sea bass fisheries, as well as other management measures (*e.g.,* mesh requirements, minimum commercial fish sizes, gear restrictions, possession restrictions, and area restrictions) for these fisheries. The measures are intended to achieve (*i.e.,* not exceed) the annual F targets set forth for each species in annual stock assessment updates required under the FMP. Once the catch limits are established, they are divided into quotas and catch limits based on formulas contained within the FMP.

The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA), added new requirements to involve the Council's Scientific and Statistical Committee (SSC) in the specification-setting process. Specifically, section 302(g)(1)(B) of the reauthorized Magnuson-Stevens Act states that an SSC for each Regional Fishery Management Council ''shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.'' The Acceptable Biological Catch (ABC) is a level of a stock catch that accounts for the scientific uncertainty in the estimate of that stock's defined overfishing level. This requirement implemented by the Magnuson-Stevens Act was put into practice by the Council for the first time in the 2009 specification setting process. The SSC met on July 16, 2009, to recommend ABCs for the 2010 summer flounder, scup, and black sea bass specifications.

The FMP's implementing regulations also require that a Monitoring Committee for each species review the best available scientific information and recommend catch limits and other management measures that will mitigate management uncertainty and/or implementation imprecision to ensure the target F for each fishery is not exceeded. The Monitoring Committees met on July 17, 2009.

The Council and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) consider the SSC and Monitoring Committees' recommendations and any

public comment and make their own recommendations. While the Board action is final, the Council's recommendations must be reviewed by NMFS to assure that they comply with FMP objectives and applicable law. The Council and Board made their recommendations at a joint meeting held August 4–6, 2009.

Explanation of RSA

Background: In 2001, regulations were implemented under Framework Adjustment 1 to the FMP to allow up to 3 percent of the Total Allowable Landings (TAL) for each species to be set aside each year for scientific research purposes. For the 2010 fishing year, a Request for Proposals was published to solicit research proposals based upon the research priorities that were identified by the Council (74 FR 72, January 2, 2009).

NMFS intends to conditionally approve three research projects for the harvest of the portion of the quota that has been recommended by the Council and the Atlantic States Marine Fisheries Commission (Commission) Summer Flounder, Scup, and Black Sea Bass Fisheries Management Board (Board) to be set aside for research purposes. In anticipation of receiving applications for exempted fishing permits (EFPs) to conduct this research and harvest set-aside quota, the Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the activities authorized under the EFPs would be consistent with the goals and objectives of the FMP. However, further review and consultation may be necessary before a final determination is made to issue any EFP.

For informational purposes, these proposed specifications include a statement indicating the amount of quota that has been preliminarily set aside for research purposes (a percentage of the TAL for each fishery, not to exceed 3 percent, as recommended by the Council and Board), and a brief description of the RSA projects, including exemptions requested, and the amount of RSA requested for each project. The RSA amounts may be adjusted, following consultation with RSA applicants, in the final rule establishing the 2010 specifications for the summer flounder, scup, and black sea bass fisheries. If the total amount of RSA is not awarded, NMFS will publish a document in the **Federal Register** to restore the unused amount to the applicable TAL.

For 2010, the conditionally approved projects may collectively be awarded the following amounts of RSA: 663,900 lb (301 mt) of summer flounder; 405,500 lb (184 mt) of scup; and 69,000 lb (31 mt) of black sea bass. The projects may also be collectively awarded up to 1.3 million lb (590 mt) of *Loligo* squid, 879,000 (399 mt) of Atlantic bluefish, and 33,069 lb (15 mt) of butterfish.

2010 RSA Proposal Summaries: Project number 1 would conduct a fishery-independent scup and black sea bass survey that would utilize unvented fish pots fished on hard bottom areas in southern New England waters to characterize the size composition of the scup and black sea bass populations. Survey activities would be conducted June 15–October 15, 2010, at 15 rocky bottom study sites. Up to two vessels would conduct the research survey. Sampling would occur off the coasts of Rhode Island, southern Massachusetts, with the furthest west site off of Block Island near Southwest Shoals. Up to four vessels would harvest the RSA during the period January 1–December 31, 2010. The principal investigators have requested exemptions from trip limits, gear requirements (excluding marine mammal avoidance and/or release devices), and closed seasons for harvest of RSA species. Also, if undersized fish are retained or handled for scientific purposes prior to discarding during a commercial trip, an exemption from size limits would be required.

Project number 2 would conduct a near-shore trawl survey in Mid-Atlantic waters between Aquinnah, Massachusetts, and Cape Hatteras, North Carolina, including both Block Island and Rhode Island Sounds. Two survey cruises would occur each year (spring and fall) with stratified random sampling of approximately 150 stations in depths between 18–120 feet (8–37 m). The function of the survey would be to provide stock assessment data for summer flounder, scup, black sea bass, *Loligo* squid, butterfish, Atlantic bluefish, several species managed by the Commission such as weakfish and Atlantic croaker, and unmanaged forage species. The research aspects of the trawl survey would be conducted by one scientific research vessel. This vessel could operate under a Letter of Acknowledgment (LOA) as provided for by the specific exemption for scientific research activities found at 50 CFR 600.745. Up to 50 vessels would harvest the RSA January 1–December 31, 2010, during commercial fishing operations, except that these vessels have requested exemptions for closed seasons and trip limits to harvest the RSA allocated to the project.

Project number 3 would evaluate a method to reduce butterfish retention in the offshore directed *Loligo* squid fishery through the use of two bycatch reduction devices (BRD) adapted to pre-existing gear, and video cameras would further be used to identify squid/butterfish behavior in the net and to fine-tune the BRDs. A single research vessel would be used to conduct paired replicate tows comparing a control ''Superior'' trawl to a BRD-altered ''Superior'' trawl (experimental trawl). Sampling would occur November to December 2010 and January to March 2011 within the Hudson Canyon region. The research vessel could operate under an LOA as provided for by the specific exemption for scientific research activities found at 50 CFR 600.745, or, if fish are retained or handled for scientific purposes during a commercial trip, the vessel would operate under an EFP found under 50 CFR 600.745 and 50 CFR 648.12. Up to 50 vessels would harvest the RSA January 1–December 31, 2010, during commercial fishing operations, except that these vessels have requested exemptions for closed seasons and trip limits to harvest the RSA allocated to the project.

Explanation of Quota Adjustments Due to Quota Overages

This action proposes commercial quotas based on the proposed TALs and Total Allowable Catches (TACs) and the formulas for allocation contained in the FMP. In 2002, NMFS published final regulations to implement a regulatory amendment (67 FR 6877, February 14, 2002) that revised the way in which the commercial quotas for summer flounder, scup, and black sea bass are adjusted if landings in any fishing year exceed the quota allocated (thus resulting in a quota overage). If NMFS approves a different TAL or TAC at the final specifications stage (*i.e.,* in the final rule), the commercial quotas will be recalculated based on the formulas in the FMP. Likewise, if new information indicates that overages have occurred and deductions are necessary, NMFS will publish notice of the adjusted quotas in the **Federal Register.** NMFS anticipates that the information necessary to determine whether overage deductions are necessary will be available by the time the final specifications are published. The commercial quotas contained in these proposed specifications for summer flounder, scup, and black sea bass are not adjusted for any overages that have occurred. The final specifications will contain quotas that have been fully adjusted consistent with the procedures described above.

Summer Flounder

The timeline for completion of the summer flounder rebuilding program was extended from January 1, 2010, to no later than January 1, 2013, by section 120(a) of the reauthorized Magnuson-Stevens Act.

In June 2009, the Southern Demersal Working Group (SDWG), a technical stock assessment group composed of personnel from the Northeast Fisheries Science Center (NEFSC), NMFS Northeast Regional Office, Council, Commission, state marine fisheries agencies, academia, and independently-hired scientists, conducted a stock assessment update using the 2008 peer-review accepted benchmark stock assessment methods.

The 2009 SDWG assessment update shows that summer flounder were not overfished and that overfishing did not occur in 2008, the year for which the most recent, complete fishery-dependent data are available. The fishing mortality rate (F) in 2008 was estimated to be 0.25, below both the overfishing threshold (F_{MSY} = $F_{THRESHOLD}$ = $F_{35\ percent}$ A[1] = 0.310) and the management target (F_{TARGET} = $F_{40\ percent}$ = 0.255). F_{MSY} is the fishing mortality rate that, if applied constantly, would result in maximum sustainable yield (MSY) from the summer flounder stock. When $F>F_{THRESHOLD}$, overfishing is considered to be occurring. Fishing year 2008 is the second year of the rebuilding program in which overfishing did not occur on summer flounder. Spawning stock biomass (SSB) was estimated to be 101.5 million lbs (46,040 mt) in 2008, about 77 percent of the $SSB_{35\ percent}$ (SSB_{MSY} target proxy reference point) = 132.4 million lbs (60,056 mt). The assessment update shows that the summer flounder stock has not been overfished since 2001. The average recruitment from 1982 to 2008 is 41.8 million fish. The 2008 year class is estimated to have been 57.9 million fish, the largest recruitment event for the stock since 1986.

The SSC, using the updated assessment information, recommended to the Council that the 2010 ABC be set no higher than 25.48 million lb (11,558 mt). This results in a TAC established at the ABC level (i.e., 25.48 million lb, 11,558 mt). Estimated discards of 3.35 million lb (1,520 mt) are removed from the TAC to produce a 2010 TAL of 22.13 million lb (10,038 mt). This TAL is projected to have a 50-percent probability of achieving the F_{TARGET} = $F_{40\ percent}$ = 0.255 in 2010 and is projected to have a 94.6-percent probability of preventing overfishing on the stock (*i.e.*, preventing an F higher than $F_{THRESHOLD}$ = $F_{35\ percent}$ = 0.310). The Monitoring Committee concurred with the SSC's ABC recommendation and did not recommend any additional changes to the 2010 summer flounder management measures that may be modified through the specification process. The Monitoring Committee recommended that measures to improve the recreational fishery management precision may be necessary and, if needed, will be developed in November 2009, in advance of the December joint Council and Board meeting where 2010 summer flounder recreational management measures will be discussed.

The Council and Board considered the SSC and Monitoring Committee recommendations before concurring with ABC/TAC and TAL of 22.13 million lb (10,038 mt) that results after removal of estimated discards. Fishing under this TAC/TAL level in 2010 is expected to achieve the required stock rebuilding for summer flounder to exceed the B_{MSY} target by the January 1, 2013, deadline. The proposed TAL would be a 19.9-percent increase from the 2008 TAL of 18.45 million lb (8,369 mt). All other management measures were recommended to by the Council to remain *status quo.*

The regulations state that the Council shall recommend, and NMFS shall implement, measures (including the TAL) necessary to achieve, with at least a 50-percent probability of success, a fishing mortality rate that produces the maximum yield per recruit (F_{MAX}). However, Framework Adjustment 7 to the FMP (Framework 7) was implemented October 1, 2007 (72 FR 55704), to ensure that the best available scientific information could be adopted without delay by the Council for use in managing summer flounder. As such, the SDWG 2009 updated assessment recommended F_{MSY} = $F_{35\ percent}$ as the best available fishing mortality rate estimate to produce the optimum yield per recruit and, as such, is now the threshold value for assessing whether overfishing is occurring on summer flounder, replacing F_{MAX}. A 2000 Federal Court Order (*Natural Resources Defense Council* v. *Daley,* Civil No. 1:99 CV 00221 (JLG)) also requires the annual summer flounder TAL to have at least a 50-percent probability of success. As previously stated, the Council and Board's recommended TAL of 22.13 million lb (10,038 mt) has a 94.6-percent probability of constraining fishing mortality below the overfishing threshold of F_{MSY} = $F_{35\ percent}$ and a 50-percent probability of constraining fishing mortality below the assessment-recommended management target of $F_{40\ percent}$. NMFS is proposing to implement a TAL of 22.13 million lb (10,038 mt) for 2010, consistent with the Council's and Board's recommendation.

Based on the allocation scheme contained in the FMP, the TAL is divided 60 percent to the commercial fishery and 40 percent to the recreational fishery. This results in an initial commercial quota of 13.28 million lb (6,023 mt) and a recreational harvest limit of 8.85 million lb (4,015 mt); however, the FMP also specifies that up to 3 percent of the TAL may be set aside for research activities before the remaining TAL is allocated 60 percent to the commercial sector and 40 percent to the recreational sector. The Council and Board agreed to set aside up to 3 percent of the TAL or 663,900 lb (301 mt). After deducting the RSA, the TAL would be divided into a commercial quota of 12,879,660 lb (5,842 mt) and a recreational harvest limit of 8,586,440 lb (3,895 mt).

Table 1 presents the proposed allocations by state with and without the commercial portion of the RSA deduction. These state quota allocations are preliminary and are subject to reductions if there are overages of states quotas carried over from a previous fishing year (using the landings information and procedures described earlier). Any commercial quota adjustments to account for overages will be included in the final rule implementing the 2010 specifications.

[1] The fishing mortality rate which reduces the spawning stock biomass per recruit (SSB/R) to 35 percent of the amount present in the absence of fishing. More generally, Fx percent is the fishing mortality rate that reduces the SSB/R to x percent of the level that would exist in the absence of fishing.

TABLE 1—2010 PROPOSED INITIAL SUMMER FLOUNDER STATE COMMERCIAL QUOTAS

State	Percent share	Initial commercial quota		Commercial quota less RSA [1]	
		lb	kg [2]	lb	kg [2]
ME	0.04756	6,315	2,864	6,126	2,779
NH	0.00046	61	28	59	27
MA	6.82046	905,621	410,790	878,452	398,466
RI	15.68298	2,082,386	944,570	2,019,915	916,233
CT	2.25708	299,695	135,942	290,704	131,863
NY	7.64699	1,015,367	460,571	984,906	446,754
NJ	16.72499	2,220,744	1,007,330	2,154,122	977,110
DE	0.01779	2,362	1,071	2,291	1,039
MD	2.03910	270,752	122,813	262,629	119,129
VA	21.31676	2,830,439	1,283,887	2,745,526	1,245,371
NC	27.44584	3,644,259	1,653,036	3,534,931	1,603,445
Total [3]	100.00001	13,278,001	6,022,901	12,879,661	5,842,214

[1] Preliminary Research Set-Aside amount is 663,900 lb (301 mt).
[2] Kilograms are as converted from pounds and do not sum to the converted total due to rounding.
[3] Rounding of quotas results in totals exceeding 100 percent.

The Commission is expected to maintain the voluntary measures currently in place to reduce regulatory discards that occur as a result of landing limits established by the states. The Commission established a system whereby 15 percent of each state's quota would be voluntarily set aside each year to enable vessels to land an incidental catch allowance after the directed fishery has been closed. The intent of the incidental catch set-aside is to reduce discards by allowing fishermen to land summer flounder caught incidentally in other fisheries during the year, while also ensuring that the state's overall quota is not exceeded. These Commission set-asides are not included in these proposed specifications because these measures are not authorized by the FMP and NMFS does not have authority to implement them.

Scup

Scup stock status and biological reference point calculation methods were evaluated and externally peer-reviewed in December 2008 by the Data Poor Stocks Working Group (DPSWG) at the NEFSC. The result of these evaluations moved the scup stock assessment into a forward-projection catch-at-age analytical assessment model and significantly modified both biological reference points and assessment of the stock's status. The full DPSWG scup reports and findings are available on the NEFSC Web site: *http://www.nefsc.noaa.gov/saw/.*

Based on the findings of the DPSWG, scup were formally declared rebuilt in April 2009 having achieved the revised rebuilding biomass target and, as such, are no longer subject to a formal Magnuson-Stevens Act rebuilding plan. Framework 7 permits the results of the peer-reviewed DPSWG's 2008 stock status and biological reference point calculation to be utilized as the best available scientific information in the specifications process without additional modification of the FMP. As such, for the formulation of 2010 scup specifications, the SDWG updated scup stock status using the accepted DPSWG model and methods using 2008 data, the most recent complete set of fishery dependent and independent data. This is the first year of utilizing the DPSWG updated methods to provide stock status information for use in developing specifications. Using DPSWG methods, the SDWG 2009 assessment update indicated that F in 2008 was 0.048. This is below the DPSWG-established overfishing threshold of $F_{MSY} = F_{THRESHOLD} = F_{40\ percent} = 0.177$ and, thus, scup are not experiencing overfishing. Prior to the DPSWG, a reliable estimate of fishing mortality was not available, thus scup stock status relative to overfishing was previously unknown. Scup SSB was estimated to have been 414.5 million lb (118,014 mt) in 2008, substantially above both the DPSWG established overfished threshold ($\frac{1}{2}\ B_{msy\ proxy}$) of 101.5 million lb (46,040 mt) and 104 percent above the $SSB_{40\ percent}$ (as $SSB_{MSY\ proxy}$) level of 202.9 million lb (92,044 mt). Therefore, the stock was not overfished in 2008 and was well above the SSB rebuilding/MSY level established by the DPSGW. The average recruitment class value for scup from 1984 to 2008 is about 110 million fish. The estimated 2008 recruitment is above average at 192.4 million fish.

Based on the information provided by the SDWG, the SSC recommended a 10-percent increase in TAC from the 2009 level as the 2010 scup ABC. The SSC expressed concern over the high degree of uncertainty associated with the new scup assessment. Their recommendation for a 10-percent increase follows the advice of the DPSWG peer-review panel recommendations for minor, incremental increases in scup catches rather than large-scale increases to the maximum permissible level calculated when using the F_{MSY} value of 0.177. Both the DPSWG peer-review panel and SSC noted numerous scientific uncertainties in the new assessment. The Monitoring Committee agreed with the SSC ABC recommendation and did not recommend any modification of the commercial fishery management measures. The Monitoring Committee will discuss recreational fishery management measures in November 2009.

A 10-percent increase in TAC (ABC equivalent) results in a combined discard and landings level of 17.09 million lb (7,752 mt) for 2010. After removing estimated discards of 2.98 million lb (1,352 mt), the resulting TAL consistent with the ABC recommendation is 14.11 million lb (6,400 mt). This is a 26.2-percent increase from the 2008 TAL of 11.18 million lb (4,170 mt). The increase in TAL is not the same as the percent increase in TAC from 2009 levels because the discard information used in calculating the TAL for the two years is different. NMFS is proposing to implement the Council and Board recommendation for an initial TAL of 14.11 million lb (6,400 mt) and an 17.09 million-lb (7,752 mt) TAC.

The FMP specifies that the established TAC be allocated 78 percent to the commercial sector and 22 percent to the recreational sector. The commercial TAC, discards, and TAL

(i.e., final commercial quota, after reduced for any research set-aside) are then allocated on a percentage basis to three quota periods, as specified in the FMP: Winter I (January–April)—45.11 percent; Summer (May–October)—38.95 percent; and Winter II (November–December)—15.94 percent.

The commercial and recreational TACs would be 13,330,200 lb (6,046 mt) and 3,759,800 lb (1,705 mt), respectively. After deducting estimated discards (2.32 million lb (1,054 mt) for the commercial sector and 0.66 million lb (299 mt) for the recreational sector), the initial commercial quota would be 11.0 million lb (4,992 mt) and the recreational harvest limit would be 3.10 million lb (1,406 mt). The Council and Board agreed to set aside the maximum 3 percent (423,300 lb (192 mt)) of the TAL for research activities. Deducting this RSA would result in a commercial quota of 10,675,626 lb (4,842 mt) and a recreational harvest limit of 3,011,074 million lb (1,366 mt).

The proposed 2010 specifications would maintain the status quo base scup possession limits, i.e., 30,000 lb (13,608 kg) for Winter I, to be reduced to 1,000 lb (454 kg) when 80 percent of the quota is projected to be reached, and 2,000 lb (907 kg) for Winter II.

Table 2 presents the 2010 commercial allocation recommended by the Council, with and without the preliminary RSA deduction. These 2010 allocations are preliminary and may be subject to downward adjustment in the final rule implementing these specifications due to 2009 or other previously unaccounted for overages, based on the procedures for calculating overages described earlier.

TABLE 2—2010 PROPOSED INITIAL TAC, INITIAL COMMERCIAL SCUP QUOTA, AND POSSESSION LIMITS

Period	Percent	TAC in lb (mt)	Discards in lb (mt)	Initial Commercial quota in lb (mt)	Commercial quota less RSA in lb (mt)	Possession limits in lb (kg)
Winter I	45.11	6,013,253 (2,728)	1,048,537 (476)	4,964,716 (2,252)	4,815,775 (2,184)	[1] 30,000 (13,608)
Summer	38.95	5,192,113 (2,355)	905,354 (411)	4,286,759 (1,944)	4,158,156 (1,886)	n/a
Winter II	15.94	2,124,834 (964)	370,509 (168)	1,754,325 (796)	1,701,695 (772)	2,000 (907)
Total [2]	100.00	13,330,200 (6,046)	2,324,400 (1,054)	11,005,800 (4,992)	10,675,626 (4,842)	

[1] The Winter I landing limit would drop to 1,000 lb (454 kg) upon attainment of 80 percent of the seasonal allocation.
[2] Totals subject to rounding error.
n/a—Not applicable.

The final rule to implement Framework 3 to the FMP (68 FR 62250, November 3, 2003) implemented a process, for years in which the full Winter I commercial scup quota is not harvested, to allow unused quota from the Winter I period to be rolled over to the quota for the Winter II period. As shown in Table 3, the proposed specifications would maintain the status quo Winter II possession limit-to-rollover amount ratios (*i.e.,* 1,500 lb (0.68 mt) per 500,000 lb (227 mt) of unused Winter I period quota).

TABLE 3—POTENTIAL INCREASE IN WINTER II POSSESSION LIMITS BASED ON THE AMOUNT OF UNHARVESTED SCUP ROLLED OVER FROM WINTER I TO WINTER II PERIOD

Initial Winter II	Rollover from	Increase in initial Winter II possession limit	Final Winter II possession				
lb	kg	lb	mt	lb	kg	lb	kg
2,000	907	0–499,999	0–227	0	0	2,000	907
2,000	907	500,000–999,999	227–454	1,500	680	3,500	1,588
2,000	907	1,000,000–1,499,999	454–680	3,000	1,361	5,000	2,268
2,000	907	1,500,000–1,999,999	680–907	4,500	2,041	6,500	2,948
2,000	907	2,000,000–2,500,000	907–1,134	6,000	2,722	8,000	3,629

Black Sea Bass

Black sea bass stock status and biological reference point calculation methods were also evaluated and externally peer-reviewed in December 2008 by the DPSWG. As was the case for scup, the black sea bass assessment was moved into a forward-projection analytical assessment model, with resultant changes to both biological reference points and assessment of the stock's status. The full DPSWG findings for black sea bass are available on the NEFSC Web site: *http://www.nefsc.noaa.gov/saw/.*

Based on the findings of the DPSWG, black sea bass were also declared rebuilt in April 2009 and are no longer subject to a formal Magnuson-Stevens Act rebuilding plan. Framework 7 permits the results of the peer-reviewed DPSWG's 2008 stock status and biological reference point calculation to be utilized as the best available scientific information during the specification-setting process without additional modification of the FMP. As was the case for scup, the formulation of 2010 black sea bass specifications are informed by an update to the DPSWG model and methods conducted by the SDWG. The SDWG used the most recent complete set of fisher dependent and independent data, updated through 2008. This is also the first year of utilizing the DPSWG updated methods to provide stock status information for use in developing black sea bass specifications.

Using the DPSWG methods, the SDWG 2009 assessment update indicated that F in 2008 was 0.28, below the DPSWG-established overfishing threshold of $F_{MSY} = F_{THRESHOLD} = F_{40\ percent} = 0.42$. Thus, the stock was not overfished in 2008. Prior to the DPSWG, a reliable estimate of fishing mortality was not available and black sea bass stock status relative to overfishing was previously unknown. Black sea bass SSB was estimated to have been 28.4 million lb (12,882 mt) in 2008, above both the DPSWG established overfished threshold ($\frac{1}{2}\ B_{MSY\ proxy}$) of 13.8 million lb (6,260 mt) and 3 percent above the $SSB_{40\ percent}$ (as $SSB_{MSY\ proxy}$) level of 27.6 million lb (12,519 mt). Therefore, the stock was not overfished in 2008 and was above the SSB rebuilding/MSY level established by the DPSWG.

Based on the SDWG assessment update, the SSC recommended *status quo* for the ABC and 2010 black sea bass TAC. Similar to scup, the SSC expressed concern over the high degree of uncertainty associated with the new black sea bass stock assessment but also expressed concerns about limits of understanding the complex life history of black sea bass. Both the DPSWG peer-review panel and SSC noted numerous uncertainties in the new assessment. In light of these uncertainties, the SSC forwarded a recommendation for no change in catch and landings for 2010. The Monitoring Committee disagreed with the SSC ABC recommendation, stating it was too conservative, and recommended a higher ABC to the Council. The Monitoring Committee did not recommend any modification of the commercial fishery management measures. The Monitoring Committee will discuss recreational fishery management measures in November 2009. The Council is bound by the Magnuson-Stevens Act to set annual catch limits no higher than the ABC recommended by their SSC and, accordingly, voted to recommend a TAC and TAL consistent with the SSC's recommendation.

Status quo measures for black sea bass, consistent with the Council's recommendation is an ABC/TAC of 2.71 million lb (1,229 mt). After removing estimated discards of 410,000 lb (186 mt) the 2010 TAL is 2.3 million lb (1,043 mt). The Council voted to set aside up to 3 percent of the TAL, 69,000 lb (31 mt), for research. The FMP specifies that the TAL is to be allocated 49 percent to the commercial sector and 51 percent to the recreational sector; therefore, the initial TAL would be allocated 1.09 million lb (494 mt) to the commercial sector and 1.14 million lb (517 mt) to the recreational sector.

NMFS is proposing to implement these Council-recommended measures for the 2010 black sea bass fisheries.

Classification

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

These proposed specifications are exempt from review under Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact these proposed specifications, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. A copy of this analysis is available from NMFS (*see* **ADDRESSES**). A summary of the analysis follows.

The total gross revenue for the individual vessels that would be directly regulated by this action is less than $4.0 million for commercial fishing and $6.5 million for recreational fishing activities. All vessels that would be impacted by this proposed rulemaking are therefore considered to be small entities and, thus, there would be no disproportionate impacts between large and small entities as a result of the proposed rule. The categories of small entities likely to be affected by this action include commercial and charter/party vessel owners holding an active Federal permit for summer flounder, scup, or black sea bass, as well as owners of vessels that fish for any of these species in state waters. The Council estimates that the proposed 2010 specifications could affect 2,213 vessels that held a Federal summer flounder, scup, and/or black sea bass permit in 2008 (the most recent year of complete permit data). However, the more immediate impact of this rule will likely be felt by the 809 vessels that actively participated in these fisheries (i.e., landed these species) in 2008.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. In addition, NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

If the Council took no action regarding the 2010 specifications, the following would occur: (1) No specifications for the 2010 summer flounder, scup, and black sea bass fisheries; (2) the indefinite management measures (minimum mesh sizes, minimum sizes, possession limits, permit and reporting requirements, etc.) would remain unchanged; (3) there would be no quota set-aside allocated to research in 2010; and (4) there would be no specific cap on the allowable annual landings in these fisheries (*i.e.,* there would be no quotas). Implementation of the no action alternative would be inconsistent with the goals and objectives of the FMP, its implementing regulations, and the Magnuson-Stevens Act. Under the no action alternative, the fisheries would operate without an identified cap on allowable landings because the quotas implemented for 2009 expire on December 31, 2009, and there are no provisions to roll-over those quota provisions into 2010 if specifications are not published for the year. Therefore, the no action alternative is not considered to be a reasonable alternative to the preferred action.

The Council analyzed three sets of combined TAL alternatives for the 2010 summer flounder, scup, and black sea bass fisheries. Of these, one alternative, labeled Alternative 2, contained the most restrictive TAL options (*i.e.,* lowest catch levels). While this alternative would achieve the objectives of the proposed action for all three species, it has the highest potential economic impact on small entities in the form of potential foregone fishing opportunities. Alternative 2 was not preferred by the Council because other alternatives considered have lower impacts on small entities while achieving the stated objectives of this proposed rule.

The Council analyzed two sets of TAL alternatives for the three species that would accomplish the stated objectives of the proposed action and that would minimize significant economic impact of the proposed rule on small entities. Alternative 1 (Council's preferred) would implement the following TALs in 2010: Summer flounder, 22.13 million lb (10,038 mt); scup, 14.11 million lb (6,400 mt); and black sea bass, 2.30 million lb (1,043 mt). Alternative 3 (least restrictive/highest quota levels) would implement the following TALs in 2010: Summer flounder, 26.31 million lb (11,934 mt); scup, 15.40 million lb (6,985 mt); and black sea bass, 4.80 million lb (2,177 mt).

Council staff conducted preliminary analysis on the potential economic impact of changes in recreational harvest limits associated with the alternatives. For the purposes of the RFA, the only entities affected by the

proposed changes to the recreational harvest limit are owners and operators of recreational party/charter (for hire) vessels. These analyses indicate that it is possible that adverse economic impacts could occur under Alternative 1 but would not be likely under Alternative 3. The methods utilized in the analysis compare 2008 recreational landings to the respective alternative's recreational harvest limit and make inferences on possible negative impacts to the demand for party/charter vessel trips and angler participation. While useful for a general statement on potential impacts, demand for party/charter trips has remained relatively stable for many years regardless of increases or decreases in the recreational harvest limit and ascertaining angler satisfaction relative to a total recreational harvest limit is subjective. More thorough analysis of recreational fisheries impacts will be conducted following the Council's recommendations for recreational management measures in December 2009. Once actual 2010 recreational management measures recommendations are known, more detailed analysis, including an IRFA, will be prepared by the Council.

To assess the impact of the alternatives on commercial fisheries, the Council conducted both threshold analysis and analysis of potential changes in ex-vessel gross revenue that would result from Alternatives 1 and 3. Some degree of caution should be utilized when interpreting the economic impact data as a host of variations could influence the outcomes of the analyses. Vessels have permits for multiple fisheries and may supplement income by landing other species; economic dependence on a particular species may be masked by vessels landing multiple species; ex-vessel value of the three species may change from the estimated values utilized in the analysis; revenues may increase or decrease as a result of changes to possession limits or seasons set by individual states; vessels that fish for these three species under state permits are not well captured by the analysis, and reduction in commercial quota to account for previous years' overages may still occur in the specifications final rule.

Under Alternative 1 (Council's preferred), analysis indicates that 88 vessels were expected to incur no revenue change and 721 vessels were expected to incur revenue increases relative to 2009. Utilizing ex-vessel information from 2008, the Council estimated that Alternative 1 would increase cumulative summer flounder and scup vessel revenues by $5.10 million and $2.56 million, respectively. Black sea bass vessel revenues are projected to remain unchanged from 2009 levels. If these increases are distributed equally among the 652 vessels that landed summer flounder in 2008, the resulting increase in revenue per vessel would be $7,822. If equally distributed among the 375 vessels that landed scup in 2008, the average revenue increase associated with the increase in scup quota is $6,827 per vessel. Under Alternative 1, individual vessel revenue is projected to remain unchanged for vessels landing black sea bass.

Under Alternative 3 (least restrictive TALs), analysis indicates that the 809 vessels that participated in 2008 summer flounder, scup, and black sea bass fisheries would be expected to incur revenue increases. The 2010 quotas associated with Alternative 3 would increase summer flounder, scup, and black sea bass revenues by approximately $10.81 million, $3.64 million, and $3.51 million, respectively, relative to 2009. If the revenue increases were equally distributed across the 809 vessels that landed summer flounder, scup, and black sea bass in 2008, the average increase in revenue would be $22,220 per vessel.

The Council selected Alternative 1 (preferred) over Alternative 3 (least restrictive) because, the catch and landing levels associated with Alternative 1 are consistent with the ABC recommendations from the Council's SSC. Adoption of Alternative 3 measures would exceed the SSC recommendations for ABC for all three species and would violate section 302(h)(6) of the Magnuson-Stevens Act, which states that the Council must develop annual catch limits for each managed fishery that may not exceed the fishing level recommendation of the SSC (i.e., the ABC). In addition, the summer flounder TAL associated with Alternative 3 is not projected to provide the necessary stock rebuilding by January 1, 2013, as required by the summer flounder rebuilding plan. As such, the IRFA provided by the Council indicates that the TALs of Alternative 1 satisfy the objectives of the applicable statutes and rebuilding program and minimize, to the extent practicable, the adverse impacts of the proposed rule on directly regulated small entities. NMFS agrees with the Council's IRFA analysis and rationale for recommending TAL Alternative 1. As such, NMFS is proposing to implement the TALs contained in Alternative 1 (Summer flounder, 22.13 million lb (10,038 mt); scup, 14.11 million lb (6,400 mt); and black sea bass, 2.30 million lb (1,043 mt)) for 2010.

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

Dated: October 30, 2009.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E9–26553 Filed 11–3–09; 8:45 am]

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Notices

Federal Register

Vol. 74, No. 212

Wednesday, November 4, 2009

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

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of a Request for Revision of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the U.S. Department of Agriculture's intention to request a revision of a currently approved information collection in support of the Dairy Tariff-Rate Import Quota Licensing program.

DATES: Comments should be submitted no later than January 4, 2010.

Additional Information and Comments: Contact Bettyann Gonzales, Dairy Import Specialist, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Mail Stop 1021, Washington, DC 20250–1021, or by telephone at (202) 720–1344.

SUPPLEMENTARY INFORMATION:

Title: Dairy Tariff-Rate Import Quota Licensing Program.

OMB Number: 0551–0001.

Expiration Date of Approval: March 31, 2010.

Type of Request: Revision of a currently approved information collection.

Abstract: The currently approved information collection supports the Dairy Tariff-Rate Import Quota regulation (the Regulation) (7 CFR 6.20–6.37) which governs the administration of the import licensing system applicable to most dairy products subject to tariff-rate quotas (TRQs). The TRQs were established in the Harmonized Tariff Schedule of the United States (HTS) as a result of certain provisions in the Uruguay Round Agreements Act (Pub. L. 103–465) that converted existing absolute quotas to TRQs. Imports of nearly all cheese made from cow's milk (except soft-ripened cheese such as Brie) and certain non-cheese dairy products (including butter and dried milk) are subject to TRQs and the Regulation. Licenses are issued each quota year to eligible applicants and are valid for 12 months (January 1 through December 31). Only licensees may enter specified quantities of the subject dairy articles at the applicable in-quota tariff-rates. Importers who do not hold licenses may enter dairy articles only at the over-quota tariff-rates.

Each quota year, all applicants must submit form FAS 923 (rev. 7–96). This form, available online, requires applicants to: (1) Certify they are either an importer, manufacturer, or exporter of certain dairy products; (2) certify they meet the eligibility requirements of § 6.23 of the Regulation; and (3) submit documentation required by § 6.23 and § 6.24 as proof of eligibility for import licenses. Applicants for non-historical licenses must also submit form FAS 923A (rev. 7–96) (cheese) and/or FAS 923B (rev. 7–96) (non-cheese dairy products). This form requires applicants to request licenses in descending order of preference for specific products and countries listed on the form.

After licenses are issued, § 6.26 requires licensees to surrender by October 1 on form FAS 924A, License Surrender Form, any license amount that a licensee does not intend to enter that year. These amounts are reallocated, to the extent practicable, to existing licensees for the remainder of that year based on requests submitted on form FAS 924B, Application for Additional License Amounts. Form FAS 924A and 924B (one form) requires the licensee to complete a table listing the surrendered amount by license number, or listing the additional amounts requested by dairy article, supplying country and amount requested, in descending order of preference.

The estimated total annual burden of 291 hours in the Office of Management and Budget (OMB) inventory for the currently approved information collection will be increased by 168 hours to 459 hours. The public reporting burden for this collection of currently approved forms FAS 923, FAS 923A and 923B (one form) (rev. 7–96) is estimated to average 436 hours; and FAS 924A and 924B (one form) is 23 hours. The estimated increase in burden hours is due to the increased number of applications.

Estimate of burden: The average burden, including the time for reviewing instructions, gathering data needed, completing forms, and record keeping is estimated at .75 hour for form FAS 923, 923–A, 923–B (rev. 7–96) and .15 hour for form FAS 924A, 924B.

Respondents: Importers and manufacturers of cheese and non-cheese dairy products, and exporters of non-cheese dairy products.

Estimated number of respondents: 550 for form FAS 923, 923A, 923B (rev. 7–96) and 150 for form FAS 924A, 924B (rev. 7–96).

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden: 459 hours.

Requests for Comments: Send comments regarding (a) 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; (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 those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to Bettyann Gonzales, Dairy Import Specialist, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 1021, Washington, DC 20250–1021, or by telephone at (202) 720–1344, or by e-mail *bettyann.gonzales@fas.usda.gov.*

Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, *etc.*) should contact USDA's Target Center at (202) 720–2600 (voice and TDD). All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

FAS is committed to compliance with the Government Paperwork Elimination

Act (GPEA), which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. Electronic submission of the information collection was implemented on September 2005 in compliance with the GPEA.

Signed at Washington, DC, on October 26, 2009.

Michael V. Michener,

Administrator, Foreign Agricultural Service.

[FR Doc. E9–26620 Filed 11–3–09; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Performance Reporting System, Management Evaluation

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection which concerns the Performance Reporting System for the Supplemental Nutrition Assistance Program. This collection is a revision of a currently approved collection under OMB No. 0584–0010 which is due to expire March 31, 2010.

DATES: Written comments must be received on or before January 4, 2010.

ADDRESSES: 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 of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Harriet Kornegay, Senior Program Analyst, Program Design Branch, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 814, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Harriet Kornegay at 703–305–2486 or via e-mail to *harriet.kornegay@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m. Monday through Friday) at 3101 Park Center Drive, Room 814, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Harriet Kornegay at 703–305–2501.

SUPPLEMENTARY INFORMATION:

Title: Performance Reporting System, Management Evaluation.

OMB Number: 0584–0010.

Expiration Date: March 31, 2010.

Type of Request: Revision of a currently approved collection.

Abstract: The purpose of the Performance Reporting System (PRS) is to ensure that each State agency and project area is operating the Supplemental Nutrition Assistance Program (SNAP) in accordance with the requirements of the Food and Nutrition Act of 2008 (the Act) (7 U.S.C. 2011, *et seq.*), as amended, and corresponding program regulations. Under Section 11 of the Act (7 U.S.C. 2020), State agencies must maintain necessary records to ascertain that SNAP is operating in compliance with the Act and regulations and must make these records available to the Food and Nutrition Service (FNS) for inspection and audit. The only changes to the existing collection are to the burden amount which has been slightly adjusted to account for a correction to the number of respondents, and a refined assessment, based on past experience, to the number of responses. Despite these edits, the estimated total hours are very nearly the same.

Management Evaluation (ME) Review Schedules—Unless the State receives approval for an alternative Management Evaluation review schedule, each State agency is required, under 7 CFR Part 275, to submit one review schedule every one, two, or three years, depending on the project area make-up of the State.

Data Analysis—Under 7 CFR Part 275, each State must establish a system for analysis and evaluation of all data available to the State. Data analysis and evaluation is an ongoing process that facilitates the development of effective and prompt corrective action.

Corrective Action Plans—Under 7 CFR Part 275, State agencies must prepare a corrective action plan (CAP) addressing identified deficiencies. The State agencies must develop a system for monitoring and evaluating corrective action and submit CAP updates, as necessary.

Affected Public: Respondent groups identified include SNAP State and local agencies.

Estimated Number of Respondents: The total estimated number of respondents is 53. This includes 53 State agencies.

Estimated Number of Responses per Respondent: Based on past experience FNS estimates that State agencies will submit one review schedule and ME review plan per year, and will conduct and document ME reviews for a total of 30 responses each.

Estimated Total Annual Responses: $53 \times 30 = 1{,}590$.

Estimated Time per Response: FNS estimates that it takes 4 hours to prepare a review schedule, and that each of the 53 State agencies will submit one review schedule per year resulting in a total burden of 212 hours (53 State agencies × 1 review schedule × 4 hours). FNS estimates that it takes on average approximately 80 hours to develop a comprehensive State review plan, resulting in a total of 4240 hours (80 hours × 53 State plans). FNS estimates that it takes an average of 340 hours to conduct a review. It is estimated that ME reviews are conducted for one-half of the total number of project areas (1,430) annually. FNS estimates that it takes approximately 487,820 hours annually to (340 hours × 1430 ME reviews). FNS also estimates that the time necessary for record keeping, that is, the time necessary to find and file a record in the conduct of an ME review, is based on 53 record keepers × approximately 30 hours (1590 hours). The total estimated annual reporting burden is as follows:

Prepare Review Schedules $4 \times 53 = 212$ hours

Prepare Review Plans $80 \times 53 = 4{,}240$ hours

Conduct ME Reviews $340 \times 1{,}430 = 486{,}200$ hours

Recordkeeping $30 \times 53 = 1{,}590$ hours

Total Annual Reporting Burden = 492,242 hours

The estimated time of response is 309.58 hours, as shown in the table below.

Estimated Total Annual Burden on Respondents: 29,534,520 minutes (492,242 hours). See the table below for estimated total annual burden for each type of respondent.

Respondent	Estimated number of respondents	Responses annually per respondent	Total annual responses (col. bxc)	Estimated avg. mumber of hours per response	Estimated total hours (col. dxe)
Reporting Burden:					
State and local agencies	53	30	1590	309.58	492,242
Total Reporting Burden	53		1590		492,242

Dated: October 27, 2009.

Julia Paradis,

Administrator.

[FR Doc. E9–26606 Filed 11–3–09; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

[0511–10–01]

Plumas County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Plumas County Resource Advisory Committee (RAC) will hold a meeting on November 13, 2009, in Quincy, CA. The purpose of the meeting is to review approved Cycle 9 projects and to identify a timeline for the Cycle 10 project application process. Project funding is available under Title II provisions of the Secure Rural Schools and Community Self-Determination Act of 2000.

DATES AND ADDRESSES: The meeting will take place from 9:30–11:30 a.m. at the Mineral Building-Plumas/Sierra County Fairgrounds, 208 Fairgrounds Road, Quincy, CA.

FOR FURTHER INFORMATION CONTACT: (or for special needs): Lee Anne Schramel Taylor, Forest Coordinator, USDA, Plumas National Forest, P.O. Box 11500/159 Lawrence Street, Quincy, CA, 95971; (530) 283–7850; or by e-mail *eataylor@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items for the November 13 meeting include: (1) Forest Service Update; (2) Committee Review of Cycle 9 projects approved for funding; and, (3) Identification of Cycle 10 Project Application Timeline. The meetings are open to the public and individuals may address the Committee after being recognized by the Chair. Other RAC information may be obtained at: *http://www.fs.fed.us/srs.*

Dated: October 27, 2009.

Mark Beaulieu,

Public Services Staff Officer.

[FR Doc. E9–26482 Filed 11–3–09; 8:45 am]

BILLING CODE 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: Bureau of Economic Analysis.

Title: Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons.

Form Number(s): BE–185.

Agency Approval Number: 0608–0065.

Type of Request: Extension of a currently approved collection.

Burden: 16,900 hours.

Number of Respondents: 2,500.

Average Hours per Response: 10 hours for mandatory responses and 1 hour per other responses.

Needs and Uses: The Government requires data from the BE–185, Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons, to obtain accurate and up-to-date information on financial services transactions with foreign persons. It will use the data collected in monitoring U.S. exports and imports of financial services, analyzing their impact on the U.S. and foreign economies, supporting U.S. international commercial policy on such financial services, compiling the international transactions, national income and product, and input-output accounts of the United States, assessing U.S. competitiveness in international trade in financial services, and improving the ability of U.S. businesses to identify and evaluate market opportunities.

Affected Public: Businesses or other for-profit organizations and non-profit organizations.

Frequency: Quarterly.

Respondents Obligation: Mandatory.

Legal Authority: Title 22 U.S.C., Sections 3101–3108, as amended and Section 5408 of the Omnibus Trade and Competitiveness Act of 1988.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

You may obtain copies of the above information collection proposal by writing Departmental Paperwork Clearance Officer, Diana Hynek, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 or via the Internet at: *dhynek@doc.gov.*

Send comments on the proposed information collection within 30 days of publication of this notice to Paul Bugg, OMB Desk Officer, via e-mail at *pbugg@omb.eop.gov* or by fax at (202) 395–7245.

Dated: October 30, 2009.

Glenna Mickelson,

Management Analyst, Office of Chief Information Officer.

[FR Doc. E9–26516 Filed 11–3–09; 8:45 am]

BILLING CODE 3510–06–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: Bureau of Economic Analysis.

Title: Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons.

Form Number(s): BE–125.

Agency Approval Number: 0608–0067.

Type of Request: Extension of a currently approved collection.

Burden: 98,800 hours.

Number of Respondents: 2200.

Average Hours per Response: 16 hours for mandatory responses and 1 hour per other responses.

Needs and Uses: The Government requires data from the BE–125, Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons, to obtain accurate and up-to-date information on transactions in selected services and intangible assets with foreign persons. It will use the data collected in monitoring U.S. exports and imports of these services and intangible assets, analyzing their impact on the U.S. and foreign economies, supporting U.S. international commercial policy on such services and intangible assets, compiling the international transactions, national income and product, and input-output accounts of the United States, assessing U.S. competitiveness in international trade in services and intangible assets, and improving the ability of U.S. businesses to identify and evaluate market opportunities.

Affected Public: Businesses or other for-profit organizations and non-profit organizations.

Frequency: Quarterly.

Respondents Obligation: Mandatory.

Legal Authority: Title 22 U.S.C., Sections 3101–3108, as amended.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

You may obtain copies of the above information collection proposal by writing Departmental Paperwork Clearance Officer, Diana Hynek, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 or via the Internet at *dhynek@doc.gov.*

Send comments on the proposed information collection within 30 days of publication of this notice to Paul Bugg, OMB Desk Officer, via e-mail at *pbugg@omb.eop.gov* or by fax at (202) 395–7245.

Dated: October 30, 2009.

Glenna Mickelson,

Management Analyst, Office of Chief Information Officer.

[FR Doc. E9–26517 Filed 11–3–09; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 0909231319–91320–01]

Annual Retail Trade Survey

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of determination.

SUMMARY: The Bureau of the Census (Census Bureau) publishes this notice to announce that the Director has determined the need to conduct the Annual Retail Trade Survey (ARTS). Through this survey, the Census Bureau will collect data covering annual sales, e-commerce sales, year-end inventories held inside and outside the United States, total operating expenses, purchases, accounts receivables, and for selected industries merchandise line sales, percent of sales by class of customer, and percent of e-commerce sales to customers located outside the United States.

ADDRESSES: The Census Bureau will furnish report forms to organizations included in the survey. Additional copies are available upon written request to the Director, U.S. Census Bureau, Washington, DC 20233–0101.

FOR FURTHER INFORMATION CONTACT: Aneta Erdie, Service Sector Statistics Division, at (301) 763–4841 or by e-mail at *aneta.erdie@census.gov.*

SUPPLEMENTARY INFORMATION: The ARTS is a continuation of similar retail trade surveys conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, annual sales, e-commerce sales, purchases, total operating expenses, accounts receivables, and year-end inventories held inside and outside the United States for 2009. The Census Bureau has determined that the conduct of this survey is necessary as these data are not available publicly on a timely basis from non-governmental or other governmental sources.

The Census Bureau will require a selected sample of firms operating retail, accommodation, and food services establishments in the United States to report in the 2009 ARTS. Companies are selected for this survey using a stratified random sample based on annual sales size with a company's probability of selection increasing with their annual sales size. We will furnish report forms to the firms covered by this survey in January 2010 and will require their submissions within 30 days after receipt. The sample of firms selected will provide, with measurable reliability, statistics on annual sales, e-commerce sales, purchases, total operating expenses, accounts receivables, and year-end inventories held both inside and outside the United States for 2009.

Sections 182, 224, and 225 of Title 13 of the United States Code authorizes the Census Bureau to take surveys that are necessary to furnish current data on the subjects covered by the major censuses. As part of this authorization, the Census Bureau conducts the ARTS to provide continuing and timely national statistical data on retail trade, and accommodation and food services activity for the period between economic censuses. For 2009, the survey will, as it has in the past, operate as a sample of retail, accommodation, and food services companies. The data collected in this survey will be similar to that collected in the past and within the general scope and nature of those inquiries covered in the economic census. These data are collected to provide a sound statistical basis for the formation of policy by various government agencies. These data will be available for use for a variety of public and business needs such as economic and market analysis, company performance, and forecasting future demand.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a current valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C. 3501–3521, OMB approved the Annual Retail Trade Survey under OMB Control Number 0607–0013.

Based upon the foregoing, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: October 28, 2009.

Robert M. Groves,

Director, Bureau of the Census.

[FR Doc. E9–26558 Filed 11–3–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900, A–580–855]

Diamond Sawblades and Parts Thereof From the People's Republic of China and the Republic of Korea: Antidumping Duty Orders

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

SUMMARY: On September 30, 2009, the United States Court of International Trade (''CIT'') ordered the Department of Commerce (''the Department'') to issue and publish antidumping duty orders and order the collection of cash deposits on subject merchandise in response to a petition for a writ of mandamus from Petitioners [1] in the antidumping duty investigation of diamond sawblades and parts thereof (''diamond sawblades'') from the People's Republic of China (''PRC'') and the Republic of Korea (''Korea''). Therefore, effective January 23, 2009, the Department will direct the U.S. Customs and Border Protection (''CBP'') to suspend liquidation and collect cash deposits on diamond sawblades from the PRC and Korea at *ad valorem* rates listed below.

DATES: *Effective Date:* January 23, 2009.

FOR FURTHER INFORMATION CONTACT: Zhulieta Willbrand or Robert Bolling, (202) 482–3147 or (202) 482–3434, respectively (Korea), AD/CVD Operations, Office 4; Alex Villanueva (202) 482–3208 (PRC), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

During the original investigation, the International Trade Commission (''ITC'') published its final determination that an industry in the United States was not materially injured or threatened with material injury by reason of imports of diamond sawblades from the PRC and Korea.[2] The Petitioners challenged the ITC's final negative determination, and on February 6, 2008, the CIT remanded the determination to the ITC for reconsideration.[3] Upon remand, the ITC changed its determination and found that a U.S. industry is threatened with material injury by reason of imports of diamond sawblades from the PRC and Korea.[4]

The CIT issued a confidential opinion sustaining the ITC's injury determination on remand on January 13, 2009. *See DSMC* v. *US,* No. 06–00247, Slip Op. 09–05 (CIT Jan. 13, 2009) (*''DSMC''*). The ITC informed the Department by letter dated January 22, 2009, that the CIT's January 13, 2009, opinion in *DSMC* sustains the ITC's threat-of-material-injury determination. Accordingly, on February 10, 2009, the Department published notice of the court's decision that is not ''in harmony'' with the ITC's Final Determination in the **Federal Register.**[5] In the *Timken Notice,* the Department stated that effective January 23, 2009, the Department suspended liquidation pending the expiration of the period to appeal or pending a final decision of the U.S. Court of Appeals for the Federal Circuit (''CAFC'') if *DSMC* is appealed. Additionally, in the *Timken Notice* the Department stated that upon notice from the ITC of no appeal or, if appealed, of a ''conclusive'' decision by the CAFC affirming *DSMC,* antidumping duty orders on diamond sawblades from the PRC and Korea will be issued. On March 13, 2009, Ehwa Diamond Industrial Co., Ltd., and Saint-Gobain Abrasives, Inc., appealed the ITC's remand decision in the CAFC. Consequently, the Department did not issue and publish antidumping duty orders on diamond sawblades from the PRC and Korea.

DSM Coalition filed a petition for a writ of mandamus compelling the Department to issue antidumping duty orders and require collection of cash deposits in the respective investigations. On September 30, 2009, the CIT ordered the Department to immediately issue and publish antidumping duty orders and collect cash deposits covering imports of diamond sawblades from the PRC and Korea.[6]

Scope of the Orders

The products covered by these orders are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of these orders are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of these orders. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of these orders. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of these orders. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of these orders. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of these orders. Merchandise subject to these orders is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of these orders is dispositive.

Scope Rulings

During the course of the investigations, the Department issued several scope rulings, all of which were affirmed through the final

[1] Diamond Sawblades Manufacturers Coalition (''DSM Coalition'').

[2] *See Diamond Sawblades and Parts Thereof From China and Korea,* 71 FR 39128 (July 11, 2006) (*''ITC Final Determination''*).

[3] *See Diamond Sawblades Mfr's Coalition* v. *United States,* No. 06–247, Slip Op. 2008–18 (CIT February 6, 2008).

[4] *See Diamond Sawblades and Parts Thereof from China and Korea:* Investigation Nos. 731–TA–1092 and 1093 (Final) (Remand), USITC Pub. 4007 (May 2008).

[5] *See Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea: Notice of Court Decision Not In Harmony With Final Determination of the Antidumping Duty Investigations,* 74 FR 6570 (February 10, 2009) (*''Timken Notice''*).

[6] *Diamond Sawblades Manufacturers Coalition* v. *United States,* Nos. 06–247, 09–110, Slip Op. 09–107 (Sept. 30, 2009) (''Mandamus Order'').

determinations.[7] Specifically, in the *Final Determinations,* the Department ruled that concave and convex cores, and finished diamond sawblades produced from such cores, are within the scope of the investigations.[8] The Department also ruled that metal-bonded, diamond 1A1R grinding wheels and granite contour diamond sawblades are within the scope of the investigations. *Id.* Moreover, the Department confirmed that the Rockwell C hardness threshold contained in the scope of the investigation applies only to cores, and not to finished diamond sawblades. *Id.* Lastly, the term ''sawblade'' is defined as those products that meet the 1A1R specification, where the segment thickness is larger than the thickness of the core.[9]

Effective Date of Orders

As discussed above, the Department ordered suspension of liquidation of diamond sawblades from the PRC and Korea on January 23, 2009, and collection of zero cash deposits. The CIT's order of September 30, 2009, did not address the effective date of any potential antidumping duty orders on the PRC and Korea. Therefore, because suspension of liquidation is already in effect for all entries of diamond sawblades from the PRC and Korea entered, or withdrawn from the warehouse, for consumption on or after January 23, 2009, the effective date of these antidumping duty orders on the PRC and Korea is January 23, 2009. Consequently, the Department will direct U.S. Customs and Border Protection to collect a cash deposit on all unliquidated entries of diamond sawblades as of January 23, 2009, from the PRC and Korea at the rates listed below.

DIAMOND SAWBLADES AND PARTS THEREOF FROM KOREA

Exporter	Producer	Weighted-average margin (percent)
Ehwa Diamond Industrial Co., Ltd.	Ehwa Diamond Industrial Co., Ltd.	12.76
Shinhan Diamond Industrial Co.	Shinhan Diamond Industrial Co.	26.55
Hyosung Diamond Industrial Co., Ltd.	Hyosung Diamond Industrial Co., Ltd.	6.43
All Others		16.39

For the PRC the cash deposit rate for all exporter-producer combinations not listed below will be equal to the estimated weighted-average antidumping duty margin applicable to the combination. The ''PRC-wide'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average antidumping duty margins are as follows:

DIAMOND SAWBLADES FROM THE PRC

Exporter	Producer	Weighted-average margin percent
Advanced Technology & Materials Co., Ltd	Advanced Technology & Materials Co., Ltd	[10] 2.82
Bosun Tools Group Co., Ltd	Bosun Tools Group Co., Ltd	35.51
Danyang Huachang Diamond Tools Manufacturing Co., Ltd	Danyang Huachang Diamond Tools Manufacturing Co., Ltd	21.43
Danyang NYCL Tools Manufacturing Co., Ltd	Danyang NYCL Tools Manufacturing Co., Ltd	21.43
Danyang Youhe Tool Manufacturer Co., Ltd	Danyang Youhe Tool Manufacturer Co., Ltd	21.43
Fujian Quanzhou Wanlong Stone Co., Ltd	Fujian Quanzhou Wanlong Stone Co., Ltd	21.43
Guilin Tebon Superhard Material Co., Ltd	Guilin Tebon Superhard Material Co., Ltd	21.43
Hebei Jikai Industrial Group Co., Ltd	Hebei Jikai Industrial Group Co., Ltd	48.50
Huzhou Gu's Import & Export Co., Ltd	Danyang Aurui Hardware Products Co., Ltd	21.43
Huzhou Gu's Import & Export Co., Ltd	Danyang Huachang Diamond Tools Manufacturing Co., Ltd	21.43
Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd	Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd	21.43
Jiangyin Likn Industry Co., Ltd	Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd	21.43
Jiangyin Likn Industry Co., Ltd	Wuhan Wanbang Laser Diamond Tools Co	21.43
Qingdao Shinhan Diamond Industrial Co., Ltd	Qingdao Shinhan Diamond Industrial Co., Ltd	21.43
Quanzhou Zhongzhi Diamond Tool Co., Ltd	Quanzhou Zhongzhi Diamond Tool Co., Ltd	21.43
Rizhao Hein Saw Co., Ltd	Rizhao Hein Saw Co., Ltd	21.43
Shanghai Deda Industry & Trading Co., Ltd	Hua Da Superabrasive Tools Technology Co., Ltd	21.43
Shanghai Robtol Tool Manufacturing Co., Ltd	Shanghai Robtol Tool Manufacturing Co., Ltd	21.43
Shijiazhuang Global New Century Tools Co., Ltd	Shijiazhuang Global New Century Tools Co., Ltd	21.43

[7] *See Notice of Final Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the Republic of Korea,* 71 FR 29310 (May 22, 2006), and *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 29303 (May 22, 2006), (collectively, ''*Final Determinations*'').

[8] *See Final Determinations* and Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, ''Issues and Decision Memorandum for the Final Determination'', dated May 15, 2006 (''Issues and Decision Memorandum'') at Comment 2.

[9] *See* Petitioner's May 3, 2005, submission at Exhibit I–10 (''The segment or rim is slightly wider than the steel blade to allow the attacking edge to penetrate the material without the steel blade rubbing against it''); Petitioner's May 10, 2005, submission, at 14 (''the segment or rim is slightly wider than the steel blade to allow the attacking edge to penetrate the material without the steel blade rubbing against it''); Transcript to April 25, 2006, Public Hearing in the companion investigation of diamond sawblades from the PRC (statement by Petitioner that the ''international codes for * * * sawblades are 1A1R, 1A1RS, and 1A1RSS, where the R means recessed. And that refers to the core, {where} the core is thinner than the segments''); and ITC Investigation No. 731–TA–1093, August 2005 (''The segment, or rim, is slightly wider than the steel blade to permit the leading edge to penetrate the material without the steel blade rubbing against it and to discourage blade binding'').

DIAMOND SAWBLADES FROM THE PRC—Continued

Exporter	Producer	Weighted-average margin percent
Sichuan Huili Tools Co	Chengdu Huifeng Diamond Tools Co., Ltd	21.43
Sichuan Huili Tools Co	Sichuan Huili Tools Co	21.43
Weihai Xiangguang Mechanical Industrial Co., Ltd	Weihai Xiangguang Mechanical Industrial Co., Ltd	21.43
Wuhan Wanbang Laser Diamond Tools Co	Wuhan Wanbang Laser Diamond Tools Co	21.43
Xiamen ZL Diamond Tools Co., Ltd	Xiamen ZL Diamond Tools Co., Ltd	21.43
Zhejiang Tea Import & Export Co., Ltd	Danyang Dida Diamond Tools Manufacturing Co., Ltd	21.43
Zhejiang Tea Import & Export Co., Ltd	Danyang Tsunda Diamond Tools Co., Ltd	21.43
Zhejiang Tea Import & Export Co., Ltd	Wuxi Lianhua Superhard Material Tools Co., Ltd	21.43
Zhejiang Wanli Tools Group Co., Ltd	Zhejiang Wanli Super-hard Materials Co., Ltd	21.43
Zhenjiang Inter-China Import & Export Co., Ltd	Danyang Weiwang Tools Manufacturing Co., Ltd	21.43
PRC-Wide Rate		164.09

This notice constitutes the antidumping duty orders with respect to diamond sawblades from the PRC and Korea pursuant to the CIT's Mandamus Order. Interested parties may contact the Department's Central Records Unit, Room 1117 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

Dated: October 30, 2009.

Kelly Parkhill,

Acting Director, Office of Policy for Import Administration.

[FR Doc. E9–26680 Filed 11–3–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Folding Metal Tables and Chairs From the People's Republic of China: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review

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

DATES: *Effective Date:* November 4, 2009.

FOR FURTHER INFORMATION CONTACT: Giselle Cubillos, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1778.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 2008, the Department of Commerce (''Department'') published the initiation of the administrative review of the antidumping duty order on folding metal tables and chairs from the People's Republic of China (''PRC''). *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). On July 7, 2009, the Department published the preliminary results of review. *See Folding Metal Tables and Chairs from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 32118 (July 7, 2009). This review covers the period June 1, 2007, through May 31, 2008.

Extension of Time Limit for Final Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''Act''), the Department shall make a final determination in an administrative review of an antidumping duty order within 120 days after the date on which the preliminary results are published. The Act further provides, however, that the Department may extend that 120-day period to 180 days after the preliminary results if it determines it is not practicable to complete the review within the foregoing time period.

The Department finds that it is not practicable to complete the final results of the administrative review of folding metal tables and chairs from the PRC within the 120-day time limit due to complex issues the parties have raised related to surrogate financial statements and market economy purchases. We find that additional time is needed to complete these final results. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for completion of the final results of this review, which is currently due on November 4, 2009, by 30 days to 150 days after the date on which the preliminary results was published. Therefore, the final results are now due no later than December 4, 2009.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: October 29, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–26578 Filed 11–3–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–801]

Ball Bearings and Parts Thereof From the United Kingdom: Final Results of Changed-Circumstances Review

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

SUMMARY: The Department of Commerce (the Department) has determined, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), that SKF (UK) Ltd. is the successor-in-interest to SNFA Bearings Ltd. and, as a result, should be accorded the same treatment as SKF (UK) Ltd.

DATES: *Effective Date:* November 4, 2009.

FOR FURTHER INFORMATION CONTACT: Kristin Case at (202) 482–3174 or Richard Rimlinger at (202) 482–4477, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

[10] Including Beijing Gang Yan Diamond Products Company as an exporter when merchandise was also produced by Beijing Gang Yan Diamond Products Company, and Yichang HXF Circular Saw Industrial Co., Ltd as an exporter when merchandise was also produced by Yichang HXF Circular Saw Industrial Co., Ltd

SUPPLEMENTARY INFORMATION:

Background

The Department published an antidumping duty order on ball bearings and parts thereof from the United Kingdom on May 15, 1989. See *Antidumping Duty Orders and Amendments to the Final Determinations of Sales at Less Than Fair Value: Ball Bearings and Cylindrical Roller Bearings and Parts Thereof From the United Kingdom,* 54 FR 20910 (May 15, 1989). On July 12, 2001, the Department revoked the antidumping duty order on ball bearings and parts thereof from the United Kingdom with respect to SNFA Bearings Ltd. (SNFA UK). See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part,* 66 FR 36551 (July 12, 2001).

On January 26, 2007, SNFA UK, a subsidiary of SNFA S.A.S.U. (SNFA), and SKF UK Ltd. (SKF UK) notified the Department of a change in the ownership of SNFA. Specifically, SNFA UK and SKF UK notified the Department that, on July 4, 2006, through its subsidiary SKF Holding France S.A., AB SKF purchased all outstanding shares of SNFA. On March 9, 2007, we initiated a changed-circumstances review of the antidumping duty order on ball bearings and parts thereof from the United Kingdom. See *Ball Bearings and Parts Thereof from Italy and the United Kingdom: Initiation of Antidumping Duty Changed-Circumstances Reviews,* 72 FR 10643 (March 9, 2007).[1]

On January 30, 2008, SKF UK and SNFA UK notified the Department that the companies had moved SNFA UK's production facilities to the grounds of SKF UK's Stonehouse operations[2] and that SNFA UK's assets had been legally transferred to SKF UK. SKF UK and SNFA UK also explained that, with the asset transfer, SNFA UK began operating as a part of SKF UK. On May 27, 2008, the Department preliminarily found that SKF UK is the successor-in-interest to SNFA UK. See *Ball Bearings and Parts Thereof from the United Kingdom: Preliminary Results of Changed-Circumstances Review,* 73 FR 30378 (May 27, 2008). We invited interested parties to comment on the preliminary results. We received case and rebuttal briefs. We did not hold a hearing.

Scope of the Order

The products covered by the order are ball bearings and parts thereof. These products include all bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules of the United States (HTSUS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

As a result of recent changes to the HTSUS, effective February 2, 2007, the subject merchandise is also classifiable under the following additional HTSUS item numbers: 8708.30.5090, 8708.40.7500, 8708.50.7900, 8708.50.8900, 8708.50.9150, 8708.50.9900, 8708.80.6590, 8708.94.75, 8708.95.2000, 8708.99.5500, 8708.99.68, and 8708.99.8180.

Although the HTSUS item numbers above are provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.

Analysis of Comments Received

The issues raised in the case briefs by parties in this review are addressed in the Issues and Decision Memorandum from Laurie Parkhill, Office Director, AD/CVD Enforcement, Office 5, to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, dated concurrently with this notice (Decision Memo), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded is in the Decision Memo and attached to this notice as an Appendix. The Decision Memo, which is a public document, is on file in the Central Records Unit, main Department of Commerce building, Room 1117, and is accessible on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Changed-Circumstances Review

For the reasons stated in the preliminary results and the Decision Memo, we continue to find that SKF (UK) Ltd. is the successor-in-interest to SNFA UK and, as a result, should be accorded the same treatment as SKF UK. Accordingly, the Department will instruct U.S. Customs and Border Protection to suspend liquidation of all shipments of the subject merchandise produced or exported by either SNFA UK or SKF UK's SNFA operations and entered, or withdrawn from warehouse, for consumption, on or after the publication date of this notice in the **Federal Register** at 18.64 percent which is the current cash-deposit rate for SKF UK. This deposit requirement shall remain in effect until further notice.

Notification

This notice also serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221.

Dated: October 28, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

1. Successorship.
2. Effective Date of Determination.

[FR Doc. E9–26600 Filed 11–3–09; 8:45 am]

BILLING CODE 3510–DS–P

[1] On October 26, 2007, we rescinded the changed-circumstances review of the antidumping duty order on ball bearings and parts thereof from Italy. See *Ball Bearings and Parts Thereof from France and Italy: Rescission of Antidumping Duty Changed-Circumstances Reviews,* 72 FR 60798 (October 26, 2007).

[2] SKF UK produces ball bearings only at its Stonehouse operations.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 46–2009]

Foreign-Trade Zone 265—Conroe, TX; Application for Subzone; Materials Science Technology, Inc.; (Elastomer and Fire Retardant Chemical Manufacturing); Conroe, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Conroe, grantee of FTZ 265, requesting special-purpose subzone status for the elastomer manufacturing facility of Materials Science Technology, Inc, (MST), located in Conroe, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 27, 2009.

MST's facility (20 employees, 10,000 square feet of enclosed space) is located at 3607 North Loop 336 West, Conroe, Texas. The facility is used for the research, development, manufacturing, warehousing and distribution of a polyphosphazene elastomer intermediate which will be used in aerospace, oil and gas production, and medical device applications. Current annual production capacity is 15 metric tons with projections up to 100 metric tons. The request indicates that the manufacturing process also produces a fire-retardant chemical by-product. Components and materials sourced from abroad (representing some 20% of the value of the finished product) include: octafluoropentanol, trifluoroethanol, and phosphonitrilic chloride trimer (duty rates range from 2.8% to 5.5%).

FTZ procedures could exempt MST from customs duty payments on the foreign components used in export production. The company anticipates that some 50 percent of the plant's shipments will be exported. On its domestic sales, MST would be able to choose the duty rates during customs entry procedures that apply to the elastomer (duty-free) and the fire-retardant chemical (2.8%) for the foreign inputs noted above. FTZ designation would further allow MST to realize logistical benefits through certain customs procedures. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, Diane Finver of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 4, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 19, 2010.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane_Finver@ita.doc.gov* (202) 482–1367.

Dated: October 27, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–26538 Filed 11–3–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of public comment period for the Revised Management Plan for the Jacques Cousteau National Estuarine Research Reserve.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce is announcing a thirty-day public comment period on the Jacques Cousteau National Estuarine Research Reserve Management Plan Revision.

The Jacques Cousteau National Estuarine Research Reserve was designated in 1998 pursuant to section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. The reserve has been operating in partnership with the Institute of Marine and Coastal Sciences of Rutgers, the State University of New Jersey under a management plan approved in 1997. Pursuant to 15 CFR 921.33(c), a state must revise its management plan at least every five years. The submission of this plan fulfills this requirement and sets a course for successful implementation of the goals and objectives of the reserve. A previous draft of the management plan revision was made available for public comment on August 13, 2009, in the **Federal Register** (Vol. 74, No. 155, Pages 40814–5), which considered the addition of new components in Monmouth and Cumberland Counties to the Tuckerton-based reserve (pages 57 and 69 of draft management plan). References to a multi-component reserve have been removed and a revised version of the draft management plan is available for a new thirty-day public comment period.

FOR FURTHER INFORMATION CONTACT: Michael Migliori at (301) 563–1126 or Laurie McGilvray at (301) 563–1158 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910. For copies of the Jacques Cousteau Management Plan revision, visit *http://www.jcnerr.org/.*

Dated: October 30, 2009.

Donna Wieting,

Acting Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E9–26587 Filed 11–3–09; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–910]

Circular Welded Carbon Quality Steel Pipe From the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review

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

SUMMARY: On August 25, 2009, the U.S. Department of Commerce (''the Department'') published a notice of initiation of an administrative review of the antidumping duty order on circular welded carbon quality steel pipe (''CWP'') from the People's Republic of China (''PRC''). The review covers 14 producers/exporters of CWP from the PRC. Based on the withdrawals of all requests for review, we are now rescinding this administrative review in full.

DATES: *Effective Date:* November 4, 2009.

FOR FURTHER INFORMATION CONTACT: Thomas Martin, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3936.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2009, the Department published a notice of initiation of an administrative review of the antidumping duty order on CWP from the PRC covering the period, January 15, 2008—June 30, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 42873 (August 25, 2009) (''*Initiation''*). On September 30, 2009, Allied Tube & Conduit, Sharon Tube Company, IPSCO Tubulars, Inc., Western Tube & Conduit Corporation, Northwest Pipe Company, Wheatland Tube Co., *i.e.,* the Ad Hoc Coalition For Fair Pipe Imports From China (collectively known as, ''Petitioners'') withdrew their request for a review of the following 13 companies: Baoshan Iron & Steel Co., Ltd., Jiangsu Yulong Steel Pipe Co., Ltd., Liaoning Northern Steel Pipe Co., Ltd., Hunan Hengyang Steel Tube (Group) Co., Ltd., CNOOC Kingland Pipeline Co., Ltd., Jiangsu Changbao Steel Tube Co., Ltd., Wuxi Fastube Industry Co., Ltd., Weifang East Steel Pipe Co., Ltd., Tianjin Shuangjie Steel Pipe Co., Ltd., Zhejiang Kingland Pipeline Industry Co., Ltd., SteelFORCE Far East Ltd., Tianjin Baolai International Trade Co., Ltd., and Shanghai Zhongyou TIPO Steel Pipe Co., Ltd. Petitioners were the only party to request a review of these companies. On October 5, 2009, Sino Link SCS (Asia) Limited (''Sino Link'') withdrew its own request for a review.

Rescission of Antidumping Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. Because Petitioners and Sino Link submitted their requests to rescind the administrative review within 90 days of the date of publication of the notice of initiation, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(1).

Assessment Instructions

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. For companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 29, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–26556 Filed 11–3–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009–OS–0160]

Proposed Collection; Comment Request

AGENCY: Department of Defense, Under Secretary of Defense (Acquisition, Technology and Logistics), Deputy Under Secretary of Defense (Industrial Policy), Industrial Base Assessment.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Under Secretary of Defense (Acquisition, Technology and Logistics), Deputy Under Secretary of Defense (Industrial Policy), Industrial Base Assessment announces the extension of a public information collection and seeks public comment on the provisions thereof. 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 of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitted comments.

Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and

associated collection instruments, please write to the Under Secretary of Defense (Acquisition, Technology and Logistics), Deputy Under Secretary of Defense (Industrial Policy), Industrial Base Assessment, *Attn:* Ms. Dawn Vehmeier, 3015 Defense Pentagon, Washington, DC 20301–3014, or call Industrial Base Assessment, at (703) 602–4322.

Title, Associated Form; and OMB Number: Industrial Capabilities Questionnaire; DD Form 2737; OMB Number 0704–0377.

Needs and Uses: As part of its responsibilities to facilitate a diverse, responsive, and competitive industrial base, the Department of Defense (DoD) requires accurate, pertinent, and up to date information as to industry's ability to satisfy defense needs. The Industrial Capabilities Questionnaire will be used by all Services and the Defense Logistics Agency to gather business, industrial capability (employment, skills, facilities, equipment, processes, and technologies), and manufactured end item information to conduct required industrial assessments and to support DoD strategic planning and decisions. Such data is essential to the Department of Defense for peacetime and wartime industrial base planning. All DD Form 2737 data submitted to the Department of Defense, Military Services or Defense Agencies are treated as Proprietary Company Confidential information and protected from release to other parties.

Affected Public: Business or other for-profit.

Annual Burden Hours: 12,800.

Number of Respondents: 153,600.

Responses per Respondent: 1.

Average Burden per Response: 12 hours.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are industry professionals who provide information to the requesting DoD agency on the industrial capabilities associated with the subject facility being reviewed. The DoD agencies were directed to solicit only those data elements within this form necessary to conduct the particular planning or assessment task at hand. This approach is used to minimize the burden for data requests on industry and limit the retention of in-house data to that essential to supporting defense decisions and plans. A significant portion of this information will be collected electronically and, with appropriate measures to protect sensitive data, will be made available to authorized users in the Department to support a wide variety of industrial capability analyses. These analyses are used to support cost effective acquisition of defense systems and key troop support/consumable items, assess the implications of changes in defense spending on industry, development of responsive logistics support efforts, and industrial preparedness planning and readiness analyses. The lack of accurate, current and relevant industry capability information will adversely impact the integrity of the Department's decisions and planning efforts.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26487 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2009–OS–0162]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995*, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Community and Family Policy) Office of Communication, *Attn:* Isabel Hodge, 4000 Defense Pentagon Rm 2E335, Washington, DC 20301–4000 or call at (703) 697–2476.

Title, Associated Form, and OMB Control Number: Exceptional Family Member Program, Family Member Medical Summary Form; DD Form 2792 and Special Education/Early Intervention Summary Form; DD Form 2792–1; OMB Control Number 0704–0411.

Needs and Uses: This information collection requirement is necessary to screen members of military families to determine if they have special medical or educational conditions so that these conditions can be taken into consideration when the Service member is being assigned to a new location with his/her family. The information is used by the personnel system to identify special considerations for future assignments. The DD Form 2792, *Family Member Medical Summary*, associated with this information collection, will also be used by civilian personnel offices to identify family members of civilian employees who have special needs in order to advise the civilian employee of the availability of service sin the location where they will be potentially employed. Local and state school personnel will complete DD Form 2792–1, *Special Education/Early Intervention Summary*, for children requiring special educational services. The DD Form 2792 and DD Form 2792–1 is also used by TRICARE Managed Care Support Contractors to support a family member's application for further entitlements, and other Service-specific programs that require registration in the Exceptional Family Member Program.

Affected Public: Individuals or households; State, local or tribal government.

Annual Burden Hours: 15,909.
Number of Respondents: 35,360.
Responses per Respondent: 1.
Average Burden Per Response: 30 minutes.
Frequency: Tri-annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Military Departments of the Department of Defense screen all family members prior to a Service member and Federal employee being assigned to an overseas location and to some assignments in the United States. DD Form 2792, *Family Member Medical Summary*, and/or DD Form 2792–1, *Special Education/Early Intervention Summary*, will be completed for family members who have been identified with a special medical and/or educational need to document the medical and/or educational needs and service requirements. Their needs will be matched to the resources available at the overseas location to determine the feasibility of receiving appropriate services in that location. The information is used by the Military Service's personnel offices for purposes of assignment only. DD Form 2792 and/or DD 279201 will also be completed for family members of civilian employees to document their special health and/or educational needs in order to advise the civilian employee of the availability of the needed services. The DD Form 2792 and DD Form 2792–1 is also used by TRICARE Managed Care Support Contractors to support a family member's application for further entitlements, and other Service-specific programs that require registration in the Exceptional Family Member Program.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26488 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2009–HA–0157]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the submission of a new information collection. 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 of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Assistant Secretary of Defense for Health Affairs (OASD), ATTN: Ms. Kathie McCracken, Clinical & Program Policy, 5111 Leesburg Pike, Suite 810A, Falls Church, VA. 22041–3206, or call (703) 681–1716.

Title; Associated Form; and OMB Number: Retired Troops to Nurse Teachers Survey; OMB Control Number 0720–TBD.

Needs and Uses: The 2008 National Defense Authorization Act (Conference Report) gives impetus to this study, which calls for an evaluation of the provision in the Troops to Nurse Teachers (TNT) Act of 2008. Specifically, DoD will examine the feasibility and merits of this congressional proposal that outlines a program to encourage former military nurses to take faculty positions in nursing schools, for the purpose of encouraging more nurse graduates to consider military service. The Department will survey military nurses who are on active duty but close to retirement eligibility (20 years of service), or recently retired. The primary purpose of collecting data from this group is to determine what factors would attract a retiree to teach nursing. The survey will also cover civilian nursing school students to determine what incentives might entice them to seek positions in the military.

Affected Public: Individuals or households.

Annual Burden Hours: 576.
Number of Respondents: 1,744.
Responses per Respondent: 1.
Average Burden per Response: .33 (20 minutes).
Frequency: One Time.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The purpose of this study is to respond to the 2008 National Defense Authorization Act (Conference Report) to evaluate the provision in the Troops to Nurse Teachers (TNT) Act 2008 that encourages retired military nurses to become nurse educators. This study gives impetus for a one-time and voluntary data collection effort that yields timely and objective information that can be used to help inform DoD policy makers about the critical need for increasing and maintaining the supply of military nurses. Specifically, the study will examine the feasibility and merits of the Congressional proposal to create incentives for former military nurses to take faculty positions in nursing schools, for the purpose of encouraging more nurse graduates to consider military service. In doing so, the study will evaluate the retired nursing provision in the context of the broader issue of military nurse supply. RAND will survey military nurses who are on active duty but close to retirement eligibility (20 years of service), or recently retired. The primary purpose of collecting data from this group is to determine what factors would attract a retiree to teach nursing. The process will also involve a survey of current civilian nursing school students who are in their last year of an accredited BSN degree program, and are eligible to enter the military upon graduation. The primary purpose for collecting data from students is to explore what factors may or may not influence them to join the military,

including a range of financial and educational incentives.

Dated: October 28, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26491 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2009–OS–0165]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy/Accession Policy), ATTN: Major Arturo Roque. 4000 Defense Pentagon, Washington, DC 20301–4000, or call at (703) 695–5527.

Title, Associated Form, and OMB Control Number: Title from OMB Form 83–I, block 7; Police Record Check; DD Form 369, OMB Number 0704–0007.

Needs and Uses: This information collection requirement is necessary to obtain information about arrests and criminal records on applicants to the Armed Forces of the United States. The DD Form 369, Police Records Check, is used to identify any disqualifying history regarding arrests or convictions.

Affected Public: State, local, or tribal government.

Annual Burden Hours: 78,750.

Number of Respondents: 175,000.

Responses per Respondent: 1.

Average Burden per Response: 27 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information is collected to provide the Armed Services with background information on an applicant. History of criminal activity, arrests, or confinement is disqualifying for military service. The respondents will be local and State law enforcement agencies. The DD Form 369, Police Record Check, is the method of information collection; responses are to reference any records on the applicant. The information will be used to determine suitability of the applicant for the military service.

Dated: October 30, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26521 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2009–OS–0158]

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces a proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Finance and Accounting Service—Cleveland, DFAS–CL/JFRA, ATTN: Theresa Matthes, 1240 E. 9th Street, Cleveland, OH 44199, or call Theresa Matthes, 216–204–2383.

Title, Associated Form, and OMB Number: Physician Certificate for Child Annuitant, DD Form 2828, OMB License 0730–0011.

Needs and Uses: This form is required and must be on file to support an incapacitation occurring prior to age 18. The form provides the authority for the Directorate of Annuity Pay, Defense Finance and Accounting Service—Cleveland (DFAS–CL/JFRA) to establish and pay a Retired Serviceman's Family

Protection Plan (RSFPP) or Survivor Benefit Plan (SBP) annuity to the incapacitated individual.

Affected Public: Incapacitated child annuitants, and/or their legal guardians, custodians and legal representatives.

Annual Burden Hours: 240 hours.

Number of Respondents: 120.

Responses per Respondent: 1.

Average Burden Per Response: 2 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The form will be used by the Directorate of Annuity Pay, Defense Finance and Accounting Service—Cleveland (DFAS–CL/JFRA), in order to establish and start the annuity for a potential child annuitant. When the form is completed, it will serve as a medical report to substantiate a child's incapacity. The law requires that an unmarried child who is incapacitated must provide a current certified medical report. When the incapacity is not permanent a medical certification must be received by DFAS–CL/JFRA) every two years in order for the child to continue receiving annuity payments.

Dated: October 21, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26492 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2009–HA–0161]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health affairs announces the extension of a proposed public information collection and seeks public comment on the provisions thereof. 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 of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov.

Follow the instructions for submitting comments.

Mail: Federal docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to TRICARE Management Activity, Medical Benefits and Reimbursement Systems, 16401 East Centretch Parkway, ATTN: David Bennett, Aurora, CO 80011–9043, or call TRICARE Management Activity, Medical Benefits and Reimbursement Systems, at (303) 676–3494.

Title and OMB Number: Application for TRICARE–Provider Status: Corporation Services Provider; OMB Number 0720–0020.

Needs and Uses: The information collection will allow eligible providers to apply for Corporate Services Provider status under the TRICARE program.

Affected Public: Businesses or other for-profit; not-for-profit institutions.

Annual Burden Hours: 200.

Number of Respondents: 200.

Responses for Respondent: 1.

Average Burden per Response: 60 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

On March 10, 1999, TRICARE Management Activity (TMA), formerly known as OCHAMPUS, published a finale rule in the **Federal Register** (64 FR 11765), creating a fourth class of TRICARE providers consisting of freestanding corporations and foundations that render principally professional ambulatory or in-home care and technical diagnostic procedures. The intent of the rule was not to create additional benefits that ordinarily would not be covered under TRICARE if provided by a more traditional health care delivery system, but rather to allow those services which would otherwise be allowed except for an individual provider's affiliation with a freestanding corporate facility. The addition of the corporate class will recognize the current range of providers within today's health care delivery structure, and give beneficiaries access to another segment of the health care delivery industry. Corporate services providers must be approved for Medicare payment, or when Medicare approval status is not required, be accredited by a qualified accreditation organization to gain provider authorization status under TRICARE. Corporate services providers must also enter into a participation agreement which will be sent out as part of the initial authorization process. The participation agreement will ensure that TRICARE determined allowable payments, combined with the cost-share/copayment, deductible, and other health insurance amounts, will be accepted by the provider as payment in full.

The application for TRICARE–Provider Status: Corporate Services Provider, will collect the necessary information to ensure that the conditions are met for authorization as a TRICARE corporate services provider: *i.e.,* the provider (1) is a corporation or a foundation, but not a professional corporation or professional association; (2) provides services and related supplies of a type rendered by TRICARE individual professional providers or diagnostic technical services; (3) is approved for Medicare payment or when Medicare approval status is not required, is accredited by a qualified accreditation organization; and (4) has entered into a participation agreement approved by the Executive Director, TMA or a designee.

The collected information will be used by TRICARE contractors to process claims and verify authorized provider status. Verification involves collecting and reviewing copies of the provider's licenses, certificates, accreditation documents, etc. If the criteria are met, the provider is granted TRICARE-authorization status. The documentation and information are collected when: (1) A provider requests permission to become a TRICARE-authorized provider; (2) a claim is filed for care

received from a provider who is not listed on the contractors' computer listing of authorized providers; or (3) when a former TRICARE-authorized provider requests reinstatement.

The contractors develop the forms used to gather information based on TRICARE conditions for participation listed above. Without the collection of this information, contractors cannot determine if the provider meets TRICARE-authorization requirements for corporate services providers. If the contractor is unable to verify that a provider meets these authorization requirements, the contractor may not reimburse either the provider or the beneficiary for the provider's health care services.

To reduce the reporting burden to a minimum, TRICARE has carefully selected the information requested from respondents. Only that information which has been deemed absolutely essential is being requested. If necessary, contractors may verify credentials with Medicare, JCAHO and other national organizations by telephone. TRICARE is also participating with Medicare in the development of a National Provider System which will eliminate duplication of provider certification data collection among Federal government agencies.

TRICARE contractors are required to maintain a computer listing of all providers that have submitted the appropriate authorization information and documentation. To avoid duplicate inquires, the contractors must search the computer provider listing before requesting documentation from providers. Since the providers affected by this information collection generally have not previously been eligible to be authorized providers, TRICARE contractors will have no information on file. The providers will have to submit the information requested on the data collection form (Application for TRICARE–Providers Status: Corporate Services Provider) in order to obtain provider authorization status under TRICARE.

The information will usually be collected from each respondent only once. It is estimated that there will be approximately 200 applicants per year. TRICARE will request the provider authorization documentation and information when the provider asks to become TRICARE-authorized or when a claim is filed for a new provider's services. If after a provider has been authorized by a contractor, no claims are filed during two-year period of time, the provider's information will be placed in the inactive file. To reactivate a file, the provider must verify that the information is still correct, or supply new or changed information. The total annual reporting burden is estimated to be 200 hours.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26490 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2009–OS–0163]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Public Affairs, DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Public Affairs announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Assistant Secretary of Defense for Public Affairs, *Attn:* CR&PL (Lt Col Phillip Waite), 1400 Defense, The Pentagon, Washington, DC 20301–1400, or call the Directorate for Community Relations and Public Liaison at (703) 695–2113.

Title; Associated Form; and OMB Number: Request for Armed Forces Participation in Public Events (Non-Aviation), DD Form 2536 and Request for Military Aerial Support, DD Form 2535; OMB Number 0704–0290.

Needs and Uses: This information collection requirement is necessary to evaluate the eligibility of events to receive Armed Forces community relations support and to determine whether requested military assets are available.

Affected Public: Individuals or households; State or local governments; Federal agencies or employees; non-profit institutions.

Annual Burden Hours: 17,850.

Number of Respondents: 51,000.

Responses per Respondent: 1.

Average Burden Per Response: 21 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are individuals or representatives of Federal and non-Federal government agencies, community groups, non-profit organizations, and civic organizations requesting Armed Forces support for patriotic events conducted in the civilian domain. DD Forms 2535 and 2536 record the type of military support requested, event data, and sponsoring organization information. The completed forms provide the Armed Forces the minimum information necessary to determine whether an event is eligible for military participation and whether the desired support is permissible and/or available. If the forms are not provided, the review process is greatly increased because the Armed Forces must make additional written and telephonic inquiries with the event sponsor. In addition, use of the forms reduces the event sponsor's preparation time because the forms provide a detailed outline of

information required, eliminate the need for a detailed letter, and contain concise information necessary for determining appropriateness of military support. Use of the forms is essential to reduce preparation and processing time, increase productivity, and maximize responsiveness to the public.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26486 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2009–OS–0164]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy/Accession Policy), ATTN: MAJ Arturo Roque, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 695–5527.

Title, Associated Form, and OMB Control Number: Title from OMB Form 83–I, block 7; Record of Military Processing, Armed Forces of the United States; DD Form 1966, OMB Number 0704–0173.

Needs and Uses: This information collection requirement is necessary to obtain data on individuals applying for enlistment in the Armed Forces of the United States to determine eligibility for enlistment. The information collected accompanies the applicant throughout the enlistment process. It also is used for establishing personal records on those who enlist.

Affected Public: Individuals or households.

Annual Burden Hours: 170,000.

Number of Respondents: 510,000.

Responses per Respondent: 1.

Average Burden per Response: 20 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Title 10 U.S.C. 504, 505, 508, 12102, and 520a, title 14 U.S.C. 351 and 632, and title 50 U.S.C. 451, require applicants to meet standards for enlistment into the Armed Forces. This information collection is the basis for determining eligibility of applicants for enlistment in the Armed Forces and is needed to verify data given by the applicant and to determine his/her qualification of enlistment. The information collected aids in the determination of qualifications, term of service, and grade in which a person, if eligible, will enter active duty or reserve status.

Dated: October 30, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26520 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Availability of the Fiscal Year 2008 United States Special Operations Command (USSOCOM) Inventory List of Contracts for Services

AGENCY: United States Special Operations Command (USSOCOM), DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with section 2330a of Title 10 United States Code as amended by the National Defense Authorization Act for Fiscal Year 2008 (NDAA 08) Section 807, the Director of Procurement USSOCOM and the Office of the Director, Defense Procurement and Acquisition Policy, Office of Strategic Sourcing (DPAP/SS) will make available to the public the first inventory of activities performed pursuant to contracts for services. The inventory will be published to the USSOCOM public portal Web site at the following location: *http://www.socom.mil/soal/Selling%20to%20SOCOM%20Document%20Library/USSOCOM_FY_2008_Inventory_List_of_Contracts_for_Services.pdf.*

DATES: Inventory to be made publically available within 30 days after publication of this notice.

ADDRESSES: Send written comments and suggestions concerning this inventory to Brad Grimm, Procurement Analyst, SORDAC–KM, 7701 Tampa Point Blvd., MacDill AFB, FL 33621–5323.

FOR FURTHER INFORMATION CONTACT: Brad Grimm at (813) 826–6797 or e-mail *bradley.grimm.ctr@socom.mil.*

Dated: October 28, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26493 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Availability of the Fiscal Year 2008 United States Transportation Command (USTRANSCOM) Services Contract Inventory

AGENCY: USTRANSCOM, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with section 2330a of Title 10 United States Code as amended by the National Defense Authorization Act for Fiscal Year 2008

(NDAA 08) Section 807, the USTRANSCOM Acquisition Director, in coordination with the Office of the Director, Defense Procurement and Acquisition Policy. Office of Strategic Sourcing (DPAP/SS) will make available to the public the first inventory of activities performed pursuant to contracts for services. The inventory will be published to the USTRANSCOM Web site at the following location: *http://www.transcom.mil/Foia/readingFoia.action.*

DATES: Inventory to be made publicly available within 30 days of publication of this notice.

ADDRESSES: Send written comments or suggestions concerning the inventory to Bill Rachal. Acquisition Directorate, Policy Branch (AQ–P), USTRANSCOM, 508 Scott Drive, Bldg. 1961, Scott AFB, IL 62225.

FOR FURTHER INFORMATION CONTACT: Bill Rachal, (618) 256–6257 or e-mail at: *william.rachal@ustranscom.mil.*

SUPPLEMENTARY INFORMATION: NDAA 08, Section 807 amends section 2330a of Title 10 United States Code to require annual inventories and reviews of activities performed on service contracts. The Deputy Under-Secretary of Defense (Acquisition and Technology) (DUSD (ATL)) transmitted the USTRANSCOM inventory to Congress on September 29, 2009.

The USTRANSCOM Deputy Director for Acquisition submitted the USTRANSCOM Fiscal Year 2008 Services Contract Inventory to the Office of the DPAP/SS on August 28, 2009. The inventory does not include contract numbers, contractor identification, or other proprietary or sensitive information as these data can be used to disclose a contractor's proprietary proposal information.

Dated: October 28, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26494 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Performance Review Board (PRB)

AGENCY: Defense Threat Reduction Agency (DTRA), DoD.

ACTION: Notice of board membership.

SUMMARY: This notice announces the appointment of DTRA's Performance Review Board (PRB) membership. The publication of the PRB membership is required by 5 U.S.C. 4314(c)(4). The PRB shall provide fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance scores to the Director, Defense Threat Reduction Agency.

DATES: The effective date of service for the appointees of the DTRA PRB is October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Tana Farrell at (703) 767–5759 or Lisa Shipe at (703) 767–7822, Human Capital Office, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Stop 6201, Ft. Belvoir, VA 22060–6201.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the officials appointed to serve as members of the DTRA PRB are set forth below:

PRB Chair: Major General Randall E. Manner, USA.

Member: Ms. Shari Durand.

Member: Mr. Kevin Flanagan.

Executives listed will serve a one-year term, effective October 1, 2009.

Dated: October 30, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26519 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2009–0032]

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army, (OAA–AAHS), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Department of the Army announces a proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the U.S. Army Human Resources Command, (HRC) ATTN: Ms. Denise L. Camacho, 200 Stovall Street, Alexandria, Virginia 22332–0314, or call Department of the Army reports clearance officer at (703) 428–6440.

Title, Associated Form, and OMB Number: Application and Agreement for Establishment of a National Defense Cadet Corps Unit, DA Form 3126–1, OMB Control Number 0710–0110.

Needs and Uses: Educational institutions desiring to host a National Defense Cadet Corps Unit (NDCC) may apply by using a DA Form 3126–1. The DA Form 3126–1 documents the agreement and becomes a contract signed by both the secondary institution and the U.S. Government. This form provides information on the school's facilities and states specific conditions if a NDCC unit is placed at the institution. The data provided on the applications is used to determine which school will be selected.

Affected Public: State, Local or Tribal Government; Not-For-Profit Institution.

Annual Burden Hours: 35.

Number of Respondents: 35.

Responses per Respondent: 1.

Average Burden per Response: 1 hour.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The DA Form 3126–1 is initiated by the school desiring to host a unit and is

countersigned by a representative of the Secretary of the Army. The contract is necessary to establish a mutual agreement between the secondary institution and the U.S. Government. The Commanding General, Human Resources Command, is responsible for administering the JROTC program and overall policy. Region commanders are responsible for operating and administering the JROTC training conducted with the areas.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26489 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[No. USAF–2009–0060]

Proposed Collection; Comment Request

AGENCY: National Museum of the United States Air Force, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Museum of the United States Air Force (NMUSAF) announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at: *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the National Museum of the United States Air Force, 1100 Spaatz St, Wright-Patterson Air Force Base, OH 45433–7102, or call the Museum Volunteer Program Office at 937.255.8099, ext 313.

Title; Associated Form; and OMB Number: USAF Heritage Program Volunteer Application/Registration, AF IMT 3569, V1; OMB Control Number 0701–0127.

Needs and Uses: The information collection requirement is necessary to provide (a) the general public an instrument to interface with the USAF Heritage Program Volunteer Program; (b) the USAF Heritage Program the means with which to select respondents pursuant to the USAF Heritage Program Volunteer Program. The primary use of the information collection includes the evaluation and placement of respondents within the USAF Heritage Program Volunteer Program.

Affected Public: Business or other for profit; Not-for-profit institutions.

Annual Burden Hours: 49.5.

Number of Respondents: 198.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On Occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are individuals expressing an interest in participating in the USAF Heritage Program Volunteer Program authorized by 10 U.S.C. 81, Sec 1588 and regulated by the Air Force Instruction 84–103. AFI 84–103, 3.5.3. requires the use of AF Form 3569. AF Form 3569 provides the most expedient means to secure basic personal information (*i.e.,* name, telephone number, address and experience pursuant to the USAF Heritage Program Volunteer Program requirements) to be employed solely by the USAF Heritage Volunteer Program and to recruit, evaluate and make work assignment decisions. AF Form 3569 is the only instrument that exists which facilitates this purpose. The NMUSAF Museum Volunteer Program is an integral function in the operation of the USAF Heritage Program. Volunteers provide valuable time, incalculable talent, skill, and knowledge of USAF aviation history so that all visitors to the many USAF Heritage Program facilities throughout the United States may enjoy the important contribution of USAF historical heritage.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26485 Filed 11–3–09; 8:45 am]

BILLING CODE 5001–06–P

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 January 4, 2010.

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 Director, Information Collection Clearance Division, 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: October 30, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Revision.

Title: Reclearance of the International Education Programs Service (IEPS) International Resource Information System (IRIS).

Frequency: Annually; On Occasion.

Affected Public: Businesses or other for-profit; Individuals or households; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 7,643.

Burden Hours: 16,465.

Abstract: This is a re-clearance of the on-line reporting system, International Resource Information System (IRIS), that IEPS uses to collect annual performance reports from Title VI and Fulbright-Hays grantees. The system is also used by IEPS to disseminate program information to the public.

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 4151. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

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

[FR Doc. E9–26621 Filed 11–3–09; 8:45 am]

BILLING CODE 4000–01–P

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 January 4, 2010.

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 Director, Information Collection Clearance Division, 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: October 30, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: National Assessment of Education Progress (NAEP) 2011–13 System Clearance.

Frequency: One time.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 2,417,662.

Burden Hours: 747,180.

Abstract: NCES is requesting system clearance for the NAEP assessments to be administered in the 2011–2013 timeframe, similar to the system clearance approval that was granted for the 2005–2007 and 2008–2010 NAEP administrations (OMB 1850–0790). The primary reason for the system clearance request is that it enables NAEP to meet its large and complex assessment reporting schedules and deliverables through a more efficient clearance process. NAEP is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, and the arts. The No Child Left Behind Act of 2001 (NCLB) requires the assessment to collect data on specified student groups, including race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time.

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 4168. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically

mailed to *ICDocketMrg@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. E9–26624 Filed 11–3–09; 8:45 am]

BILLING CODE 4000–01–P

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 January 4, 2010.

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 Director, Information Collection Clearance Division, 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: October 30, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Application for Client Assistance Program (CAP).

Frequency: Other- When state has redesignated its CAP or when there is a statutory change affecting content of assurances.

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

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 9.

Abstract: This document is used by states to request funds to establish and carry out the Client Assistance Program (CAP). The CAP is mandated by the Rehabilitation Act of 1973, as amended (the Act), to advise individuals with disabilities of the benefits and services available under the Act and of the rights afforded them pursuant to the Americans with Disabilities Act of 1990, and to assist individuals applying for or receiving services in their relationships with projects, programs, and services provided under the Act. Section 112 of the Act requires a state to have in effect a CAP in order to receive Section 110 and other allotments under the Act.

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 4169. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

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

[FR Doc. E9–26623 Filed 11–3–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Statewide Longitudinal Data Systems Under the American Recovery and Reinvestment Act of 2009

(Catalog of Federal Domestic Assistance (CFDA) Number: 84.384A)

AGENCY: Institute of Education Sciences (IES), Department of Education.

ACTION: Notice extending the deadline date for the transmittal of applications to the Statewide Longitudinal Data Systems program under the American Recovery and Reinvestment Act of 2009.

SUMMARY: On July 29, 2009, we published in the **Federal Register** (74 FR 37872) a notice inviting applications to the Statewide Longitudinal Data Systems program competition under the American Recovery and Reinvestment Act of 2009. That notice established a November 19, 2009, deadline date for eligible applicants to apply for funding under this competition.

We are extending the deadline for the receipt of applications under this competition to December 4, 2009, to allow States more time to coordinate their development of applications under this program with other Recovery Act applications, specifically those for the State Fiscal Stabilization Fund and Race to the Top.

All information in the July 29, 2009, notice remains the same, except for the following update to the **DATES** section.

DATES: *Deadline for Transmittal of Applications:* December 4, 2009, by 4:30:00 p.m., Washington, DC time.

FOR FURTHER INFORMATION CONTACT: Tate Gould, U.S. Department of Education, National Center for Education Statistics, 1990 K Street, NW., room 9023, Washington, DC 20006–5651. Telephone: (202) 219–7080 or via Internet: *Tate.Gould@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339. Individuals with disabilities may obtain this notice in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

Electronic Access to this Document: You may 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.

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.*

Program Authority: 20 U.S.C. 9607.

Dated: October 30, 2009.

John Q. Easton,

Director, Institute of Education Sciences.

[FR Doc. E9–26628 Filed 11–3–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, November 16, 2009, 1 p.m.–5 p.m. Tuesday, November 17, 2009, 8:30 a.m.–4 p.m.

ADDRESSES: Marriott Hotel and Suites, Two Tenth Street, Augusta, GA 30901.

FOR FURTHER INFORMATION CONTACT: Sheron Smith, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; *Phone:* (803) 952–9480.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, November 16, 2009

1 p.m. Combined Committee Session
5 p.m. Adjourn

Tuesday, November 17, 2009

8:30 a.m. Approval of Minutes, Agency Updates
Public Comment Session
Chair and Facilitator Updates
Strategic and Legacy Management Committee Report
Public Comment Session
12 p.m. Lunch Break
1 p.m. Waste Management Committee Report
Nuclear Materials Committee Report
Facility Disposition and Site Remediation Committee Report
Administrative Committee Report
Public Comment Session
4 p.m. Adjourn

If needed, time will be allotted after public comments for items added to the agenda and administrative details. A final agenda will be available at the meeting Monday, November 16, 2009.

Public Participation: The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Sheron Smith at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sheron Smith's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Sheron Smith at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.srs.gov/general/outreach/srs-cab/srs-cab.html.*

Issued at Washington, DC, on October 26, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9–26450 Filed 11–3–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of International Regimes and Agreements; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM) and the Agreement for Cooperation Between the United States of America and the Republic of Turkey Concerning Peaceful Uses of Nuclear Energy.

This subsequent arrangement concerns the retransfer of 35.7kg of U.S.-origin low-enriched uranium silicide, of which 7.04kgs is in the isotope U–235, from CERCA, Romans, France to the Cekmece Nuclear Research & Training Center, Istanbul, Turkey. The material, which is in the form of 14 standard fuel elements and four control fuel elements and is located at the CERCA facility, will be transferred to Cekmece for use as research material and for isotope production in the TR–2 reactor. The low-enriched uranium silicide was originally sent to CERCA under NRC Export License XSNM3531.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: October 29, 2009.

For the Department of Energy.

Anatoli Welihozkiy,

Acting Director, Office of International Regimes and Agreements.

[FR Doc. E9–26457 Filed 11–3–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3671–084]

Allegheny Hydro Partners, Ltd.; Allegheny Energy Supply Company, LLC; Notice of Application for Transfer of License and Soliciting Comments and Motions To Intervene

October 28, 2009.

On October 7, 2009, Allegheny Hydro Partners, Ltd. (transferor) and Allegheny Energy Supply Company, LLC (transferee) filed an application for transfer of license of the U.S. Army Corps of Engineers' Allegheny Lock and

Dam No. 5 located in Armstrong County, Pennsylvania.

Applicants seek Commission approval to transfer the license for the Allegheny Lock and Dam No. 5 from the transferor to the transferee.

Applicant Contact: Transferor: Allegheny Hydro Partners, Ltd.—Ms. Michelle D. Grant, Dynegy Inc., 1000 Louisiana, Suite 5800, Houston, TX 77002, (713) 767–0387, e-mail: *michelle.d.grant@dynegy.com. Transferee:* Allegheny Energy Supply Company, LLC—Mr. David T. Fisfis, Allegheny Energy, Inc., 800 Cabin Hill Drive, Greensburg, PA 15601, phone (724) 838–6926, e-mail: *dfisfis@alleghenyenergy.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments and motions to intervene: 15 days from the issuance of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii)(2008) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the eLibrary link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.*

Enter the docket number (P–3671–084) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26477 Filed 11–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3494–088]

Allegheny Number 6 Hydro Partners;Allegheny Energy Supply Company, LLC; Notice of Application for Transfer of License and Soliciting Comments and Motions To Intervene

October 28, 2009.

On October 7, 2009, Allegheny Number 6 Hydro Partners (transferor) and Allegheny Energy Supply Company, LLC (transferee) filed an application for transfer of license of the U.S. Army Corps of Engineers' Allegheny Lock and Dam No. 6 located in Armstrong County, Pennsylvania.

Applicants seek Commission approval to transfer the license for the Allegheny Lock and Dam No. 6 from the transferor to the transferee.

Applicant Contact: Transferor: Allegheny Number 6 Hydro Partners—Ms. Michelle D. Grant, Dynegy Inc., 1000 Louisiana, Suite 5800, Houston, TX 77002, (713) 767–0387, e-mail: *michelle.d.grant@dynegy.com. Transferee:* Allegheny Energy Supply Company, LLC—Mr. David T. Fisfis, Allegheny Energy, Inc., 800 Cabin Hill Drive, Greensburg, PA 15601, phone (724) 838–6926, e-mail: *dfisfis@alleghenyenergy.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments and motions to intervene: 15 days from the issuance of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii)(2008) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the eLibrary link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.*

Enter the docket number (P–3494–088) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26476 Filed 11–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2144–038]

City of Seattle; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

October 28, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2144–038.

c. *Date Filed:* September 29, 2009.

d. *Applicant:* City of Seattle.

e. *Name of Project:* Boundary Hydroelectric Project

f. *Location:* The existing project is located on the Pend Oreille River in Pend Oreille County, Washington. The project currently occupies 920.87 acres of Federal land managed by the U.S. Forest Service and U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791 (a)–825(r).

h. *Agent Contact:* Jorge Carrasco, Superintendent, Seattle City Light, 700 Fifth Avenue, Suite 3200, Seattle, WA 98124–4023; (206) 615–1091.

i. *FERC Contac*t: David Turner (202) 502–6091.

j. The deadline for filing motions to intervene and protests is December 28, 2009.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For assistance, please contact FERC Online Support at F*ERCOnlineSupport@ferc.gov*; call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must

also serve a copy of the document on that resource agency.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. *Project Description:* The existing project consists of: (1) A concrete arch dam with a crest elevation of 2,004 feet NGVD (North American Vertical Datum), a structural height of 340 feet, a thickness ranging from 8 feet at the crest to 32 feet at the base, and a crest length of 508 feet, with a total length, including the spillways, of 740 feet; (2) two 50-feet-wide spillways fitted with 45-feet-high radial gates, one on each abutment, which have a combined maximum capacity of 108,000 cubic feet per second (cfs) at a forebay water surface elevation of 1994 feet NGVD; (3) seven 21-foot-high by 17-foot-wide, low-level vertical fixed-wheel sluice gates that provide an additional discharge capacity of 252,000 cfs, for a total discharge capacity at the dam of 360,000 cfs; (4) a 17.5-mile-long, 1,794-acre reservoir at a normal full pool elevation of 1,994 feet NGVD with 87,913 acre-feet of gross storage; (5) power intake facilities excavated on the left abutment area consisting of an approximately 300-foot-wide by 800-foot-long forebay, a trash rack structure across the entrance to the forebay, and the portal face with six 30-foot-wide by 34-foot-high horseshoe-shaped tunnels extending to intake gate chambers; (6) six 315-feet-long penstocks lead from each of the intake gates to one of the six turbine-generator units in the power plant; (7) an underground power plant comprised of a 76-feet wide by 172-feet-high by 477-feet-long machine hall; (8) two 204,506-horsepower (hp) Francis turbines, with 158.4-megawatt (MW) generators, two 204,506-hp Francis turbines, with 161.5–MW generators, and two 259,823-hp Francis turbines, with 200–MW generators for a total authorized generating capacity of 1,003 MW; (9) six draft tubes that discharge water into the tailrace immediately below the dam; (10) six horseshoe-shaped transformer bays; (11) six individual three-phase, 230-kilovolt (kV) transmission lines up the vertical face of the left abutment of the dam to six pairs of transmission towers on top of the abutment; and (12) appurtenant equipment. The applicant proposes to install new high efficiency turbines in Units 55 and 56, concurrently with planned generator rewinds and step-up transformer replacements.

m. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural Schedule:* See tendering notice issued on October 8, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26474 Filed 11–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 803–087]

Pacific Gas and Electric Company; Notice of Authorization for Continued Project Operation

October 28, 2009.

On October 2, 2007, Pacific Gas and Electric Company, licensee for the DeSabla-Centerville Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The DeSabla-Centerville Hydroelectric Project is located on the Butte Creek and West Branch Feather River, in Butte County, CA.

The license for Project No. 803 was issued for a period ending October 11, 2009. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 803 is issued to the Pacific Gas and Electric Company for a period effective October 12, 2009 through October 11, 2010, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before October 11, 2010, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed

automatically without further order or notice by the Commission, unless the Commission orders otherwise. If the project is not subject to section 15 of the FPA, notice is hereby given that the Pacific Gas and Electric Company is authorized to continue operation of the DeSabla-Centerville Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26471 Filed 11–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2179–042]

Merced Irrigation District;Notice of Dispute Resolution Panel Meeting and Technical Conference

October 28, 2009.

On October 16, 2009, Commission staff, in response to the filing of notices of study dispute by the U.S. Department of Interior (Fish and Wildlife Service), U.S. Department of Commerce (National Marine Fisheries Service), and California State Water Resources Control Board on October 5, 2009, convened a single three-person Dispute Resolution Panels pursuant to 18 CFR 5.14(d).

The Panel will hold a technical conference at the time and place noted below. The session will address study disputes regarding 16 separate studies that focus on water and aquatic resource related issues. The disputes primarily address the Commission's determination on the geographic scope of the proposed project's direct, indirect, and cumulative effects and the level of study being required for assessing project related effects on anadromous salmonids and their habitats. The focus of the technical session is for the disputing agencies, applicants, and Commission to provide the Panel with additional information necessary to evaluate the disputed studies. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to attend the meeting as observers. The Panel may also request information or clarification on written submissions as necessary to understand the matters in dispute. The Panel will limit all input that it receives to the specific studies or information in dispute and will focus on the applicability of such studies or information to the study criteria stipulated in 18 CFR 5.9(b). If the number of participants wishing to speak creates time constraints, the Panel may, at their discretion, limit the speaking time for each participant.

If you have any questions, please contact Aaron Liberty at (202) 502–6862.

Technical Conference

Date: Tuesday, November 17, 2009.

Time: 8:30 a.m.–5 p.m. (PST).

Place: John E. Moss Federal Building, First Floor (Stanford Room), 650 Capitol Mall, First Floor, Sacramento, CA 95814–4708.

Phone: 916–930–3600.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26475 Filed 11–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–8–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

October 28, 2009.

Take notice that on October 22, 2009, Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP10–8–000, an application pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to abandon by sale certain natural gas pipeline laterals and appurtenant facilities located in Harris and Montgomery Counties, Texas, to Alamo Pipeline, L.L.C. (Alamo), under Tennessee's blanket certificate issued in Docket No. CP82–413–000,[1] all as more fully set forth in the application which is on file with the Commission and open to the public for inspection.

Tennessee states that it proposes to abandon in place and by sale to Alamo 15.33 miles of 6-inch diameter pipeline lateral (Line No. 21A–100),[2] 0.36 miles of 3-inch diameter pipeline lateral (Line No. 21A–300),[3] two receipt taps, and six delivery taps, as well as equipment and associated appurtenances thereto. Tennessee also states that Alamo would continue to operate the facilities following the closing of the purchase and sales transaction. Tennessee further states that Alamo, an intrastate pipeline that is subject to the jurisdiction of the Texas Railroad Commission, would continue to operate the facilities in natural gas service. Tennessee states that following the abandonment and sale of the subject facilities to Alamo, the laterals would be disconnected from Tennessee's mainlines (Line Nos. 100–1 and 100–3). Tennessee estimates that it would cost approximately $14,220,000 to construct similar facilities today.

Any questions concerning this application may be directed to Susan T. Halbach, Senior Counsel, Tennessee Gas Pipeline Company, 1001 Louisiana Street, Houston, Texas 77002, via telephone at (713) 420–5751, or facsimile (713) 420–1601 or Debbie Kalisek, Analyst, Certificates & Regulatory Compliance via telephone at (713) 420–3292 or facsimile (713) 420–1605.

This filing is available for review at the Commission 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 filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. 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 under the ''e-Filing'' link. The Commission strongly encourages intervenors to file electronically.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26472 Filed 11–3–09; 8:45 am]

BILLING CODE 6717–01–P

[1] 20 FERC ¶ 62,409 (1982).

[2] 8 FPC 276 (1949).

[3] 6 FERC ¶ 62,073 (1979) and 9 FERC ¶ 61,248 (1979).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12478–003]

Gibson Dam Hydro Company, LLC; Notice Soliciting Scoping Comments

DATES: October 28, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major Project—Existing Dam.

b. *Project No.:* P–12478–003.

c. *Date filed:* August 28, 2009.

d. *Applicant:* Gibson Dam Hydro Company, LLC.

e. *Name of Project:* Gibson Dam Hydroelectric Project.

f. *Location:* On the Sun River, near the towns of Augusta and Fairfield, Lewis and Clark and Teton Counties, Montana. The project would occupy 95.34 acres of Federal land administered by the U. S. Forest Service and 19.39 acres of Federal land administered by the U. S. Bureau of Land Management for a total of 114.73 acres of Federal land.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791 (a)–825(r).

h. *Applicant Contact:* Steve C. Marmon and Thom A. Fischer, Whitewater Engineering Corporation, 3633 Alderwood Ave., Bellingham, WA 98225, (360) 738–9999.

i. *FERC Contact:* Matt Cutlip, (503) 552–2762 or *matt.cutlip@ferc.gov.*

j. *Deadline for filing scoping comments:* January 26, 2010.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at: *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. The proposed project would utilize the existing facilities of the U.S. Bureau of Reclamation's Gibson dam including the reservoir, existing valve house, and two existing dam outlet pipes; and would consist of the following new facilities: (1) Two new 72-inch-diameter penstocks extending 40 feet from the existing outlet pipes to the powerhouse; (2) a new powerhouse located near the toe of the dam with four turbine/generating units with total installed capacity of 15 megawatts; (3) a new 25.8-mile, 34.5/69 kV overhead and underground transmission line from the powerhouse to an interconnection point with Sun River Electric Cooperative, Inc.'s existing 69 kV transmission line at Jackson's Corner; (4) a new 34.5/69 kV step-up substation; (5) a new maintenance building located approximately 1,400 feet downstream of the powerhouse adjacent to existing Gibson Dam operations facilities; and (6) appurtenant facilities. The average annual generation is estimated to be 40 gigawatt-hours.

m. A copy of the application 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 addess the document. For assistance, contact FERC Online Support. A copy is available for inspection and reproduction at the address in Item H above.

n. You may also register online at: *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Scoping Process

Commission staff intend to prepare a draft and final Environmental Assessment (EA) for the Gibson Dam Hydroelectric Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

The project as proposed in the license application differs from Gibson Dam Hydro Company's proposals described in Scoping Document 1 and Scoping Document 2, filed on March 9, 2006, and February 8, 2007, respectively. Therefore, to support and assist our environmental review, we are conducting additional paper scoping on the current proposal to ensure that all pertinent issues and alternatives are identified and analyzed, and that the EA is thorough and balanced. Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information, on the Scoping Document (SD) issued on October 28, 2009.

Copies of the SD outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of the SD may 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, call 1–866–208–3676 or for TTY, (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26473 Filed 11–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD09–10–000]

National Action Plan on Demand Response; Notice Providing New Technical Conference Date and Announcing Release of Discussion Draft

October 28, 2009.

On September 18, 2009, the Commission issued a notice scheduling staff technical conferences to support the development of the National Action Plan on Demand Response. On October 7, 2009, the Commission postponed the technical conferences. Take notice that Commission Staff will hold only one technical conference, and it will be in Washington, DC on November 19, 2009, beginning at 1 p.m. (EST) and ending at approximately 2 p.m. on November 20, 2009 in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Section 529 of the Energy Independence and Security Act of 2007 [1] directed the Commission to

[1] Public Law No. 110–140, § 529, 121 Stat. 1492, 1664 (to be codified at National Energy

Continued

develop a National Action Plan on Demand Response (National Action Plan). The purpose of this technical conference is to elicit input from interested stakeholders on the possible elements of the National Action Plan as discussed in the *Discussion Draft on Possible Elements of a National Action Plan on Demand Response* (Discussion Draft), released today in the above-referenced docket number. Commission Staff will utilize the Discussion Draft at the technical conference to frame the discussions.

The technical conference will include panel sessions on the first day to discuss the overall approach and scope of the Discussion Draft. The second day will include breakout sessions that will focus on each of the three statutory objectives listed below. A closing plenary session will summarize the break-out discussions.

The conference will be open to the public, and all interested persons are invited to participate. For logistical purposes, staff requests those planning to attend to pre-register via an electronic form at: *https://www.ferc.gov/whats-new/registration/nap-11-19-form.asp.* Advance registration is not required to participate.

The Commission is extending the deadline to Friday, November 6, 2009 for those interested in speaking during the November 19th afternoon panels at the conference. Those interested should complete an online form describing the elements that they will address at *https://www.ferc.gov/whats-new/registration/nap-11-19-speaker-form.asp.* The Commission also requests that those parties that previously completed the online speaker form resubmit it to indicate that they are available on the new date. Due to time constraints, we may not be able to accommodate all those interested in speaking on panels; however, the panels will represent a balance of stakeholder interests.

All conference attendees are invited to attend the panel sessions on November 19th, participate in the break-out session discussions and attend the plenary session on November 20th. A detailed agenda, including panel speakers, will be published at a later date.

The Commission is seeking input in the form of written comments on the Discussion Draft and discussions at the technical conference on the best ways to meet the objectives that Congress identified for the National Action Plan: (1) Identification of requirements for technical assistance to States to allow them to maximize the amount of demand response resources that can be developed and deployed; (2) design and identification of requirements for implementation of a national communications program that includes broad-based customer education and support; (3) development or identification of analytical tools, information, model regulatory provisions, model contracts, and other support materials for use by customers, States, utilities and demand response providers.[2]

Written comments on the Discussion Draft and on the discussions at the technical conference are due by Friday, December 4, 2009. Commission Staff will draw on the written comments received and the discussions at the technical conferences to prepare the National Action Plan. Comments may be filed electronically via the Internet. Instructions for submitting comments are available on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*; call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Commission conferences 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) 208–1659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

For further information about these conferences, please contact:

Caroline Daly (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8931, *Caroline.Daly@ferc.gov.*

Christina Switzer (Legal Information), Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6379, *Christina.Switzer@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26478 Filed 11–3–09; 8:45 am]

BILLING CODE 6717–01–P

Conservation Policy Act, 42 U.S.C. 8241–8287d, 8279).

[2] *Id.*

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0628; FRL–8794–9]

Pesticides; Draft Guidance for Pesticide Registrants on Pesticide Drift Labeling

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency is announcing the availability of and seeking public comment on two documents – a draft Pesticide Registration Notice (draft PR Notice) entitled ''Pesticide Drift Labeling'' (PRN 2009–X) and a draft explanatory document entitled ''Pesticide Drift Labeling Interpretation.'' PR Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures, and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular draft PR Notice provides guidance to the applicants and registrants of certain pesticide products for revising labeling statements intended to protect people and other non-target organisms and sites from adverse effects that may be caused by off-target pesticide drift. The draft explanatory document provides guidance for state and tribal regulatory officials responsible for enforcement of user compliance with the requirements of pesticide labeling on how to interpret the labeling statements contained in the draft PR Notice. An additional supporting document, entitled ''Draft PR Notice 2009–X: Additional Information and Questions for Commenters,'' provides background and supplemental information that explain the Agency's rationale for its proposed guidance on drift labeling. This document also requests responses by readers to specific questions concerning draft PR Notice 2009–X. All three documents are available in the public docket.

DATES: Comments must be received on or before January 4, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0628, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009–0628. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Véronique LaCapra, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–1525; fax number: (703) 308–8005; e-mail address: *lacapra.veronique@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me

This action is directed to those persons who manufacture, distribute, sell, apply, or regulate pesticide products that are for use outdoors, including agricultural, commercial, and residential products (NAICS codes 32532 and 32561). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

EPA has identified questions about the PR Notice on which the Agency would like to receive specific input from commenters. These questions are presented in a supporting document entitled ''Draft PR Notice 2009–X: Additional Information and Questions for Commenters,'' which is available in the public docket.

II. What Guidance Does this PR Notice Provide?

EPA's purpose in issuing draft PR Notice 2009–X is to provide guidance to registrants and applicants for registration on labeling statements concerning pesticide drift, and to inform the public of EPA's policies with regard to the prevention of pesticide drift. The draft PR Notice proposes labeling statements and formats intended to improve communication of drift management requirements to pesticide applicators and as a result, to improve protection of people and other non-target organisms and sites from potential adverse effects that may be caused by off-target pesticide drift. The recommended statements should appear on products whose application may result in drift.

The draft PR Notice contains two types of statements: (1) A general drift statement containing a risk-protective standard which varies according to product type, and (2) examples of

product-specific drift use restrictions, along with a format for presenting these statements on product labeling. The draft PR Notice also informs registrants about the procedures they should use to amend their registrations to adopt these statements. The Agency believes the use of these statements and formats on labels will provide users consistent, understandable, and enforceable directions about how to protect human health and the environment from harm that might result from pesticide drift.

Along with draft PR Notice 2009–X, EPA is issuing for comment a draft ''Pesticide Drift Labeling Interpretation'' guidance document, which provides guidance to state and tribal officials about how EPA intends the new drift labeling statements to be interpreted, as well as typical examples of how the labeling could be interpreted in real-world spray drift cases.

A supporting document entitled ''Draft PR Notice 2009–X: Additional Information and Questions for Commenters'' is also being made available in the public docket. This document contains background information on pesticide drift, and a description of current and planned EPA actions to address drift, including the PR Notice, guidance to state enforcement officials on interpreting the new labeling, information on best management practices to reduce drift, and EPA's drift reduction technology (DRT) project. The document also provides a reader's guide to the draft PR Notice, including a description of key terms and concepts, explanatory rationales, and specific questions on which EPA is seeking input from stakeholders.

III. Do PR Notices Contain Binding Requirements?

The draft PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, the PR Notice is not binding on EPA personnel, pesticide registrants and applicants, or the public. EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

The draft Notice is not intended to limit EPA's authority under FIFRA to require additional mitigation measures, on a case-by case basis, when appropriate. Nor is it intended to limit the authority of a state or tribe to impose additional restrictions on the use of a pesticide.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Pesticide drift, Spray drift, Labeling.

Dated: October 26, 2009.

Debra Edwards,

Director, Office of Pesticide Programs.

[FR Doc. E9–26594 Filed 11–3–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009-0684; FRL–8798–3]

Receipt of Petition Requesting EPA to Suspend the Registration of Rozol Prairie Dog Bait and Cancel Certain Application Sites; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of October 7, 2009, concerning the receipt of a petition that requested the suspension of Rozol Prairie Dog Bait and also requested the cancellation of certain application sites for the product. This document extends the comment period for 31 days, from November 6, 2009 to December 7, 2009.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0684, must be received on or before December 7, 2009.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of October 7, 2009.

FOR FURTHER INFORMATION CONTACT: Dan Peacock, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–5407; e-mail address: *peacock.dan@epa.gov*.

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** of October 7, 2009 (74 FR 51601) (FRL–8436–1). In that document, EPA provided an opportunity for public comment on a petition received from the World Wildlife Fund (WWF) that asked the Agency to suspend the registration of Rozol Prairie Dog Bait (EPA Reg. No. 7173-286) and cancel certain application sites for the product. The primary basis for the petition is the potential effect of this product on non-target species, including certain predators and scavengers of the black-tailed prairie dog. EPA is hereby extending the comment period, which was set to end on November 6, 2009 to December 7, 2009.

To submit comments, or access the docket, please follow the detailed instructions as provided under **ADDRESSES** in the October 7, 2009 **Federal Register** document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, pesticides, and pests.

Dated: October 29, 2009

Debra Edwards,

Director, Office of Pesticide Programs.

[FR Doc. E9–26522 Filed 11–3–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0825; FRL–8797–4]

Petition to Protect Children from Pesticide Drift; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 13, 2009, EPA received a petition from Earthjustice and Farmworker Justice, on behalf of several other organizations, requesting that the Agency systematically evaluate children's exposures to pesticide drift and require interim prohibitions on the use of certain pesticides near homes, schools, and other places where children congregate. With this notice, the Agency is soliciting comments on the petition. In a separate notice published elsewhere in this issue of the **Federal Register**, the Agency is soliciting comments on a draft Pesticide Registration (PR) notice providing guidance on pesticide drift labeling (see *www.regulations.gov*, docket identification number EPA–HQ–OPP–2009–0628).

DATES: Comments must be received on or before January 4, 2010.

ADDRESSES: Submit your comments identified by the docket identification (ID) number EPA–HQ–OPP–2009–0825, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID number EPA–HQ–OPP–2009–0825. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Jill Bloom, Chemical Review Manager, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8019; fax number: (703) 308–7070; e-mail address: *bloom.jill@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the chemical review manager listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects due to pesticide drift, compared to the general population.

II. Background

The October 13, 2009 petition can be found in the docket for this notice. In summary, the petition asserts that the Agency does not adequately consider the exposures of children to pesticide drift, especially children who live in agricultural areas. The petitioners are asking that the Agency assess pesticide-specific exposures from drift to children in homes, schools, and other areas in which children congregate; determine if such exposures pose excessive risks; and implement measures to reduce any such risks. The petitioners further request that the Agency immediately adopt specific interim restrictions on certain pesticides used near areas where children congregate. Apart from the petition, the Agency is engaged in a number of activities to address pesticide drift, including the development of a PR

Notice with guidance on labeling to reduce exposures, including exposures to children. The Agency's activities to address drift are described in more detail in the document ''Draft PR Notice 2009–X: Additional Information and Questions for Commenters'' (available at *www.regulations.gov*, docket identification number EPA–HQ–OPP–2009–0628).

III. Process

A. What Action is the Agency Taking?

The Agency is soliciting public comment on the petition and opening a docket for the collection of these comments. The Agency will consider comments received during the public comment period when formulating its response to the petition.

B. Information Submission Requirements

Anyone may submit comments in response to the petition, and the docket for comments on the petition will remain publicly accessible through the decision-making process. To be considered by the Agency, the submitted comments must meet the following requirements:

• Interested persons must submit their comments during the comment period. The Agency may, at its discretion, consider comments submitted at a later date.

• The comments must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

• Submitters must clearly identify the source of any submitted data or information included in their comments.

• Submitters may request the Agency to reconsider data or information that the Agency rejected previously. However, submitters must explain why they believe the Agency should reconsider such data or information.

List of Subjects

Environmental protection, Environmental Justice, Pesticides and pests, Spray drift, Earthjustice, Farmworker Justice.

Dated: October 27, 2009.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. E9–26595 Filed 11–3–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0460; FRL–8797–7]

Notice of Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Agency's receipt of an initial filing of a pesticide petition proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

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

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0460 and the pesticide petition number (PP) 6E7103, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0460 and the pesticide petition number (PP) 6E7103. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Rose Mary Kearns, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305–5611; e-mail address: *kearns.rosemary@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have a typical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petition described in this notice contains data or information prescribed in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this notice, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available on-line at *http://www.regulations.gov*.

As specified in FFDCA section 408(d)(3), (21 U.S.C. 346a(d)(3)), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

PP 6E7103. (EPA–HQ–OPP–2007–0460). BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709, proposes to establish a tolerance in 40 CFR part 180 for residues of the fungicide dithianon, in or on imported grape at 3 parts per million (ppm). The Liquid Chromatography/Mass Spectrometry/Mass Spectrometry (LC/MS/MS) method BASF 244882, is available for enforcing the proposed tolerance on grapes.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 28, 2009.

G. Jeffrey Herndon,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E9–26611 Filed 11–3–09; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission, Comments Requested

October 29, 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 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: Persons wishing to comments on this information collection should submit comments on January 4, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Judith B. Herman, Federal Communications Commission (FCC). To submit your PRA comments by e–mail send then to: PRA@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, OMD, 202–418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0743.

Title: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents: 4,471 respondents; 10,071 responses.

Estimated Time Per Response: .50 to 100 hours.

Frequency of Response: On occasion, quarterly, and monthly reporting requirements; recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 CFR section 276.

Total Annual Burden: 118,137 hours.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. However, if the respondent wishes to submit their information they believe is confidential, they may request confidential treatment of their information under 47 CFR 0.459 of the Commission's rules.

Need and Uses: This collection will be submitted as an extension of a currently approved collection to the Office of Management and Budget (OMB) in order to obtain the full three year clearance from them. There is no change in the Commission's burden estimates.

The Commission promulgated rules and reporting requirements implementing section 276 of the Telecommunications Act of 1996. Among other things, the rules: 1) establish fair compensation for every completed intrastate and interstate payphone calls; 2) discontinue intrastate and interstate access charge payphone service elements and payments, and intrastate and interstate payphone subsidies from basic exchange services; and 3) adopt guidelines for use by the states in establishing public interest payphones to be located where there would otherwise not be a payphone. The information collected is provided to third parties and to ensure that interexchange carriers, payphone service providers (''PSPs'') LECs, and the states comply with their obligations under the 1996 Act.

Federal Communications Commission.

Alethea Lewis,

Information Specialist, Office of the Secretary, Office of Managing Director.

[FR Doc. E9–26534 Filed 11–3–09; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission under Delegated Authority, Comments Requested

October 29, 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 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: Persons wishing to comments on this information collection should submit comments on January 4, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Judith B. Herman, Federal Communications Commission (FCC). To submit your comments by e–mail send then to: PRA@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to web page: http://www.reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called ''Currently Under Review'', (3) click on the downward–pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the FCC list appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, OMD, 202–418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0599.

Title: Sections 90.425 and 90.647, Station Identification.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents: 209 respondents; 209 responses.

Estimated Time Per Response: 1.66 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. sections 154(i), 309(j) and 332.

Total Annual Burden: 347 hours.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No questions of a confidential nature are asked or required.

Need and Uses: The Commission is requesting an extension (no change in the reporting requirement) in order to obtain the full three year clearance from the Office of Management and Budget (OMB). The Commission has increased

the estimated burden hours by 272 hours which is due to 164 additional respondents since this information collection (IC) was last submitted to OMB in 2007.

In a November 1994 Third Report and Order, the Commission streamlined and conformed its rules concerning the transmission of station identification information by Commercial Mobile Radio Service (CMRS) licensees. The Commission concluded that CMRS licensees operating on an exclusive basis in Commission–defined service areas should generally not be required to transmit station identification. In the case of all other CMRS licensees, however, whether licensed exclusively on a site–specific basis or licensed on shared channels, the Commission continued to require transmission of station identification information on a regular basis n accordance with the standards set forth in Commission rules.

On reconsideration in April 2000, the Commission in addition to resolving various petitions, clarified that Part 90 licensees need only transmit station identification once an hour as specified in 47 CFR 90.425(e). Consistent with that change, the Commission also amended Section 90.647 to clarify that CMRS providers operating trunked systems are also subject only to the streamlined requirements of Section 90.425(e).

Because digital call sign transmission greatly reduces the burden of the call sign requirements for CMRS systems providing digital service, the Commission also permits all CMRS licensees on exclusive channels to transmit call signs digitally. To use a digital call sign, however, the licensee must provide the Commission with information sufficient to decode the digital transmission and ascertain the call sign transmitted.

Federal Communications Commission.

Alethea Lewis,

Information Specialist, Office of the Secretary, Office of Managing Director.

[FR Doc. E9–26536 Filed 11–3–09; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

NTL Naigai Trans Line (USA) Inc., 970 West 190th Street, Ste. 580, Torrance, CA 90502, Officer: Yoji Kurita, President. (Qualifying Individual)

CN Worldwide B.V., 102–120 Lichtenauerlaan, Rotterdam 3062 ME Netherlands, Officer: Anita Ernesaks, Managing Director. (Qualifying Individual)

Champion Xpress Shipping Inc., 106–13 Liberty Ave., Ozone Park, NY 11417, Officer: Joel M. Perry, President. (Qualifying Individual)

Brisk International Express, Inc., 8237 NW. 66th Street, Miami, FL 33166, Officer: Amauri C. Monteiro, President. (Qualifying Individual)

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Unico Logistics USA, Inc., 10711 Walker Street, Unit B, Cypress, CA 90630, Officers: Chul (Roy) Young Jang, Secretary, (Qualifying Individual), Dookee Kim, CEO.

Fastway Moving and Storage Inc. dba Redlog, 155 West Street, Wilmington, MA 01887, Officers: Leonardo P. Albuquerque, Vice President, (Qualifying Individual), Carolina Albuquerque, President.

Aries Freight Systems, LP, 1501 E. Richey Road, Houston, TX 77073, Officer: Jeffrey L. McIntyre, President. (Qualifying Individual)

America-Westafrica Trade Link, Inc., dba Freight-Rite America, Inc., 101 Muses Court, Cary, NC 27513, Officers: Romanus E. Ndianefo, President, (Qualifying Individual), Chika L. Ndianefo, Secretary.

Dated: October 30, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–26554 Filed 11–3–09; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary LicenseReissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984(46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
004474F	Logistics Transportation Services, Inc. 23171 Mills Road Porter, TX 77365	September 29, 2009.
020125N	132 Vermilyea Corp. dba Agustin Cargo Express 225 Bruckner Blvd. Bronx, NY 10454.	September 17, 2009.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9–26552 Filed 11–3–09; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515, effective on the corresponding date shown below:

License Number: 000100F.

Name: Alfred H. Marzolf, Inc.

Address: 810 3rd Ave., Ste. 236, Seattle, WA 98104.

Date Revoked: October 3, 2009.

Reason: Failed to maintain a valid bond.

License Number: 019535F.

Name: Early Bird Pick Up And Delivery LLC.

Address: 128 Magnolia Ave., Bridgeport, CT 06610.

Date Revoked: October 3, 2009.

Reason: Failed to maintain a valid bond.

License Number: 018787NF.

Name: Express Solutions International, Inc. dba, ESI Global Logistics.

Address: 3916 Vero Rd., Ste. M, Baltimore, MD 21227.

Date Revoked: October 8, 2009.

Reason: Failed to maintain valid bonds.

License Number: 021735N.

Name: Global Transportation, Inc.

Address: 31–B Postal Parkway, Newnan, GA 30263.

Date Revoked: October 1, 2009.

Reason: Failed to maintain a valid bond.

License Number: 015471NF.

Name: Navicargo, Inc.

Address: 10933 NW 122nd Street, Medley, FL 33178.

Date Revoked: October 14, 2009.

Reason: Failed to maintain valid bonds.

License Number: 013253N.

Name: Total Service Line Corporation dba Total Shipping Line Corp.

Address: 12140 E. Artesia Blvd., Ste. 205, Artesia, CA 90701.

Date Revoked: October 14, 2009.

Reason: Failed to maintain a valid bond.

License Number: 021284N.

Name: USTC America, Inc.

Address: 1250 E. 23rd Street, #107, Carson, CA 90745.

Date Revoked: October 9, 2009.

Reason: Failed to maintain a valid bond.

License Number: 020668N.

Name: Valcad Construction, LLC.

Address: 321 W. Northwest Highway, Ferris, TX 75220.

Date Revoked: October 1, 2009.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9–26551 Filed 11–3–09; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 18, 2009.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Gail S. Moran; Carroll E. and Holly L. Moran, individually; and Carroll E. Moran, as trustee of the Moran Irrevocable Trust, each of Rice, Texas; to acquire 23 percent or more of the outstanding shares of common stock and thereby control of Rice Bancshares, Inc., Rice, Texas, the parent company of The First State Bank, Rice, Texas.

Board of Governors of the Federal Reserve System, October 30, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–26508 Filed 11–3–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 30, 2009.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Porter Bancorp, Inc., Louisville, Kentucky; to acquire 100 percent of Citizens First Corporation, Bowling Green, Kentucky, and thereby indirectly acquire Citizens First Bank, Bowling Green, Kentucky,

Board of Governors of the Federal Reserve System, October 30, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–26507 Filed 11–3–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The FTC is submitting the information collection requirements described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). Pursuant to the OMB regulations that implement the PRA, the Commission is providing this second opportunity for public comment on proposed Orders that would seek information from depository institutions lacking federal deposit insurance. The Commission plans to use this information to help ensure that such institutions are complying with the

disclosure requirements of the Federal Deposit Insurance Corporation Improvement Act (''FDICIA'').

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

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/fdiciacompliancepra2*) (and following the instructions on the web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326-2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room NJ-2122, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''FDICIA Compliance Monitoring: Paperwork Comment; FTC File No. P094205'' to facilitate the organization of comments. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as any individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential'' as provided in Section 6(f) of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing matter for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted using the following weblink: (*https://public.commentworks.com/ftc/fdiciacompliancepra2*) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (*https://public.commentworks.com/ftc/fdiciacompliancepra2*). If this Notice appears at (*www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Website at (*http://www.FTC.gov*) to read the Notice and the news release describing it.

A comment filed in paper form should include the ''FDICIA Compliance Monitoring: Paperwork Comment; FTC File No. P094205'' 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 H-135 (Annex J), 600 Pennsylvania Avenue, N.W., Washington, DC 20580. 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.

All comments should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-5167 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). 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.htm*.)

Background

In 1991, Congress enacted section 43 of FDICIA (12 U.S.C. § 1831t) in response to incidents affecting the safety of deposits in certain financial institutions.[2] The law imposes several requirements on non-federally insured institutions. Among other things, it mandates, under 12 U.S.C. 1831t(b), that depository institutions lacking federal deposit insurance disclose to consumers in periodic statements, signature cards, passbooks, certificate of deposit, and advertising that the institution does not have federal deposit insurance and that, if the institution fails, the federal government does not guarantee that depositors will get their money back. Pursuant to 12 U.S.C. 1831t(f), the Commission has authority to enforce the disclosure requirements under the FTC Act (15 U.S.C. 41 *et seq.*).

Until 2003, the Commission's appropriations authority prohibited the use of FTC resources to enforce those requirements.[3] In 2005, the Commission sought public comment on proposed rules implementing the statutory disclosure requirements.[4] In 2006, before the Commission issued a final rule, Congress passed substantial amendments to the existing requirements as part of the Financial Services Regulatory Relief Act of 2006 (FSRRA) (Pub. L. 109-351). The Commission thus sought public comment on proposed regulations that would be consistent with the FSRRA

[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* FTC Rule 4.9(c), 16 CFR 4.9.(c).

[2] *See* Pub. L. No. 102-242, 105 Stat. 2236.

[3] Making Appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, for the Fiscal Year Ending September 30, 2004, and for Other Purposes, H.R. Conf. Rep. No. 108-401, 108th Cong., 1st Sess., at 88 (2003).

[4] *See* 70 FR 12823 (Mar. 16, 2005).

amendments,[5] and is currently in the process of developing those regulations. Institutions lacking federal deposit insurance, however, must comply with these statutory provisions regardless of the status of FTC's regulations in this area.

Under existing law, all federally chartered and most state chartered depository institutions have federal deposit insurance. Federal deposit insurance provides a government guarantee of up to $250,000 per depositor in most cases. Pursuant to Federal Deposit Insurance Corporation and National Credit Union Administration requirements, federally insured banks and credit unions must display signs that depositors are federally insured.[6] Although most depository institutions have federal deposit insurance, there are some exceptions. For instance, there are more than a hundred and fifty state-chartered credit unions in nine states that do not have federal deposit insurance.[7] The credit unions in these states generally obtain private deposit insurance in lieu of federal insurance to protect members' accounts.

On July 13, 2009, the Commission published a notice seeking comments on the proposed collection described here. 74 FR 33442. No comments were received.

Proposed Information Collection Activities

The FTC has the authority to compel production of data and information from depository institutions lacking federal deposit insurance through Orders issued pursuant to Section 6(b) of the FTC Act, 15 U.S.C. 46(b). The Commission intends to send these Orders to all such institutions known to it in states that allow non-federally insured institutions.[8] The responses will help the Commission determine whether covered entities are complying with the disclosure requirements of 12 U.S.C. 1831t(b).

Under the PRA, 44 U.S.C. Ch. 35, federal agencies must obtain approval from OMB for each ''collection of information'' they conduct or sponsor. ''Collection of information'' means identical recordkeeping, disclosure and/or reporting requirements imposed on ten or more members of the public. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). Because the number of entities affected by the Commission's Orders will exceed that threshold, the Commission is seeking OMB clearance under the PRA. Pursuant to OMB regulations, 5 CFR Part 1320, that implement the PRA, the Commission is providing this second opportunity for public comment.

A. Description of the Collection of Information and Proposed Use

The FTC proposes to seek information from up to two hundred (200) depository institutions lacking federal deposit insurance in the United States (''industry members'').

Information sought[9] will include, among other things:

- A brief explanation of the steps the institution takes to comply with the requirements of 12 U.S.C. 1831t(b).
- Samples of each non-identical periodic statement of account, signature card, passbook, certificate of deposit, and share certificate disseminated within the previous three months, with any individual consumer names, signatures, addresses, account numbers, or other personally identifying information redacted.
- Information (*e.g.* photographs) indicating whether the institution posts the disclosure required by 12 U.S.C. 1831t(b)(2) at each station or window where it normally receives deposits, the institution's principal place of business, and all the institution's branches where it accepts deposits or opens accounts (excluding automated teller machines and point of sale terminals).
- Samples of all non-identical advertising[10] issued or continued in use within the previous three months.
- Samples of the non-identical cards, forms, or other written materials the institution uses to comply with the signed acknowledgment requirements for new depositors pursuant to 12 U.S.C. 1831t(b)(3) disseminated within the previous three months with any individual consumer names, signatures, addresses, account numbers, or other personally identifying information redacted.[11]

The Commission will use the collected information in its efforts to ensure that the institutions are complying with the disclosure requirements in 12 U.S.C. 1831t(b).

B. Estimated Hours Burden

Based upon its knowledge of the industry, FTC staff estimates that, on average, the time required to gather, organize, format, and produce such responses will average 8 hours per Order. Thus, assuming up to 200 recipients of the Orders, total burden would be approximately 1,600 hours.

C. Estimated Cost Burden

It is difficult to calculate with precision the labor costs associated with this data production, as they entail varying compensation levels of management and/or support staff among companies of different sizes. Managerial, legal, and clerical personnel may be involved in the information collection process. The FTC staff has assumed, conservatively, that managerial personnel and legal counsel will handle all of the tasks involved in gathering and producing responsive information, and has applied an average hourly wage of managerial time of

[5] *See* 74 FR 18043 (Mar. 13, 2009).

[6] *See* 12 CFR Parts 328 and 740.

[7] According to the U.S. Government Accountability Office, in 2003, eight states had credit unions that purchase private deposit insurance instead of federal insurance. Since that time, at least one additional state has allowed credit unions to use private deposit insurance. Other states either require federal insurance or allow private insurance but do not have any privately insured credit unions. ''Federal Deposit Insurance Act: FTC Best Among Candidates to Enforce Consumer Protection Provisions,'' GAO-03-971 (Aug. 2003), at 7. Puerto Rican credit unions operate under a Puerto Rican government-backed deposit insurance system.

[8] State-chartered credit unions lacking federal deposit insurance will likely be the recipients. The FTC also may seek information from some institutions covered by the Puerto Rican government deposit insurance system.

[9] The Orders will not seek any information about the identity of individual consumers. Moreover, all documents and information provided in response to compulsory process, including through special orders authorized by Section 6(b) of the FTC Act, are exempt from public disclosure under Section 21(f) of the Federal Trade Commission Act, 15 U.S.C. § 57b-2(f), and Exemption 3 of the Freedom of Information Act, 5 U.S.C. § 552(b)(3). In addition, to the extent applicable, section 6(f) of the FTC Act, 15 U.S.C. 46(f), bars the Commission from publicly disclosing trade secrets or confidential commercial or financial information it receives from persons pursuant to, among other methods, special orders authorized by Section 6(b) of the FTC Act. Such information also would be exempt from disclosure under Exemption (4) of the Freedom of Information Act, 5 U.S.C. 552(b)(4). Finally, under Section 21(c) of the FTC Act, 15 U.S.C. 57b-2(c), a person who designates a submission as confidential is entitled to 10 days' advance notice of any anticipated public disclosure by the Commission, assuming that the Commission has determined that the information does not, in fact, constitute 6(f) material. Although materials covered under one or more of these various sections are protected by stringent confidentiality constraints, the FTC Act and the Commission's rules authorize disclosure in limited circumstances (*e.g.*, official requests by Congress, requests from other agencies for law enforcement purposes, and administrative or judicial proceedings). Even in those limited contexts, however, the Commission's rules may afford protections to the submitter, such as advance notice to seek a protective order in litigation. *See* 15 U.S.C. 57b-2; 16 CFR 4.9-4.11.

[10] As used in these Orders, the term ''advertising'' means any communication that the institution uses to solicit business including, but not limited to, printed materials, the institution's main internet page, radio advertisements, video advertisements disseminated via television, the Internet or any other means of online communication, and solicitations conducted via telephone.

[11] The documents produced should exclude any information for which prior customer authorization is required under the Right to Financial Privacy Act, 12 U.S.C. 3401, *et seq.*

$58.12 (4 hours per entity) and an average hourly wage of legal staff time of $40.87 (4 hours per entity).[12] Thus, cumulatively, estimated labor costs to comply with the Orders will be $79,192 (($58.12 x 800 hours) + ($40.87 x 800 hours)). The actual cost may be lower to the extent clerical personnel handle some of the tasks.

Staff anticipates that industry members maintain most, if not all, of the material sought in the orders in the normal course of business because they must disclose the information to customers under existing law. Moreover, to the extent that information sought is not generated in the normal course of business, any associated non-labor cost should be de minimis.

Willard K. Tom,

General Counsel.

[FR Doc. E9–26582 Filed 11–03–09; 8:45 am]

BILLING CODE 6750–01–S

[12]Hourly wages are averages based on mean hourly wages shown in (*http://www.bls.gov/oes/2008/may/naics4_551100.htm#b11-0000*) (May 2008 ''National Industry-Specific Occupational Employment and Wage Estimates'') for sales and marketing managers and legal occupations (lawyers, paralegals, and other legal support), respectively.

GOVERNMENT ACCOUNTABILITY OFFICE

Medicare Payment Advisory Commission Nomination Letters

AGENCY: Government Accountability Office (GAO).

ACTION: Notice on letters of nomination.

SUMMARY: The Balanced Budget Act of 1997 established the Medicare Payment Advisory Commission (MedPAC) and gave the Comptroller General responsibility for appointing its members. For appointments to MedPAC that will be effective May 1, 2010, I am announcing the following: Letters of nomination should be submitted between January 1 and March 1, 2010, to ensure adequate opportunity for review and consideration of nominees prior to the appointment of new members.

ADDRESSES:

GAO: 441 G Street, NW., Washington, DC 20548.

MedPAC: 601 New Jersey Avenue, NW., Suite 9000, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: GAO: Office of Public Affairs, (202) 512–4800.

42 U.S.C. 1395b–6.

Gene L. Dodaro,

Acting Comptroller General of the United States.

[FR Doc. E9–26484 Filed 11–3–09; 8:45 am]

BILLING CODE 1610–02–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0283]

Office of the Chief Information Officer; Submission for OMB Review; Temporary Contractor Information Worksheet

AGENCY: Office of Enterprise Solutions (IA), Office of the Chief Information Officer (OCIO), General Services Administration (GSA).

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the General Services Administration invites the general public and Federal agencies to comment on the renewal of an information collection request for the collection of personal data to authorize and initiate investigation requests for GSA temporary contractors. GSA requires OMB approval for this collection to make determinations on granting unescorted physical access to GSA-controlled facilities. The approval is critical for GSA to meet the anticipated increase in number of temporary contractors as a result of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5). A request for public comments was published in the **Federal Register** at 74 FR 22930 on May 15, 2009.

Public comments are particularly invited on: Whether this collection of information is necessary 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.

DATES: Submit comments on or before: December 4, 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 GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (MVPR), General Services Administration, 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 3090–0283, Temporary Contractor Information Worksheet.

FOR FURTHER INFORMATION CONTACT: Mr. William Erwin, Program Manager, HSPD–12 Program Management Office, GSA, 1800 F Street, NW, Washington, DC 20405; or telephone (202) 501–0758. Please cite OMB Control No. 3090–0283, Temporary Contractor Information Worksheet.

SUPPLEMENTARY INFORMATION:

A. Purpose

The U.S. Government conducts criminal checks to establish that applicants or incumbents working for the Government under contract may have unescorted access to GSA-controlled facilities. GSA uses the Temporary Contractor Information Worksheet and the FBI Form FD–258 Fingerprint Card to conduct a FBI National Criminal Information Check (NCIC) for each temporary contractor (working on contract for six (6) months or less and require physical access only) on GSA contracts for American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) efforts to determine whether to grant unescorted access to GSA-controlled facilities. GSA is anticipating a large influx in temporary contractors due to the American Recovery and Reinvestment Act of 2009. GSA received one public comment during the 60-day comment period. In summary, the comment asked whether the information collected from the form could be collected using an existing form or was necessary to collect. GSA responded directly to the submitter by stating that the form: provides notifications and requests an authorizing signature from GSA temporary contractors on American Recovery and Reinvestment Act of 2009 (ARRA) that other existing forms do not include; requests only data that is required unlike other existing forms; and collects required GSA location, point of contact information not collected through other existing forms.

The Office of Management and Budget (OMB) Guidance M–05–24 for Homeland Security Presidential Directive (HSPD) 12 authorizes Federal departments and agencies to ensure that temporary contractors have limited/controlled access to facilities and information systems. GSA Directive CIO P 2181.1 Homeland Security Presidential Directive-12 Personal Identity Verification and Credentialing (available at *http://www.gsa.gov/hspd12*) states that GSA temporary

contractors must undergo a minimum of a FBI National Criminal Information Check (NCIC) to receive unescorted physical access. Temporary contractors' Social Security Number is needed to keep records accurate, because other people may have the same name and birth date. Executive Order 9397 Numbering System for Federal Accounts Relating to Individual Persons also allows Federal agencies to use this number to help identify individuals in agency records. GSA describes how information will be maintained in the Privacy Act system of record notice published in the **Federal Register** at 73 FR 35690 on June 24, 2008.

B. Annual Reporting Burden

Respondents: 24,480.
Responses per Respondent: 1.
Hours per Response: .25.
Total Burden Hours: 6,120.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 3090–0283, Temporary Contractor Information Worksheet in all correspondence. The form can be downloaded from the GSA Forms Library at *http://www.gsa.gov/forms.* Type GSA850 in the form search field.

Dated: October 29, 2009.

Casey Coleman,

Chief Information Officer, U.S. General Services Administration.

[FR Doc. E9–26469 Filed 11–3–09; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10302]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320(a)(2)(ii). This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because use of the normal clearance procedures is reasonably likely to cause a statutory deadline to be missed, stated in 5 CFR 1320.13(a)(2)(iii). The Centers for Medicare and Medicaid Services (CMS) is requesting that an information collection request (ICR) for the Collection Requirements for Compendia for Determination of Medically-accepted Indications for Off-label Uses of Drugs and Biologicals in an Anti-cancer Chemotherapeutic Regimen, be processed under the emergency clearance process. Approval of this package is essential in order to comply with the section 182(b) of MIPPA amended Section 1861(t)(2)(B) of the Social Security Act (42 U.S.C. 1395x(t)(2)(B)).

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Collection Requirements for Compendia for Determination of Medically-accepted Indications for Off-label Uses of Drugs and Biologicals in an Anti-cancer Chemotherapeutic Regimen *Use:* Congress enacted the Medicare Improvement of Patients and Providers Act (MIPPA). Section 182(b) of MIPPA amended Section 1861(t)(2)(B) of the Social Security Act (42 U.S.C. 1395x(t)(2)(B)) by adding at the end the following new sentence: 'On and after January 1, 2010, no compendia may be included on the list of compendia under this subparagraph unless the compendia has a publicly transparent process for evaluating therapies and for identifying potential conflicts of interest.' We believe that the implementation of this statutory provision that compendia have a ''publicly transparent process for evaluating therapies and for identifying potential conflicts of interests'' is best accomplished by amending 42 CFR 414.930 to include the MIPPA requirements and by defining the key components of publicly transparent processes for evaluating therapies and for identifying potential conflicts of interests.

All currently listed compendia will be required to comply with these provisions, as of January 1, 2010, to remain on the list of recognized compendia. In addition, any compendium that is the subject of a future request for inclusion on the list of recognized compendia will be required to comply with these provisions. No compendium can be on the list if it does not fully meet the standard described in section 1861(t)(2)(B) of the Act, as revised by section 182(b) of the MIPPA. *Form Number:* CMS–10302 (OMB#: 0938–New); *Frequency:* Reporting, Recordkeeping and Third-party disclosure; *Affected Public:* Business and other for-profits and Not-for-profit institutions; *Number of Respondents:* 845; *Total Annual Responses:* 900; *Total Annual Hours:* 5,135. (For policy questions regarding this collection contact Brijet Burton at 410–786–7364. For all other issues call 410–786–1326.)

CMS is requesting OMB review and approval of this collection by *December 8, 2009,* with a 180-day approval period. Written comments and recommendations will be considered from the public if received by the individuals designated below by November 30, 2009.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at: *http://www.cms.hhs.gov/regulations/pra* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees

referenced below by November 30, 2009.

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

3. *By Facsimile or E-mail to OMB.* OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, E-mail: *OIRA_submission@omb.eop.gov.*

Dated: *October 21, 2009.*

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–26541 Filed 11–3–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0347]

Draft Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Melons; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to January 4, 2010, the comment period for the draft guidance entitled ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Melons'' that appeared in the **Federal Register** of August 3, 2009 (74 FR 38437), as corrected on August 21, 2009 (74 FR 42311). In the notice of availability, FDA requested comments by November 2, 2009. The agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: Submit written or electronic comments by January 4, 2010.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Willette Crawford, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1111.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 3, 2009 (74 FR 38437), as corrected on August 21, 2009 (74 FR 42311), FDA published a notice of availability with a 90-day comment period to request comments on the draft guidance entitled ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Melons'' (the draft guidance). Comments on the draft guidance will inform FDA's current thinking for finalization of this level 1 guidance consistent with FDA's good guidance practices.

The agency has received requests for an extension of the comment period for the draft guidance. FDA has considered the requests and is extending the comment period for the draft guidance until January 4, 2010. The agency believes that this extension allows adequate time for interested persons to submit comments without significantly delaying finalization of this level 1 guidance.

II. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 30, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–26638 Filed 11–2–09; 11:15 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0346]

Draft Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Tomatoes; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to January 4, 2010, the comment period for the draft guidance entitled ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Tomatoes'' that appeared in the **Federal Register** of August 3, 2009 (74 FR 38438), as corrected on August 21, 2009 (74 FR 42311). In the notice of availability, FDA requested comments by November 2, 2009. The agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: Submit written or electronic comments by January 4, 2010.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2024.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 3, 2009 (74 FR 38438), as corrected on August 21, 2009 (74 FR 42311), FDA published a notice of availability with a 90-day comment period to request comments on the draft guidance entitled ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Tomatoes'' (the draft guidance). Comments on the draft guidance will inform FDA's current thinking for finalization of this level 1 guidance consistent with FDA's good guidance practices.

The agency has received requests for an extension of the comment period for the draft guidance. FDA has considered the requests and is extending the

comment period for the draft guidance until January 4, 2010. The agency believes that this extension allows adequate time for interested persons to submit comments without significantly delaying finalization of this level 1 guidance.

II. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments on this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 30, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–26636 Filed 11–2–09; 11:15 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0348]

Draft Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Leafy Greens; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to January 4, 2010, the comment period for the draft guidance entitled ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Leafy Greens'' that appeared in the **Federal Register** of August 3, 2009 (74 FR 38439), as corrected on August 21, 2009 (74 FR 42311). In the notice of availability, FDA requested comments by November 2, 2009. The agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: Submit written or electronic comments by January 4, 2010.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amy Green, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740 301–436–2025.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 3, 2009 (74 FR 38439), as corrected on August 21, 2009 (74 FR 42311), FDA published a notice of availability with a 90-day comment period to request comments on the draft guidance entitled ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Leafy Greens'' (the draft guidance). Comments on the draft guidance will inform FDA's current thinking for finalization of this Level 1 guidance consistent with FDA's good guidance practices.

The agency has received requests for an extension of the comment period for the draft guidance. FDA has considered the requests and is extending the comment period for the draft guidance until January 4, 2010. The agency believes that this extension allows adequate time for interested persons to submit comments without significantly delaying finalization of this Level 1 guidance.

II. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments on this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 30, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–26637 Filed 11–2–09; 11:15 am]

BILLING CODE 4160–01–S

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.

Live-Attenuated Tularemia Vaccine

Description of Invention: The invention provides compositions and methods of use for a modified strain of *Francisella tularensis*, the causative agent of tularemia, a category A biodefense agent (NIAID classification). Currently, no vaccines are available, and the only approved therapeutics for tularemia are antibiotics that are only effective if delivered early in the infection. The subject invention defines and characterizes mutations in *Francisella tularensis* that result in attenuated bacteria capable of inducing strong protective immune responses. Thus, these stable mutant strains could be used as efficient live vaccines against tularemia.

Applications: Live-attenuated vaccines against *Francisella tularensis.*

Advantages:

- Live-attenuated bacteria can be easily produced through recombinant technologies
- Live-attenuated vaccines do no require adjuvants
- Immune response to live-attenuated vaccines lasts for years and does not require booster

Development Status: In vitro and *in vivo* data available.

Inventors: Jean A. Celli and Catharine M. Bosio (NIAID).

Relevant Publications:

1. TD Wehrly *et al.* Intracellular biology and virulence determinants of Francisella tularensis revealed by transcriptional profiling inside macrophages. Cell Microbiol. 2009 Jul;11(7): 1128–1150.
2. J Su *et al.* Genome-wide identification of Francisella tularensis virulence determinants. Infect Immun. 2007 Jun;75(6):3089–3101.
3. S Janovská *et al.* Identification of immunoreactive antigens in membrane proteins enriched fraction from Francisella tularensis LVS. Immunol Lett. 2007 Feb 15;108(2):151–159.
4. S Janovská *et al.* Proteomic analysis of antibody response in a case of laboratory-acquired infection with Francisella tularensis subsp. tularensis. Folia Microbiol (Praha). 2007;52(2):194–198.

Patent Status: U.S. Provisional Application No. 61/156,173 filed 27 Feb 2009 (HHS Reference No. E–125–2009/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Sally Hu, Ph.D.; 301–435–5606; *HuS@mail.nih.gov*.

Collaborative Research Opportunity: The NIAID Office of Technology Development is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize live vaccine strains of *Francisella tularensis* with defined mutations. Please contact Rosemary Walsh at 301–496–2644 for more information.

Improved Targeting Precision of Radiotherapy

Description of Invention: The technology offered for licensing is in the field of radiotherapy. The invention provides for improvement in the targeting precision of 4D Image-Guided Radiation Therapy (4D IGRT). It relates to new methods for (1) predicting the dynamic tidal volume of a patient and (2) predicting the motion of the diaphragm and points of interest near the diaphragm, by monitoring the external volume change of a patient's torso, thereby improving the time-resolved computed tomography (4DCT) and motion-compensated radiation therapy (4DRT). The method is based on the observation that the change in torso volume is representative of the change in lung air volume (expansion and contraction) driven by diaphragm displacement, as evidence by the high linear relationship between the two with a linear coefficient of unity. A model of lung volume expansion and extension within a patient's rib cage is presented in this invention to convert the external torso volume change (TVC) to relative diaphragm displacement.

Applications: The method can be integrated with Image-Guided Radiation Therapy and related instrumentation to provide improvement in targeting precision and thus enhancement in therapeutic ratio and radiotherapy outcome.

Advantage: The invention is advantageous to previous methods related to tracking of internal organ motion due to its unique observations as follows:

- There is a highly correlated, quantitative linear relationship between volume changes of the external torso and the internal lung during respiration.
- Based on this external-internal volumetric relationship and lung volume compensation model, a patient's diaphragm displacement can be predicted with a clinically acceptable accuracy.

A novel approach based on these observations may therefore offer a more accurate and reliable approach for motion tracking during 4D IGRT, in comparison to existing methods. In particular, the advantages which may be provided by this technology are as follows:

- Minimizing the use of excessive ionization radiation for patient imaging. The use of x-ray based imaging techniques can be largely avoided.
- Minimizing the use of intrusive implanted fiducials for target localization, a method currently used in radiation therapy.
- Torso volume change is more comprehensive indication of lung volume change than the fiducial displacement or bellows tension, which are both indirect indicators. This approach intrinsically eliminates the problems due to sensitivity of marker location, reproducibility of marker(s) placement, complexity of data analysis, and reliability of motion correlation in the presence of breathing irregularity and breathing pattern change.
- The technology may be advantageous to the currently used spirometry method, which requires frequent calibration, baseline drift calibration and inconvenience.
- The technology can be utilized by modifying existing superficial imaging techniques, such as optical camera imaging (OCI) systems. Therefore it is highly likely that the technology can be integrated into an image guided radiation therapy in the future.

Development Status: The core of this invention is established. The following 2 on-going studies have been initiated: (1) Calculating the motion of a tumor anywhere in the lungs using a tumor motion model and volumetric boundary conditions, and (2) calculating the volumes using a surface imaging system and testing the accuracy based on phantom and patient studies. The implementation of this technique after the studies should be straightforward in an existing radiotherapy system.

Market: The commercial market of radiotherapy and related equipment is huge. Radiotherapy alone or in combination with chemotherapy is used for at least 50% of cancer treatments. According to market research the radiation therapy market is growing rapidly with annual cancer rates worldwide projected to increase by fifty percent by 2020. Extra-cranial stereotactic body radiotherapy (SBRT) using ablative or near ablative radiation dose to the tumor has shown significant improvement in local control rate, especially in early stage of non-small cell lung cancer (NSCLC). The requirement for high precision motion monitoring and tracking is critical for SBRT procedures with clinically tolerable toxicity to normal tissues.

Methods of calculating internal organ motion are incorporated into radiotherapy systems to enhance their targeting precision and improve therapeutic ratio. The market for these methods is therefore vast and rapidly growing. In particular, there is a constant need for such improved methods that can readily be integrated into existing systems. The invention described here has therefore a good potential for commercial success.

Inventors: Guang (George) Li (NCI), Robert W. Miller (NCI), Kevin A. Camphausen (NCI), *et al.*

Patent Status: U.S. Provisional Application No. 61/145,487 filed 16 Jan 2009 (HHS Reference No. E–151–2008/0–US–01).

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, Ph.D., MBA; 301–435–4616; *UR7a@nih.gov*; John Stansberry, Ph.D.; 301–435–5236; *stansbej@mail.nih.gov*.

A Novel Multimeric CD4 Fusion Protein for Treating HIV Infection

Description of Invention: This invention could potentially provide an alternative to antiretroviral therapy (ART), especially in cases where productively-infected cells persist with ART. This multimeric CD4 fusion protein acts as a decoy to inhibit human immunodeficiency virus (HIV–1) entry

into host cells. More specifically, this multimeric CD4 inhibits the interaction between HIV–1 gp120 and CD4 present on the surface of CD4 T-cells, the major HIV–1 target cell. There is strong evidence that binding between gp120, as part of a virion spike, and CD4 on cell surface is the first step for HIV entry into host cells. This multimeric CD4 provides a number of advantages over inhibitory CD4 molecules previously developed. First, this CD4 multimer is capable of binding at least 10 gp120 simultaneously with high avidity. Second, it does not enhance HIV infection at suboptimal concentrations, a phenomenon observed with previously developed recombinant CD4 molecules. Third, it has been demonstrated that this CD4 fusion protein hyper-crosslinks CD16 on natural killer (NK) cells and as a consequence delivers an exceptionally strong signal to NK cells, promoting potent Antibody-Dependent Cellular Cytotoxicity (ADCC) and lysis of HIV-infected cells. The inventors have shown that this recombinant CD4 multimer efficiently neutralizes primary isolates from different HIV subgroups.

The invention comprises an immunoglobulin construct having up to 12 amino terminal domains of CD4 (D1D2), the epitope responsible for HIV–1 gp120 binding activity. It also comprises domains of a human IgG1 heavy chain, as well as the IgA tailpiece that drives its polymerization. The two amino terminal domains of CD4 are fused to the CH2CH3 domains (which bears the FC receptor recognition epitopes) of a human IgG1 heavy chain.

Applications: HIV therapeutics and HIV vaccine development.

Advantages: Efficient inhibition of HIV–1 viral entry without enhancement of infection at suboptimal concentrations. Potent activation of Antibody-Dependent Cellular Cytotoxicity (ADCC) and lysis of HIV-infected cells.

Development Status: The anti-HIV activity of this multimeric CD4 protein has been well characterized in vitro.

Inventors: James Arthos, Claudia Cicala, Anthony S. Fauci (NIAID).

Publications:

1. J Arthos *et al.* Biochemical and biological characterization of a dodecameric CD4–Ig fusion protein: implications for therapeutic and vaccine strategies. J Biol Chem. 2002 Mar 29;277(13):11456–11464.
2. PD Kwong *et al.* HIV–1 evades antibody-mediated neutralization through conformational masking of receptor-binding sites. Nature. 2002 Dec 12;420(6916):678–682.
3. N Gupta *et al.* Targeted lysis of HIV-infected cells by natural killer cells armed and triggered by a recombinant immunoglobulin fusion protein: implications for immunotherapy. Virology. 2005 Feb 20;332(2):491–497.
4. T Zhou *et al.* Structural definition of a conserved neutralization epitope on HIV–1 gp120. Nature. 2007 Feb 15;445(7129):732–737.
5. A Bennett *et al.* A Cryoelectron tomographic analysis of an HIV-neutralizing protein and its complex with native viral gp120. J Biol Chem. 2007 Sep 21;282(38):27754–27759.

Patent Status: HHS Reference No. E–337–2001/0—

- U.S. Patent No. 7,368,114 issued 06 May 2008
- European Application No. 02799169.4 (recently allowed)

Licensing Status: Available for licensing.

Licensing Contact: RC Tang, JD, LLM; 301–435–5031; *tangrc@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases, Laboratory of Immunoregulation, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this invention. Please contact William Ronnenberg at 301–451–3522 or *wronnenberg@niaid.nih.gov* for more information.

Dated: October 29, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–26607 Filed 11–3–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Development and Social Psychology.

Date: November 12, 2009.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Lee S. Mann, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, 301–435–0677, *mannl@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 28, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–26576 Filed 11–3–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the National Cancer Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

A portion of the meeting will be closed to the public in accordance with the provisions set forth in section 552b(6), as amended. The discussions could disclose personal information concerning NCI Staff and/or its contractors, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Advisory Board, Subcommittee on Cancer Centers.

Open: November 30, 6:30 p.m. to 8 p.m.

Agenda: Discussion on Cancer Centers.

Place: Hyatt Regency Bethesda, One Metro Center, Bethesda, MD 20814.

Contact Person: Dr. Linda K. Weiss, Executive Secretary, NCAB Subcommittee on Cancer Centers, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Suite 700, Bethesda, MD 20892–8345, (301) 496–8531.

Name of Committee: National Cancer Advisory Board.

Open: December 1, 2009, 8:30 a.m. to 3:30 p.m.

Agenda: Program reports and presentations; business of the Board.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8001, Bethesda, MD 20892–8327, (301) 496–5147.

Name of Committee: National Cancer Advisory Board.

Closed: December 1, 2009, 3:30 p.m. to 5 p.m.

Agenda: Review intramural program site visit outcomes. Discussion of confidential personnel issues.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8001, Bethesda, MD 20892–8327, (301) 496–5147.

Name of Committee: National Cancer Advisory Board.

Open: December 2, 2009, 8:30 a.m. to 12 p.m.

Agenda: Program reports and presentations; business of the Board.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8001, Bethesda, MD 20892–8327, (301) 496–5147.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/ncab.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 20, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–26605 Filed 11–3–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Child Conflicts.

Date: November 13, 2009.

Time: 10 a.m. to 12:30 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.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: October 28, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–26604 Filed 11–3–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Deletion of a System of Records

AGENCY: Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA).

ACTION: Notice to delete an existing system of records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, the Health Resources and Services Administration (HRSA) is deleting an existing system of records titled ''Ricky Ray Hemophilia Relief Fund Act of 1998,'' HRSA System No. 09–15–0061, established at Volume 64, Number 237 **Federal Register** pages 69274–69277 on December 10, 1999.

DATES: HRSA filed a deletion of a system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on October 26, 2009. To ensure all parties have adequate time in which to comment, the deletion of the system will become effective 30 days from the publication of the notice or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless HRSA receives comments that require alterations to this notice.

ADDRESSES: Please address comments to Dr. Geoffrey Evans, HRSA/HSB, 5600 Fishers Lane, Room 11C–26, Rockville, Maryland 20857. Comments received will be available for review and inspection, by appointment, at this same address from 9 a.m. to 3 p.m. Eastern Standard Time Zone, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Geoffrey Evans, HRSA/HSB, 5600 Fishers Lane, Room 11C–26, Rockville, Maryland 20857; telephone 301–443–6593. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Ricky Ray Hemophilia Relief Fund Act of 1998 ended on October 31, 2005; therefore, HRSA proposes to delete this SOR as HRSA no longer collects, maintains, stores, processes, and retrieves data regarding individuals in this program area. The Program archived all outstanding documentation at the Washington National Records Center in Suitland, Maryland, in accordance with the requirements of the National Archives and Records Administration.

Dated: October 13, 2009.

Mary K. Wakefield,

Administrator.

[FR Doc. E9–26532 Filed 11–3–09; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Deletion of an Existing System of Records

AGENCY: Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA).

ACTION: Notice to delete an existing system of records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, HRSA is deleting an existing system of records titled the ''Minority/Disadvantaged Health Professions Programs'' HRSA System No. 09–15–0060, established at 63 **Federal Register** 14121 (March 24, 1998).

DATES: To be considered, written comments must be submitted on or before December 14, 2009. If no comments are received, the deletion of this SOR will be effective on December 14, 2009.

ADDRESSES: The public should address comments to: Office of Workforce Policy and Performance Management, Bureau of Health Professions, HRSA, Room 9A18 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0367. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., Eastern Time zone.

SUPPLEMENTARY INFORMATION: Minority/Disadvantaged Health Professions Program no longer collects, maintains, processes or retrieves data regarding individuals in this program area. However, outstanding documents are archived. Therefore, HRSA proposes to delete this SOR 09–15–0060.

Dated: October 14, 2009.

Mary K. Brand,

Deputy Administrator.

[FR Doc. E9–26528 Filed 11–3–09; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Report of an Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Health Resources andServices Administration (HRSA).

ACTION: Notice of an altered system of records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, the Health Resources and Services Administration (HRSA) is publishing notice of a proposal to alter the system of records for the Organ Procurement and Transplantation Network (OPTN)/Scientific Registry of Transplant Recipients (SRTR) Data System, HHS/HRSA/HSB/DoT, system of records number 09–15–0055. The purpose of this alteration is to add a new routine use for this system of records. In addition, this notice clarifies system location, how the records are stored, retrieved, and disposed.

DATES: HRSA filed an altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on October 27th, 2009. To ensure all parties have adequate time in which to comment, the altered system, including the routine uses, will become effective 30 days from the publication of the notice or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless HRSA receives comments that require alterations to this notice.

ADDRESSES: Please address comments to the Chief of the Operations and Analysis Branch, Division of Transplantation, HSB/HRSA, Parklawn Building, Room 12C–06, 5600 Fishers Lane, Rockville, MD 20857. Comments received will be available for inspection at this same address from 9 a.m. to 5 p.m., (Eastern Standard Time Zone), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Chris McLaughlin, Chief, Operations and Analysis Branch, Division of Transplantation, HSB/HRSA, Parklawn Building, Room 12C–06, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–0036. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HRSA is adding a new routine use (number 6) to permit disclosures to appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and necessary for that assistance.

In addition HRSA is clarifying system location and how records are:

- Stored (under storage); records are maintained both electronically and via hardcopy in file folders, magnetic tapes, and disc packs,
- Retrieved (under retrievability); records in the system are retrieved by more than one data element including name, date of birth, and social security number,
- Disposed (under retention and disposal); each donor, candidate, and recipient record stored within the OPTN/SRTR Data System shall be retained for no more than 25 years beyond the known death of the candidate or the organ recipient. Paper media is placed in locked destruction bins and is shredded by a third-party vendor and electronic media is logged and degaussed before leaving the building.

Dated: October 13, 2009.

Mary K. Wakefield,

Administrator.

SYSTEM NUMBER:

09–15–0055.

SYSTEM NAME:

Organ Procurement and Transplantation Network (OPTN)/Scientific Registry of Transplant Recipients (SRTR) Data System, HHS/HRSA/HSB/DoT.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Data collected by the OPTN are maintained by the OPTN contractor and

shared on a monthly basis with the contractor for the SRTR and the DoT, within HRSA, the Federal entity that oversees the OPTN and SRTR contracts.

OPTN Contractor: United Network for Organ Sharing (UNOS), P.O. Box 2484, 700 North Fourth Street, Richmond, Virginia 23218.

SRTR Contractor: Arbor Research Collaborative for Health, 315 West Huron, Suite 360, Washtenaw County, Ann Arbor, Michigan 48103.

Division of Transplantation: Healthcare Systems Bureau, HRSA, Parklawn Building, Room 12C–06, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Living and deceased persons from whom organs have been obtained for transplantation.
2. Persons who are candidates for organ transplantation.
3. Persons who have been recipients of transplanted organs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Donor registration, transplant candidate registration, transplant recipient registration, histocompatibility, transplant recipient follow-up and living donor follow-up, forms and other non-registry operational information. Data items include: Name, Social Security number, identifiers assigned by OPTN and SRTR contractors, hospital and hospital provider number, State and zip code of residence, citizenship, race/ethnicity, gender, date and time of organ recovery and transplantation, name of transplant center, histocompatibility status, donor medical information and, if donor is deceased, cause of death, patient medical information before and after transplantation, immunosuppressive medication, cause of death (if recipient is deceased), health care coverage, employment and education level.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 274 requires that the Secretary, by contract, provide for the establishment and operation of an OPTN, and *42 U.S.C. 274a* requires that the Secretary, by grant or contract, develop and maintain a Scientific Registry of the recipients of organ transplants. 42 CFR part 121 authorizes collection of the information included in this system by the OPTN.

PURPOSE(S) FOR RECORDS IN THIS SYSTEM:

To (1) facilitate organ placement and match donor organs with recipients; (2) monitor compliance of member organizations with Federal laws and regulations and with OPTN requirements; (3) review and report periodically to the public on the status of organ donation and transplantation in the United States; (4) provide data to researchers and government agencies to study the scientific and clinical status of organ transplantation; (5) perform transplantation-related public health surveillance including possible transmission of donor disease.

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

1. Departmental contractors and/or their subcontractors who have been engaged by the Department to assist in accomplishment of a departmental function relating to the purposes for this system of records and who require access to the records in order to assist the Department.

2. HRSA, independently and through its contractor(s), may disclose records regarding organ donors, organ transplant candidates, and organ transplant recipients, to transplant centers, histocompatibility laboratories, organ procurement organizations, the Transplant Transmission Sentinel Network and other public health agencies such as SEER registries, NCI contractors, State cancer registries and other State health agencies, provided that such disclosure is compatible with the purpose for which the records were collected, including: Matching donor organs with recipients, monitoring compliance of member organizations with Federal laws and regulations and OPTN requirements, reviewing and reporting periodically to the public on the status of organ donation and transplantation in the United States, and transplantation-related public health surveillance. These records consist of Social Security numbers, other patient identification information and pertinent medical information.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to affect directly the operation of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Department of Justice has agreed to represent such employee, for example, in defending a claim against the Public Health Service in connection with such individual, disclosure may be made to the Department of Justice to enable the Department to present an effective defense.

4. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

5. A record may be disclosed for a research purpose, when the Department, independently or through its contractor(s):

a. Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. Has determined that a bona fide research/analysis purpose exists;

c. Has required the data recipient to: (1) Establish strict limitations concerning the receipt and use of patient-identified or center-identified data; (2) establish reasonable administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent the unauthorized use or disclosure of the record; (3) remove, destroy, or return the information that identifies the individual or center at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the data recipient has presented adequate justification of a research or health nature for retaining such information; and (4) make no further use or disclosure of the record except as authorized by HRSA or its contractor(s) or when required by law;

d. has determined that other applicable safeguards or protocols will be followed; and

e. has secured a written statement attesting to the data recipient's understanding of, and willingness to abide by these provisions.

6. To appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and necessary for that assistance.

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

1. *Storage:* Records are maintained both electronically and via hardcopy in file folders, magnetic tapes, and disc packs.

2. *Retrievability:* Records in the system are retrieved by more than one data elements including name, date of birth, and social security number.

3. *Safeguards:*

a. *Authorized users:* Access is limited to authorized HRSA and contract personnel responsible for administering the program. Authorized personnel include the System Manager and Project Officer, and the HRSA Automated Information System (AIS) Systems Security Officer; and the program managers/program specialists who have responsibilities for implementing the program. Both HRSA and its contractor(s) shall maintain current lists of authorized users.

b. *Physical safeguards:* Magnetic tapes, disc packs, computer equipment, and hard-copy files are stored in areas where fire and life safety codes are strictly enforced. All automated and nonautomated documents are protected on a 24-hour basis in locked storage areas. Security guards perform random checks on the physical security of the records storage area. The OPTN and SRTR contractors are required to maintain off site a complete copy of the system and all necessary files to run the computer organ donor-recipient match and update software.

Procedural safeguards: A password is required to access the terminal and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs protect information from public view and from unauthorized personnel entering an unsupervised office. All authorized users must sign a nondisclosure statement. Access to records is limited to those staff members trained in accordance with the Privacy Act and Automated Data Processing (ADP) security procedures. The contractor(s) is required to assure that the confidentiality safeguards of these records will be employed and that it complies with all provisions of the Privacy Act. All individuals who have access to these records must have the appropriate ADP security clearances. Privacy Act and ADP system security requirements are included in the contracts. The HRSA Project Officer(s) and the System Manager(s) oversee compliance with these requirements. The HRSA authorized users will make visits to the contractors' facilities to assure security and Privacy Act compliance. The contractor(s) is/are required to adhere to a HRSA approved system security plan.

RETENTION AND DISPOSAL:

Each donor, candidate, and recipient record stored within the OPTN/SRTR Data System shall be retained for no more than 25 years beyond the known death of the candidate or the organ recipient. Paper media is placed in locked destruction bins and is shredded by a third-party vendor and electronic media is logged and degaussed before leaving the building.

SYSTEM MANAGER(S) AND ADDRESS:

OPTN Contractor: United Network for Organ Sharing (UNOS), P.O. Box 2484, 700 North Fourth Street, Richmond, Virginia 23218.

SRTR Contractor: Greg Levine, Arbor Research Collaborative for Health, 315 West Huron, Suite 360, Washtenaw County, Ann Arbor, Michigan 48103.

Division of Transplantation: Healthcare Systems Bureau, HRSA, Parklawn Building, Room 12C–06, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

Requests by mail: To determine if a record about you exists, write to the OPTN contractor (see System Location). The request should contain the name and address of the individual; date of birth; the name of his/her transplant center, a notarized written request or a certification that the requester is the person he/she claims to be and that he/she understands that the request or acquisition of records pertaining to another individual under false pretenses is a criminal offense subject to a $5,000 fine. These procedures are in accordance with the Department's regulations (45 CFR part 5b).

Requests in person: The individual must meet all the requirements stated above for a request by mail, providing the information in written form, or provide at least one piece of tangible identification. The individual should recognize that in order to maintain confidentiality, and thus the accuracy of data released through repeated internal verification, securing the information by request in person will be time consuming. These procedures are in accordance with the Department's regulations (45 CFR part 5b).

Requests by Telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORDS ACCESS PROCEDURES:

These are the same as notification procedures. Requestors should also provide a reasonable description of the record being sought. Requestors also may request an accounting of disclosures that have been made of their records, if any. A parent or guardian who requests notification of, or access to, a minor's/incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the minor/incompetent person as well as his/her own identity. These procedures are in accordance with the Department's regulations (45 CFR part 5b).

CONTESTING RECORDS PROCEDURES:

To contest a record in the system, contact the official at the address specified under notification procedure above and reasonably identify the record, specify the information being contested, and the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Organ procurement organizations, histocompatibility laboratories, and organ transplant centers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. E9–26527 Filed 11–3–09; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0017]

Voluntary Private Sector Accreditation and Certification Preparedness Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of public meetings; extension of comment period.

SUMMARY: The Federal Emergency Management Agency (FEMA) is announcing the dates, times, locations, and discussion topics for a series of public meetings that will be held to discuss the Department of Homeland Security's (DHS's) Voluntary Private Sector Preparedness Accreditation and Certification Program (PS-Prep). The purpose of these meetings is to provide the public with an opportunity to engage in dialogue with DHS leadership and program managers regarding PS-Prep. Additionally, this notice extends the comment period that was originally established in FEMA's October 16, 2009 **Federal Register** Notice announcing the intent to select standards for use in PS-Prep. The comment period will now end on January 15, 2010.

DATES: See **SUPPLEMENTARY INFORMATION** section for public meeting dates and times. Comments submitted regarding the October 16, 2009 **Federal Register** Notice must be received by January 15, 2010.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for public meeting addresses and for information on submitting meeting presentations.

You may submit comments on the October 16, 2009 **Federal Register** Notice, identified by Docket ID FEMA–2008–0017, by one of the following methods:

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

E-mail: FEMA-POLICY@dhs.gov. Include ''Docket ID FEMA–2008–0017'' in the subject line of the message.

Fax: 703–483–2999.

Mail/Hand Delivery/Courier: Regulation & Policy Team, Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C St., SW., Washington, DC 20472–3100.

Docket: For access to the docket to read background documents, the October 16, 2009 **Federal Register** Notice, or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov,* and search for Docket ID ''FEMA–2008–0017.'' Submitted comments also may be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C St., SW., Washington, DC 20472.

Privacy Act: Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, both statements made at the public meetings as well as written comments submitted are public. You may wish to read the Privacy Act notice that is available on the Privacy and Use link on the Administration Navigation Bar of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Donald Grant, Incident Management Systems Integration Division, National Preparedness Directorate, National Integration Center, 500 C Street, SW., Washington, DC 20472. Phone: 202–646–3850. E-mail: *FEMA-NIMS@dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Voluntary Private Sector Accreditation and Certification Preparedness Program (PS-Prep) is a DHS program, established under the authority of Title IX of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53). FEMA published a **Federal Register** Notice on December 24, 2008, at 73 FR 79140, announcing the creation of the program. As discussed in that notice, the purpose of PS-Prep is to raise the level of private sector preparedness by establishing a system in which a private sector entity may voluntarily obtain a certification of conformity with a particular DHS-adopted preparedness standard.

FEMA published a second **Federal Register** Notice on October 16, 2009, at 74 FR 53286, announcing DHS' intent to select three standards for adoption in the PS-Prep program. The three identified standards selected for adoption in PS-Prep at this time are:

1. National Fire Protection Association 1600:2007—Standard on Disaster/Emergency Management and Business Continuity Programs.
2. British Standard 25999–2:2007—Business Continuity Management.
3. ASIS SPC. 1–2009—Organizational Resilience: Security Preparedness, and Continuity Management Systems—Requirements with Guidance for Use.

II. Announcement of Public Meetings and Extension of Comment Period

Through this notice, FEMA is announcing the dates, times, locations, and discussion topics for a series of ten public meetings that will be held to discuss PS-Prep. The purpose of these meetings is to provide the public with an open forum to engage in dialogue with PS-Prep leadership and program managers, in particular regarding the October 16, 2009 **Federal Register** Notice announcing the intent to select standards. Additionally, this notice extends the comment period that was originally established in that October 16 notice. The comment period will now be extended by an additional 60 days, and will close on January 15, 2010.

A. Public Meetings

The dates, times, and locations of the public meetings are set out below. Any stakeholder or member of the public is free to attend the meetings. Individuals will have the opportunity to make brief, formal or informal, presentations of not more than 10 minutes, and to engage in a question-and-answer session with DHS staff responsible for implementing PS-Prep.

Presentation topics should be related to one of the seven specific issues to be discussed at this meeting, which are as follows: (1) The identified standards selected for adoption in PS-Prep; (2) any supporting guidance materials in addition to the three identified standards that are needed to help the private sector attain certification to one of the three standards; (3) factors that a business would consider in determining which DHS-adopted standard(s) to pursue for certification under PS-Prep; (4) reasons for businesses to seek certification under the three identified standards; (5) how an organization's certification under PS-Prep would affect or otherwise influence another organization's decision to do business with them; (6) how a maturity model approach could be applied to certification to any of these standards; and (7) what the potential impact (*e.g.,* cost, return on investment, other considerations, *etc.*) on small businesses might be when attempting to implement any of the three identified standards.

Members of the public who wish to make a presentation are requested to provide their name, presentation description, city in which they plan to present, and contact details (include e-mail address and telephone number), no later than 5 p.m. Eastern Standard Time (EST), one week prior to the stakeholder meeting they plan to attend, via e-mail to the PS-Prep program at *privatesectorpreparedness@hsi.dhs.gov*.

Everyone who plans to attend a public meeting is respectfully requested to be present and seated by 12:50 p.m. local time (for that meeting). Although every effort will be made to accommodate all members of the public, seating is limited and will be allocated on a first-come, first-served basis. Please note that all meetings may close early if all business is finished.

Public Meeting Dates, Times, and Locations

1. November 17, 2009; Chicago, Illinois, 1 p.m. to 5 p.m. Central Standard Time (CST), Holiday Inn Chicago O'Hare: 5615 North Cumberland Avenue, Chicago, IL 60631; 773–693–5800.
2. November 18, 2009; Kansas City, Missouri, 1 p.m. to 5 p.m. CST, Holiday Inn Kansas City Airport: 11728 N. Ambassador Drive, Kansas City, MO 64153; 816–801–8400.
3. November 19, 2009; Dallas, Texas, 1 p.m. to 5 p.m. CST, Dallas/Fort Worth Marriot Hotel & Golf Club at Champions Circle: 3300 Championship Parkway, Fort Worth, TX 76177; 817–961–0800.
4. December 1, 2009; Oakland, California, 1 p.m. to 5 p.m. Pacific Standard Time (PST), Oakland Marriot City Center: 1001 Broadway, Oakland, CA 94607; 510–451–4000.
5. December 2, 2009; Seattle, Washington, 1 p.m. to 5 p.m. PST, Holiday Inn SEATAC International

Airport: 17338 International Boulevard, Seattle, WA 98188; 206–248–1000.

6. December 3, 2009; Denver, Colorado, 1 p.m. to 5 p.m. Mountain Standard Time (MST), Marriott Denver City Center: 1701 California Street, Denver, CO 80202; 303–297–1300.

7. December 8, 2009; Philadelphia, Pennsylvania, 1 p.m. to 5 p.m. EST, Marriott Philadelphia Airport: One Arrivals Road, Philadelphia, PA 19153; 215–492–9000.

8. December 9, 2009; Boston, Massachusetts, 1 p.m. to 5 p.m. EST, Sheraton Boston Hotel: 39 Dalton Street, Boston, MA 02199; 617–236–2000.

9. December 10, 2009; New York City, New York, 1 p.m. to 5 p.m. EST, New York LaGuardia Airport Marriott: 102–05 Ditmars Boulevard, East Elmhurst, NY 11369; 718–565–8900.

10. December 14, 2009; Atlanta, Georgia, 1 p.m. to 5 p.m. EST, Sheraton Gateway Hotel: 1900 Sullivan Road, Atlanta, GA 30337; 770–997–1100.

Information on Service for Individuals With Disabilities

DHS provides reasonable accommodations to individuals with disabilities where appropriate. Persons with disabilities who require special assistance should call the contact person listed below in the **FOR FURTHER INFORMATION CONTACT** section as early as possible. Please indicate which public meeting you plan to attend, and identify your anticipated special needs.

B. Extension of Comment Period

DHS is extending the comment period initially established in the October 16, 2009 **Federal Register** Notice announcing the intent to select standards, in order for comments from each public meeting to be taken into account by DHS prior to any formal adoption of those standards. The new comment period will provide an additional 60 days, and will close on January 15, 2010.

DHS requests comments on issues presented in the October 16, 2009 notice, as well as comments on additional standards that satisfy the Target Criteria presented in the December 24, 2008 notice. DHS will accept comments on PS-Prep at any time, and comments will be considered as they are received, but they may not inform DHS' decision on the formal adoption of standards if they are received after the end of the comment period.

Dated: October 28, 2009.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. E9–26599 Filed 11–3–09; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5341–C–02]

HUD's Fiscal Year (FY) 2009 NOFA for the Continuum of Care Homeless Assistance Program; Technical Correction

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice; correction.

SUMMARY: On September 25, 2009, HUD posted on its Web site the Notice of Funding Availability (NOFA) for the Continuum of Care (CoC) Homeless Assistance Program for Fiscal Year 2009. The technical corrections to the NOFA are available on the HUD Web site at *http://www.hud.gov*, on HUD's Homelessness Resource Exchange *http://www.hudhre.info*, and on the Grants.gov Web site at *http://www.grants.gov*. The CFDA numbers for the Continuum of Care (CoC) Homeless Assistance Program are 14.235, 14.238, and 14.249. The deadline for the submission of applications has been moved to November 25, 2009 at 2 p.m. ET.

FOR MORE INFORMATION CONTACT: For questions concerning these technical corrections, please contact the *e-snaps* Virtual Help Desk at *http://www.hudhre.info/helpdesk*.

Dated: October 26, 2009.

Mercedes Márquez,

Assistant Secretary for Community Planning and Development.

[FR Doc. E9–26533 Filed 11–3–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on an extension of a currently approved collection of information (OMB #1024–0026).

DATES: Public comments on this Information Collection Request (ICR) will be accepted on or before January 4, 2010.

ADDRESSES: Send comments to: Lee Dickinson, Special Park Uses Program Manager, 1849 C St., NW. (2465), Washington, DC 20240; or via fax at 202/371–1710; or via e-mail at *lee_dickinson@nps.gov,* please put ''ICR #1024–0026'' in the subject line. All responses to the Notice will be summarized and included in the request for the Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

To Request a Draft of Proposed Collection of Information Contact: Lee Dickinson, Special Park Uses Program Manager, 1849 C St., NW. (2465), Washington, DC 20240; or via telephone at 202/513–7092; or via fax at 202/371–1710; or via e-mail at *lee_dickinson@nps.gov.* You are entitled to a copy of the entire ICR package free of charge.

SUPPLEMENTARY INFORMATION:

Title: Special Park Use Applications (Portions of 36 CFR 1–7, 13, 20, 34).

Form(s): 10–930 (Application for Special Use Permit); 10–931 (Application for Commercial Filming/Still Photography Permit, short form); 10–932 (Application for Commercial Filming/Still Photography Permit, long form).

OMB Control Number: 1024–0026.

Expiration Date: 3/31/2010.

Type of Request: Extension of a currently approved collection of information.

Description of Need: Under NPS regulations, the information gathered is used to determine the likelihood that the proposed activity would cause unacceptable impacts to park resources, values or purposes and allows the park manager to make a valued judgment as to whether or not to permit the requested activity. The special park uses considered under these permit applications include, but are not limited to, special events, commercial filming, certain still photography activities, and grazing where such activity is authorized by law or regulation.

Description of respondents: Individuals or households, not-for-profit entities, businesses or other for-profit entities.

Estimated average number of respondents: 18,600 per year.

Estimated average number of responses: 18,600 per year.

Frequency of Response: 1 per respondent.

Estimated average time burden per respondent: Special Event permit and Vehicle Use permit: .5 hour

First Amendment permits/ Distribution of printed material, Commerical Filming permit, Still Photography permit, Agricultural Use, and Access to Otherwise Closed Area: 1 hour.

Estimated total annual reporting burden: 11,150 hours per year.

Comments are invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. 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.

October 29, 2009.

Cartina Miller,

NPS, Information Collection Clearance Officer.

[FR Doc. E9–26468 Filed 11–3–09; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on an extension of a currently approved collection of information (OMB #1024–0232).

DATES: Public comments on this Information Collection Request (ICR) will be accepted on or before January 4, 2010.

ADDRESSES: Send comments to: Diane Miller, National Manager, National Underground Railroad Network to Freedom Program, National Park Service, Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102 or via fax at 402–661–1982; or via e-mail at *diane_miller@nps.gov.* All responses to the Notice will be summarized and included in the request for the Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

To Request a Draft of Proposed Collection of Information Contact: Diane Miller, National Underground Railroad Network to Freedom Program, National Park Service, 601 Riverfront Drive, Omaha, Nebraska 68102; or via phone at 402/661–1588; or via fax at 402/661–1982; or via e-mail at: *diane_miller@nps.gov.* You are entitled to a copy of the entire ICR package free of charge once the package is submitted to OMB for review. You can access this ICR at: *http://www.reginfo.gov/public/.*

SUPPLEMENTARY INFORMATION:

Title: National Park Service National Underground Railroad Network to Freedom.

Form(s): National Park Service National Underground Railroad Network to Freedom Application Form.

OMB Control Number: 1024–0232.

Expiration Date: 2/28/2010.

Type of Request: Revision of a currently approved collection of information.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activity [*see* 5 CFR 1320.8 (d)]. This notice identifies an information collection that NPS will be submitting to OMB for approval. This collection is contained in Public Law 105–23, the National Underground Railroad Network to Freedom Act of 1998 which requires the establishment of a network justifiably associated with the Underground Railroad. The Network is designed to be a collection of sites, facilities, and programs, both governmental and non-governmental, around the United States with a verifiable association with the historic Underground Railroad movement. The Network to Freedom Application Form is completed by Federal agencies, State Historic Preservation Offices, other State agencies, local governments, organizations, and individuals to determine their eligibility to the Network. The National Underground Railroad Network to Freedom, National Park Service will request a 3-year term of approval for this information collection activity.

Description of Need: The NPS has identified guidelines and criteria for associated elements to qualify for the Network. The application form for historic sites, educational programs, and archives and research centers collects data to determine if eligibility requirements are met. The documentation will be incorporated into a database that will be available to the general public for information purposes. Public Law 105–2103 authorizes the NPS to develop and administer the National Underground Railroad Network to Freedom Program, a nationwide collection of governmental and non-governmental sites, facilities, and programs associated with the historic Underground Railroad movement. The NPS has developed the application process through which associated elements can be included in the Network. The information collected will: (a) Verify associations to the Underground Railroad; (b) measure minimum levels of standards for inclusion in the Network; and (c) identify general needs for technical assistance. The NPS specifically requests comments on: (1) The need for information including whether the information has practical utility; (2) the accuracy of the reporting burden hours estimates; (3) ways to enhance the quality and clarity of the information to be collected; and (4) ways to minimize the burden of information collection on respondents, including the use of automated collection techniques or other forms of information technology.

Automated Data Collection: Respondents must verify associations and characteristics through descriptive texts that are the result of historical research. Evaluations are based on subjective analysis of the information provided, which often includes copies of rare documents and photographs. Much of the information is submitted in electronic format, but at the present time, there is no automated way to gather all of the required information.

Description of respondents: The affected public is State, tribal, and local governments, Federal agencies, businesses, non-profit organizations, and individuals throughout the United States.

Estimated average number of responses: 70 per year.

Frequency of Response: Once per respondent.

Estimated average time burden per respondent: 15 hours.

Estimated total annual reporting burden: 1,050 hours.

Comments are invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. 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.

Dated: October 29, 2009.

Cartina A. Miller,

Information Collection Clearance Officer, National Park Service.

[FR Doc. E9–26470 Filed 11–3–09; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Mall and Memorial Parks; Notice of Intent To Revise the Scope of an Environmental Impact Statement and Plan for the National Mall

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of Intent to revise the scope of the National Mall Plan Environmental Impact Statement and to prepare a separate Environmental Assessment (EA) for Pennsylvania Avenue National Historic Site.

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service (NPS) has been preparing a National Mall Plan Environmental Impact Statement (National Mall Plan) to develop a long-range vision for the use and management of the National Mall and for Pennsylvania Avenue National Historic Site. The scope of the National Mall Plan will be revised so that planning for Pennsylvania Avenue National Historic Site will continue in a separate planning document and process, an action supported by stakeholders and other federal agencies. Comments received to date during the National Mall Plan public scoping and involvement periods that pertain to the Pennsylvania Avenue National Historic Site will be incorporated into planning and environmental analysis for Pennsylvania Avenue National Historic Site.

The NPS announced the start of initial planning for the National Mall Plan on January 16, 2007 (72 FR 1763). Following public meetings the NPS determined the plan would be an Environmental Impact Statement. The decision was announced in the **Federal Register** on September 6, 2007 (72 FR 51253).

DATES: Information related to public involvement opportunities for both the National Mall Plan and for the EA for Pennsylvania Avenue National Historic Site will be provided at the project Web site: *http://www.nps.gov/nationalmallplan.*

SUPPLEMENTARY INFORMATION: The planning effort will include compliance with Section 106 of the National Historic Preservation Act and other laws and regulations. The EA for Pennsylvania Avenue National Historic Site, an area that has also been referred to as Pennsylvania Avenue National Historical Park, will address sidewalks and parks along Pennsylvania Avenue NW., from 1st Street to 15th Street and will include a number of commemorative statues as well as memorial parks such as the U.S. Navy Memorial, Pershing Park, Freedom Plaza, Indiana Plaza, the Mellon Fountain and John Marshall Park.

A map of the revised study areas for the National Mall Plan and for the EA for Pennsylvania Avenue National Historic Site is available at the project Web site: *http://www.nps.gov/nationalmallplan.*

The comments already received by the NPS related to Pennsylvania Avenue National Historic Site are being considered in this process along with the information provided by cooperating agencies and others. The primary issues in the EA for Pennsylvania Avenue National Historic Site that have been raised relate to commercial uses, future commemorative locations, maintenance and care of memorial parks and the sidewalks, and circulation. Additional issues may be defined or added and their resource impacts analyzed throughout the planning process.

FOR FURTHER INFORMATION CONTACT: Project Executive Susan Spain, at National Mall & Memorial Parks, 900 Ohio Drive, SW., Washington, DC 20004, by telephone at (202) 245–4692, or by e-mail at *susan_spain@nps.gov.*

Dated: October 22, 2009.

Margaret O'Dell,

Regional Director, National Capital Region.

[FR Doc. E9–26467 Filed 11–3–09; 8:45 am]

BILLING CODE 4312–39–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2009–N176] [96300–1671–0000 FY09R4]

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Fifteenth Regular Meeting; Provisional Agenda; Announcement of Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The United States, as a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), will attend the fifteenth regular meeting of the Conference of the Parties to CITES (CoP15) in Doha, Qatar, March 13-25, 2010. Currently, the United States is developing its negotiating positions on proposed resolutions, decisions, and amendments to the CITES Appendices (species proposals), as well as other agenda items that have been submitted by other Party countries and the CITES Secretariat for consideration at CoP15. With this notice we announce the provisional agenda for CoP15, solicit your comments on the items on the provisional agenda, and announce a public meeting to discuss the items on the provisional agenda.

DATES: The public meeting will be held on December 2, 2009, at 1:30 p.m. In developing the U.S. negotiating positions on proposed resolutions, decisions, and species proposals, and other agenda items submitted by other Party countries and the CITES Secretariat for consideration at CoP15, we will consider written information and comments you submit if we receive them by January 4, 2010.

ADDRESSES:

Public Meeting

The public meeting will be held in the Sidney Yates Auditorium at the Department of the Interior at 18th and C Streets, NW, Washington, DC. Directions to the building can be obtained by contacting the Division of Management Authority (see **FOR FURTHER INFORMATION CONTACT**). For more information about the meeting, see

''Announcement of Public Meeting'' under **SUPPLEMENTARY INFORMATION**.

Comment Submission

Comments pertaining to proposed resolutions, decisions, and/or agenda items should be sent to the Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203, or via e-mail at: *cop15@fws.gov*. Comments pertaining to species proposals should be sent to the Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 110, Arlington, VA 22203, or via e-mail at: *scientificauthority@fws.gov*. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at either the Division of Management Authority or the Division of Scientific Authority.

FOR FURTHER INFORMATION CONTACT: For information pertaining to resolutions, decisions, and agenda items contact: Robert R. Gabel, Chief, Division of Management Authority (phone, 703-358-2095; e-mail, *cop15@fws.gov*). For information pertaining to species proposals contact: Dr. Rosemarie Gnam, Chief, Division of Scientific Authority (phone, 703-358-1708; e-mail, *scientificauthority@fws.gov*).

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to control and regulate international trade in certain animal and plant species that are now or potentially may become threatened with extinction. These species are listed in Appendices to CITES, which are available on the CITES Secretariat's website at *http://www.cites.org/eng/app/appendices.shtml*. Currently, 175 countries, including the United States, are Parties to CITES. The Convention calls for biennial meetings of the Conference of the Parties to review its implementation, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the lists of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of CITES. Any country that is a Party to CITES may propose amendments to Appendices I and II, and draft resolutions, decisions, and agenda items for consideration by all the Parties.

This is our third in a series of **Federal Register** notices that, together with an announced public meeting, provide you with an opportunity to participate in the development of the U.S. negotiating positions for CoP15. We published our first CoP15-related **Federal Register** notice on September 29, 2008 (73 FR 56605), in which we requested information and recommendations on species proposals and proposed resolutions, decisions, and agenda items for the United States to consider submitting for consideration at CoP15. We published our second such **Federal Register** notice on July 13, 2009 (74 FR 33460), in which we requested information and recommendations on species proposals, proposed resolutions, proposed decisions, and other agenda items that the United States was considering submitting for consideration at CoP15. You may obtain information on the above **Federal Register** notices from the following sources: for information on proposed resolutions, decisions, and agenda items, contact the Division of Management Authority at the address provided in **ADDRESSES**; for information on species proposals, contact the Division of Scientific Authority at the address provided in **ADDRESSES**. Our regulations governing this public process are found in 50 CFR 23.85-23.87.

In response to our first **Federal Register** notice, we received comments from WWF and TRAFFIC on transferring polar bear (*Ursus maritimus*) and narwhal (*Monodon monoceros*) from CITES Appendix II to Appendix I, and including walrus (*Odobenus rosmarus*) in Appendix II. Based on the purpose of the notice and the phrasing of the comments, we interpreted them as recommendations for the United States to consider proposals for these species and stated as much in our second **Federal Register** notice. We subsequently received a letter from WWF and TRAFFIC stating that we had misrepresented their comments. In their letter, dated August 12, 2009, WWF and TRAFFIC clarified that they have taken no position on these three species.

CoP15 is scheduled to be held in Doha, Qatar, March 13-25, 2010. On October 14, 2009, the United States submitted to the CITES Secretariat, for consideration at CoP15, its species proposals, proposed resolutions, proposed decisions, and other agenda items. These documents are available on our website at *http://www.fws.gov/international/DMA_DSA/CITES/CITES_CoP15.html*.

Announcement of Provisional Agenda for CoP15

The provisional agenda for CoP15 is currently available on the CITES Secretariat's website at *http://www.cites.org/eng/cop/index.shtml*. The working documents associated with the items on the provisional agenda, such as proposed resolutions, proposed decisions, and discussion documents, are also available on the Secretariat's website. To view the working document associated with a particular agenda item, access the provisional agenda at the above website, locate the particular agenda item, and click on the document link for that agenda item in the column entitled ''Document.'' Finally, the species proposals that will be considered at CoP15 are available on the Secretariat's website. Proposals for amendment of Appendices I and II can be accessed at the web address given above. We look forward to receiving your comments on the items on the provisional agenda.

Announcement of Public Meeting

We will hold a public meeting to discuss with you the items on the provisional agenda for CoP15. The public meeting will be held on the date specified in **DATES** at the address specified in **ADDRESSES**. You can obtain directions to the building by contacting the Division of Management Authority (see **FOR FURTHER INFORMATION CONTACT**). Please note that the Sidney Yates Auditorium is accessible to the handicapped and all persons planning to attend the meeting will be required to present photo identification when entering the building. Persons who plan to attend the meeting and who require interpretation for the hearing impaired must notify the Division of Management Authority by November 18, 2009.

Future Actions

Through an additional notice and website posting in advance of CoP15, we will inform you about tentative U.S. negotiating positions on proposed resolutions, proposed decisions, species proposals, and other agenda items that were submitted by other Party countries and the CITES Secretariat for consideration at CoP15.

Author

The primary author of this notice is Laura Noguchi, Division of Management Authority; under the authority of the

U.S. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Daniel M. Ashe,

Acting Director, U.S. Fish and Wildlife Service

[FR Doc. E9–26619 Filed 11–3–09; 8:45 am]

BILLING CODE 4310–55–S

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–630]

Certain Semiconductor Chips With Minimized Chip Package Size and Products Containing Same (III); Notice of Commission Determination To Review in Part a Final Initial Determination Finding No Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the final initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') on August 28, 2009, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in this investigation.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on January 14, 2008, based on a complaint filed by Tessera, Inc. of San Jose, California (''Tessera'') on December 21, 2007, and supplemented on December 28, 2007. 73 FR 2276 (Jan. 14, 2008). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. **1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor chips with minimized chip package size or products containing same by reason of infringement of various claims of United States Patent Nos. 5,663,106 (''the '106 patent' ''); 5,679,977 (''the '977 patent' ''); 6,133,627 (''the '627 patent' ''); and 6,458,681 (''the '681 patent' ''). The complaint names eighteen respondents. Several respondents were terminated from the investigation based on settlement agreements and consent orders. Two respondents defaulted. The following respondents remain in the investigation: Acer Inc. of Taipei, Taiwan; Acer America Corp. of San Jose, CA; Centon Electronics, Inc. of Aliso Viejo, CA; Elpida Memory, Inc. of Tokyo, Japan and Elpida Memory (USA), Inc. of Sunnyvale, CA (collectively, ''Elpida''); Kingston Technology Co., Inc. of Fountain Valley, CA; Nanya Technology Corporation of Taoyuan, Taiwan; Nanya Technology Corp. USA; Powerchip Semiconductor Corporation of Hsinchu, Taiwan; ProMOS Technologies, Inc. of Hsinchu, Taiwan; Ramaxel Technology Ltd. of Hong Kong, China; and SMART Modular Technologies, Inc. of Fremont, CA. The '681 patent was terminated from the investigation prior to the hearing.

On August 28, 2009, the ALJ issued his final ID, finding no violation of Section 337 by Respondents with respect to any of the asserted claims of the asserted patents. Specifically, the ALJ found that the accused products do not infringe the asserted claims of the '106 patent. The ALJ also found that none of the cited references anticipate the asserted claims and that none of the cited references render the asserted claims obvious. The ALJ further found that the asserted claims of the '106 patent satisfy the requirement of 35 U.S.C. 112, first, second and fourth paragraphs. Likewise, the ALJ found that the accused products do not infringe the asserted claims of the '977 and '627 patents and that none of the cited references anticipate the asserted claims of the patents. The ALJ further found that the asserted claims of the '977 and '627 patents satisfy the definiteness requirement of 35 U.S.C. 112, second paragraph, and that Respondents waived their argument with respect to obviousness. The ALJ also found that all chips Respondents purchased from Tessera licensees were authorized to be sold by Tessera and, thus, Tessera's rights in those chips became subject to exhaustion, but that Respondents, except Elpida, did not purchase all their chips from Tessera licensees.

On September 17, 2009, Tessera and the Commission investigative attorney filed petitions for review of the ID. That same day, Respondents filed contingent petitions for review of the ID. On October 1, 2009, the parties filed responses to the various petitions and contingent petitions for review.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part. Specifically, the Commission has determined to review (1) the finding that the claim term ''top layer'' recited in claim 1 of the '106 patent means ''an outer layer of the chip assembly upon which the terminals are fixed,'' the requirement that ''the 'top layer' is a single layer,'' and the effect of the findings on the infringement analysis, invalidity analysis and domestic industry analysis; (2) the finding that the claim term ''thereon'' recited in claim 1 of the '106 patent requires ''disposing the terminals on the top surface of the top layer,'' and its effect on the infringement analysis, invalidity analysis and domestic industry analysis; (3) the finding that the Direct Loading testing methodology employed by Tessera's expert to prove infringement is unreliable; and (4) the finding that the 1989 Motorola OMPAC 68-pin chip package fails to anticipate claims 17 and 18 of the '977 patent. The Commission has determined not to review the remaining issues raised by the petitions for review.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

1. Would the accused products infringe the asserted claims of the '106 patent if construction of the claim term ''top layer'' does not encompass only a single layer? Please cite record evidence and/or relevant legal precedent to support your position.

2. Did the patentees of the '106 patent expressly disclaim the embodiment described in Figure 7 of United States Patent No. 5,148, 265 (''the '265 patent'')? How would that affect the infringement analysis of the asserted claims of the '106 patent? See '106 Patent Prosecution History (JX–167) June 24, 1996, Office Action and

December 24, 1996, Amendment; '265 patent (JX–2) at column 14, lines 19–34; FIG. 7. Please cite record evidence and relevant legal authority to support your position.

3. Does Dr. Qu state anywhere in the record that he relied on his direct loading testing methodology to independently prove infringement of the asserted claims of the '977 and '627 patents by the accused packages? Please cite only record evidence.

4. Was Dr. Qu's demonstrated stress relief in the solder balls of the accused packages due to terminal-to-chip displacement caused by the applied external load? Please cite only record evidence.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see In the Matter of Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainants and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the dates that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on Friday, November 13, 2009. Reply submissions must be filed no later than the close of business on Friday, November 20, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR § 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–210.46 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR *§ 210.42–210.46 and 210.50).

By order of the Commission.

Issued: October 30, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–26546 Filed 11–3–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–692]

Certain Ceramic Capacitors and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 1, 2009, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Murata Manufacturing Co., Ltd. of Japan and Murata Electronics North America, Inc. A supplement to the complaint was filed on October 28, 2009. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ceramic capacitors and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 6,266,229; 6,014,309; 6,377,439; and 6,243,254. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://*

www.usitc.gov. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Aarti Shah, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2657.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2009).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 28, 2009, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain ceramic capacitors or products containing same that infringe one or more of claims 1–4, 7–9, 11–14, 17–24, 28–31, 34–47, 51–53, 55, and 56 of U.S. Patent No. 6,266,229; claim 3 of U.S. Patent No. 6,014,309; claims 1–3, and 5 of U.S. Patent No. 6,377,439; and claims 1, 2, 9–14, 19, and 20 of U.S. Patent No. 6,243,254, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Murata Manufacturing Co., Ltd., 10–1 Higashikotari 1-chome, Nagaokakyo-shi, Kyoto, Japan 617–8555.

Murata Electronics North America, Inc., 2200 Lake Park Drive, Smyrna, Georgia 30080.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electro-Mechanics Co., Ltd., 314 Maetan-3-dong, Yeongtong-gu, Suwon City 443–743, Korea.

Samsung Electro-Mechanics America, Inc., 3345 Michelson Drive, Suite 350, Irvine, CA 92612.

(c) The Commission investigative attorney, party to this investigation, is Aarti Shah, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 29, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–26548 Filed 11–3–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 004–2009]

Privacy Act of 1974; System of Records

AGENCY: United States Department of Justice.

ACTION: Notice of a new system of records and notice to remove a system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the United States Department of Justice (''Department''), proposes to establish a new system of records to maintain employee directory information entitled, ''Employee Directory Systems for the Department of Justice,'' JUSTICE/DOJ–014. The Department maintains employee directory information in order to facilitate employee collaboration and assist in professional contacts to benefit the Department's business practices. This system covers employee directory information located on the Department's internal e-mail system as well as directories maintained by components. This system notice also replaces, and the Department hereby removes, the following system notice, previously published by the Environment and Natural Resources Division: ''Personnel Locator System, Environment and Natural Resources Division (ENRD–002),'' 73 FR 39,722 (July 10, 2008).

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment, and the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments by December 14, 2009.

ADDRESSES: The public, OMB, and Congress are invited to submit any comments to the Department of Justice, *Attn:* Robin N. Moss, Privacy Analyst, Office of Privacy and Civil Liberties, Department of Justice, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 940, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Robin N. Moss, Privacy Analyst, Office of Privacy and Civil Liberties, Department of Justice, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 940, Washington, DC 20530.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on the new system of records.

Dated: October 29, 2009.

Nancy C. Libin,

Chief Privacy and Civil Liberties Officer, Department of Justice.

DEPARTMENT OF JUSTICE JUSTICE/DOJ–014

SYSTEM NAME:

Employee Directory Systems for the Department of Justice

SECURITY CLASSIFICATION:

Sensitive But Unclassified Information and/or Controlled Unclassified Information

SYSTEM LOCATION:

United States Department of Justice, 950 Pennsylvania Ave., NW., Washington, DC 20530–0001, and other Department of Justice offices throughout the United States and abroad.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, detailees, student aides, law clerks,

volunteers, contractors, and other personnel employed by or otherwise affiliated with the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on the internal Departmental email directory system may include name, position title, office location, office telephone and facsimile numbers, office address, and electronic mail (e-mail) address.

Records maintained by component directory systems may include name, position title, office location, office telephone and facsimile numbers, office address, electronic mail (e-mail) address, as well as certain limited voluntarily submitted information including photographs and professional background records (such as law school name and year of graduation, clerkships, bar memberships, advanced degrees earned, foreign language expertise, and notary public commission). In addition, some directories may include certain information to which access is restricted to users depending on the roles and responsibilities within the system. Specifically, some directories may include information collected for a specific statutory or management purpose and may include limited relevant professional background information. Some component directories may also include emergency contact information, which may be used to contact the individual named, or his/her authorized designee, in the event of an emergency during or outside of official duty hours. Emergency contact information maintained in component directories may include home addresses and telephone numbers; cellular telephone numbers; pager numbers; other alternate telephone numbers where individuals or their designees may be reached while away on travel, assigned work detail, or other extended absence from the office; email addresses; names, telephone numbers and email addresses of family members or other emergency contacts; and other contact information individuals may wish to provide. [**Note:** The Department has provided notice for emergency contact information not maintained in component employee directories in Department of Justice –009 ''Emergency Contact Systems for the Department of Justice,'' 69 FR 1762 (Jan. 12, 2004).]

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority to establish and maintain this system is contained in 5 U.S.C. 301 and 44 U.S.C. 3101, which authorize the Attorney General to create and maintain federal records of agency activities, as well as other specific statutory authorities that authorize the maintenance of records by the Department of Justice.

PURPOSE(S):

To allow Department personnel to collaborate within each individual component and within the Department and to facilitate professional contacts in order to perform their duties and to benefit the Department's business practices.

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

(a) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(b) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(c) To the National Archives and Records Administration in connection with records retention and disposition issues and for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(d) To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(e) Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority, or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(f) To appropriate agencies, entities, and persons when: (1) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(g) To appropriate officials and employees of a federal agency or entity when the information is relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

(h) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(i) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

(j) To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

(k) To the news media and the public, including disclosures pursuant to 28 CFR § 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

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

STORAGE:

Records in this system are stored on paper and/or in electronic form. Records are stored in accordance with applicable

executive orders, statutes, and agency implementing recommendations.

RETRIEVABILITY:

Information is retrieved by the individual's name, and in some instances, email addresses.

SAFEGUARDS:

Information in this system is safeguarded in accordance with appropriate laws, rules, and policies, including the Department's automated systems security and access policies, and access to such information is limited to Department personnel, contractors, and other affiliated personnel who have an official need for access in order to perform their duties. Access to electronic employee directory systems is restricted to Department personnel, contractors and other affiliated persons with accounts on the Department's computer network because it is accessed via the Department's intranet or the specific component's intranet. Additionally, access to certain information in directories maintained by components is restricted to certain users depending on their roles and responsibilities within that system. For example, access to emergency contact information that is maintained in some component's directories is strictly limited to managers and personnel with a need to know in order to contact a designee in the event of an emergency.

RETENTION AND DISPOSAL:

Records are retained during their useful life in accordance with records retention schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Privacy and Civil Liberties, Department of Justice, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 940, Washington, DC 20530.

NOTIFICATION PROCEDURE:

Same as record access procedures.

RECORD ACCESS PROCEDURES:

Access to employee directory systems is restricted to Department employees, contractors, and other affiliated persons with accounts on the Department's computer network because it is accessed via the Department's intranet or the specific component's intranet. Additionally, access to certain information in component directories is restricted to users depending on their roles and responsibilities within that system. For example, access to the emergency contact information included in some component directories is restricted to those managers and personnel who need to know the information in order to contact a designee in the event of an emergency.

For access to Departmental e-mail system information, individuals may directly access information through the Department's internal e-mail system.

For certain component employee directory systems, individuals may directly or through a system administrator, post, verify, correct, and/or remove information in their individual employee profiles.

All other requests for access may be made by writing to the System Manager named above. The envelope and letter should be clearly marked ''Privacy Act Request.'' The request should include a general description of the records sought and must include the requester's full name, current address, and place and date of birth. The request must be signed and either notarized or submitted under penalty of perjury. A determination of whether a record may be accessed will be made after a request is received.

Although no specific form is required, you may obtain forms for this purpose from the FOIA/PA Mail Referral Unit, Justice Management Division, United States Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530–0001, or on the Department of Justice Web site at *http://www.usdoj.gov/04foia/att_d.htm.*

CONTESTING RECORD PROCEDURES:

For information maintained in the internal Departmental e-mail system, individuals may contact a system administrator to inquire about updating, correcting, and/or removing information.

For certain component employee directory systems, individual employees may directly or through a system administrator, post, verify, correct, and/or remove information in their individual employee profiles.

Individuals may also contest or amend information maintained in the system by directing their requests to the appropriate component system administrator or the System Manager named above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. A determination of whether a record may be contested or amended will be made after a request is received.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are from existing Department and/or component employee directory information, as well as employees, student aides, law clerks, and volunteers, contractors, and other associated personnel who provide such information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–26526 Filed 11–3–09; 8:45 am]

BILLING CODE 4410–FB–P

DEPARTMENT OF LABOR

Office of the Secretary

Job Corps: Final Finding of No Significant Impact (FONSI) for the Edison Job Corps Center Solar Photovoltaic (PV) Project Located at the Edison Job Corps Center, 500 Plainfield Avenue, Township of Edison, NJ 08817

AGENCY: Office of the Secretary (OSEC), Department of Labor.

Recovery: This project will be wholly funded under the American Recovery and Reconstruction Act of 2009.

ACTION: Final Finding of No Significant Impact (FONSI) for the Edison Job Corps Center Solar PV Project located at the Edison Job Corps Center, 500 Plainfield Avenue, Township of Edison, New Jersey 08817.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Office of the Secretary (OSEC), in accordance with 29 CFR 11.11(d), gives final notice of the proposed construction of a solar photovoltaic system at the Edison Job Corps Center, and that this project will not have a significant adverse impact on the environment. In accordance with 29 CFR 11.11(d) and 40 CFR 1501.4(e)(2), a preliminary FONSI for the project was published in the September 1, 2009 Federal Register (74 FR 45252–45253). No comments were received regarding the preliminary FONSI. OSEC has reviewed the conclusion of the environmental assessment (EA), and agrees with the finding of no significant impact. This notice serves as the Final Finding of No Significant Impact (FONSI) for the Solar PV Project located at Edison Job Corps Center, 500 Plainfield Avenue, Township of Edison, New Jersey 08817. The preliminary FONSI and the EA are adopted in final with no change.

DATES: *Effective Date:* These findings are effective as of October 16, 2009.

FOR FURTHER INFORMATION CONTACT: William A Dakshaw, Department of Labor, US Department of Labor, 200 Constitution Avenue, NW., Room N–4460, Washington, DC 20210, (202) 693–2867 (this is not a toll-free number).

Lynn Intrepidi,

Interim National Director of Job Corps.

[FR Doc. E9–26464 Filed 11–3–09; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Job Corps: Final Finding of No Significant Impact (FONSI) for Small Wind Turbine Installation at the Hawaii-Maui Job Corps Center Located at 500 Ike Drive, Makawao, Island of Maui, HI

AGENCY: Office of the Secretary (OSEC), Department of Labor.

Recovery: This project will be wholly funded under the American Recovery and Reconstruction Act of 2009.

ACTION: Final Finding of No Significant Impact (FONSI) for Small Wind Turbine Installation at the Hawaii-Maui Job Corps Center located at 500 Ike Drive, Makawao, Island of Maui, Hawaii 96768.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Office of the Secretary (OSEC), in accordance with 29 CFR 11.11(d), gives final notice of the proposed construction of a small wind turbine at the Hawaii-Maui Job Corps Center, and that this project will not have a significant adverse impact on the environment. In accordance with 29 CFR 11.11(d) and 40 CFR 1501.4(e)(2), a preliminary FONSI for the project was published in the September 1, 2009 **Federal Register** (74 FR Page 45253). No comments were received regarding the preliminary FONSI. OSEC has reviewed the conclusion of the environmental assessment (EA), and agrees with the finding of no significant impact. This notice serves as the Final Finding of No Significant Impact (FONSI) for Small Wind Turbine Installation at the Hawaii-Maui Job Corps Center located at 500 Ike Drive, Makawao, Island of Maui, Hawaii 96768. The preliminary FONSI and the EA are adopted in final with no change.

DATES: *Effective Date:* These findings are effective as of October 16, 2009.

FOR FURTHER INFORMATION CONTACT: William A. Dakshaw, Department of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4460, Washington, DC 20210, (202) 693–2867 (this is not a toll-free number).

Lynn Intrepidi,

Interim National Director of Job Corps.

[FR Doc. E9–26498 Filed 11–3–09; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Job Corps: Final Finding of No Significant Impact (FONSI) for the Solar PV Project Located at Westover Job Corps Center, 103 Johnson Drive, Chicopee, MA

AGENCY: Office of the Secretary (OSEC), Department of Labor.

Recovery: This project will be wholly funded under the American Recovery and Reconstruction Act of 2009.

ACTION: Final Finding of No Significant Impact (FONSI) for the Solar PV Project located at Westover Job Corp Center, 103 Johnson Drive, Chicopee, Massachusetts.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Office of the Secretary (OSEC), in accordance with 29 CFR 11.11(d), gives final notice of the proposed construction of a solar photovoltaic system at the Westover Job Corps Center, and that this project will not have a significant adverse impact on the environment. In accordance with 29 CFR 11.11(d) and 40 CFR 1501.4(e)(2), a preliminary FONSI for the project was published in the September 1, 2009 Federal Register (74 FR 45252). No comments were received regarding the preliminary FONSI. OSEC has reviewed the conclusion of the environmental assessment (EA), and agrees with the finding of no significant impact. This notice serves as the Final Finding of No Significant Impact (FONSI) for the Solar PV Project located at Westover Job Corps Center, 103 Johnson Drive, Chicopee, Massachusetts. The preliminary FONSI and the EA are adopted in final with no change.

DATES: *Effective Date:* These findings are effective as of October 16, 2009.

FOR FURTHER INFORMATION CONTACT: William A Dakshaw, Department of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4460, Washington, DC 20210, (202) 693–2867 (this is not a toll-free number).

Lynn Intrepidi,

Interim National Director of Job Corps.

[FR Doc. E9–26501 Filed 11–3–09; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Job Corps: Final Finding of No Significant Impact (FONSI) for a Small Wind Turbine Installation at the Laredo Job Corps Center Located at 1701 Island Street, Laredo, TX

AGENCY: Office of the Secretary (OSEC), Department of Labor.

Recovery: This project will be wholly funded under the American Recovery and Reconstruction Act of 2009.

ACTION: Final Finding of No Significant Impact (FONSI) for a Small Wind Turbine Installation at the Laredo Job Corps Center located at 1701 Island Street, Laredo, Texas 78041.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Office of the Secretary (OSEC), in accordance with 29 CFR 11.11(d), gives final notice of the proposed construction of a small wind turbine at the Laredo Job Corps Center, and that this project will not have a significant adverse impact on the environment. In accordance with 29 CFR 11.11(d) and 40 CFR 1501.4(e)(2), a preliminary FONSI for the project was published in the September 1, 2009 **Federal Register** (74 FR Page 45254). No comments were received regarding the preliminary FONSI. OSEC has reviewed the conclusion of the environmental assessment (EA), and agrees with the finding of no significant impact. This notice serves as the Final Finding of No Significant Impact for a Small Wind Turbine Installation to be located at the Laredo Job Corps Center, 1701 Island Street, Laredo, Texas 78041. The preliminary FONSI and the EA are adopted in final with no change.

DATES: *Effective Date:* These findings are effective as of October 16, 2009.

FOR FURTHER INFORMATION CONTACT: William A Dakshaw, Department of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–

4460, Washington, DC 20210, (202) 693–2867 (this is not a toll-free number).

Lynn Intrepidi,

Interim National Director of Job Corps.

[FR Doc. E9–26497 Filed 11–3–09; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Job Corps: Final Finding of No Significant Impact (FONSI) for Small Wind Turbine Installation at the Angell Job Corps Center Located at 335 NE Blodgett Road, Yachats, OR

AGENCY: Office of the Secretary (OSEC), Department of Labor.

Recovery: This project will be wholly funded under the American Recovery and Reconstruction Act of 2009.

ACTION: Final Finding of No Significant Impact (FONSI) for Small Wind Turbine Installation at the Angell Job Corps Center located at 335 NE Blodgett Road, Yachats, Oregon.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Office of the Secretary (OSEC), in accordance with 29 CFR 11.11(d), gives final notice of the proposed construction of a small wind turbine at the Angell Job Corps Center, and that this project will not have a significant adverse impact on the environment. In accordance with 29 CFR 11.11(d) and 40 CFR 1501.4(e)(2), a preliminary FONSI for the project was published in the September 1, 2009 **Federal Register** (74 FR Pages 45254–45255). No comments were received regarding the preliminary FONSI. OSEC has reviewed the conclusion of the environmental assessment (EA), and agrees with the finding of no significant impact. This notice serves as the Final Finding of No Significant Impact (FONSI) for Small Wind Turbine Installation at the Angell Job Corps Center located at 335 NE Blodgett Road, Yachats, Oregon. The preliminary FONSI and the EA are adopted in final with no change.

DATES: *Effective Date:* These findings are effective as of October 16, 2009.

FOR FURTHER INFORMATION CONTACT: William A Dakshaw, Department of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4460, Washington, DC 20210, (202) 693–2867 (this is not a toll-free number).

Lynn Intrepidi,

Interim National Director of Job Corps.

[FR Doc. E9–26495 Filed 11–3–09; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Job Corps: Final Finding of No Significant Impact (FONSI) for the Proposed Small Wind Turbine Project at the Cassadaga Job Corps Center Located at 8115 Glasgow Road in Pomfret, NY

AGENCY: Office of the Secretary (OSEC), Department of Labor.

Recovery: This project will be wholly funded under the American Recovery and Reconstruction Act of 2009

ACTION: Final Finding of No Significant Impact (FONSI) for Small Wind Turbine Installation to be located at the Cassadaga, NY Job Corps Center, 8115 Glasgow Road in Pomfret, New York 14063.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Office of the Secretary (OSEC), in accordance with 29 CFR 11.11(d), gives final notice of the proposed construction of a small wind turbine at the Cassadaga Job Corps Center, and that this project will not have a significant adverse impact on the environment. In accordance with 29 CFR 11.11(d) and 40 CFR 1501.4(e)(2), a preliminary FONSI for the project was published in the September 1, 2009 **Federal Register** (74 FR Page 45254). No comments were received regarding the preliminary FONSI. OSEC has reviewed the conclusion of the environmental assessment (EA), and agrees with the finding of no significant impact. This notice serves as the Final Finding of No Significant Impact Small Wind Turbine Installation to be located at the Cassadaga, NY Job Corps Center, 8115 Glasgow Road in Pomfret, New York 14063. The preliminary FONSI and the EA are adopted in final with no change.

DATES: *Effective Date:* These findings are effective as of October 16, 2009.

FOR FURTHER INFORMATION CONTACT: William A Dakshaw, Department of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4460, Washington, DC 20210, (202) 693–2867 (this is not a toll-free number).

Lynn Intrepidi,

Interim National Director of Job Corps.

[FR Doc. E9–26496 Filed 11–3–09; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0035]

Standard on Ethylene Oxide (EtO); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Standard on Ethylene Oxide (EtO) (29 CFR 1910.1047).

DATES: Comments must be submitted (postmarked, sent, or received) by January 4, 2010.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0035, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2009–0035) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available

online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled ''Supplementary Information.''

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Jamaa Hill or Todd Owen at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Jamaa Hill or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The EtO Standard specifies a number of paperwork requirements. The following is a brief description of the collections of information requirements contained in the Standard.

The information collection requirements specified in Ethylene Oxide Standard protect workers from the adverse health effects that may result from occupational exposure to ethylene oxide. The principal information collection requirements in the EtO Standard include conducting worker exposure monitoring, notifying workers of the exposure, implementing a written compliance program, and implementing medical surveillance of workers. Also, the examining physician must provide specific information to ensure that workers receive a copy of their medical examination results. The employer must maintain exposure-monitoring and medical records for specific periods, and provide access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected workers, and their authorized representatives and other designated parties.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the collection of information requirements contained in the EtO Standard (29 CFR 1910.1047). The Agency is requesting a decrease in burden hours for the collections of information contained in the EtO Standard from 42,732 hours to 41,544 hours (a reduction of 1,118 hours). This 1,118 hour decrease is mainly a result of a decrease in the number of facilities affected by the Standard, from 5,574 to 4,001 facilities. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Standard on Ethylene Oxide (29 CFR 1910.1047).

OMB Control Number: 1218–0108.

Affected Public: Business or other for-profits.

Number of Respondents: 4,001.

Frequency: On occasion.

Average Time per Response: Varies from five minutes (.08 hour) for employers to maintain records to one hour for employers to update their compliance plans.

Estimated Total Burden Hours: 41,544.

Estimated Cost (Operation and Maintenance): $6,640,301.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and OSHA docket number for the ICR (Docket No. OSHA–2009–0035). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (*see* the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or currier service, please contact the OSHA docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http:// www.regulations* index, some information (*e.g.,* copyrighted material, is not publically available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations* site to submit

comments and access the docket is available through the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, in October, 2009.

Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–26549 Filed 11–3–09; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications for 2009 Under the Federal Unemployment Tax Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.,* thereby enabling employers who make contributions to State unemployment funds to obtain certain credits against their liability for the Federal unemployment tax. By letter, the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Signed in Washington, DC, November 2, 2009.

Jane Oates,

Assistant Secretary of Labor, Employment and Training Administration.

BILLING CODE 4510–30–P

SECRETARY OF LABOR
WASHINGTON, D.C. 20210

October 31, 2009

The Honorable Timothy F. Geithner
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Dear Secretary Geithner: Tim

Transmitted herewith are an original and one copy of the certifications of the states and their unemployment compensation laws for the 12-month period ending on October 31, 2009. One is required with respect to the normal federal unemployment tax credit by Section3304 of the Internal Revenue Code of 1986 (IRC), and the other is required with respect to the additional taxcredit by Section 3303 of the IRC. Both certifications list all 53 jurisdictions.

Sincerely,

Hilda L. Solis

HILDA L. SOLIS
Secretary of Labor

Enclosures

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

CERTIFICATION OF STATES TO THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3304(c) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named states to the Secretary of the Treasury for the 12-month period ending on October 31, 2009, in regard to the unemployment compensation laws of those states which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama	Idaho
Alaska	Illinois
Arizona	Indiana
Arkansas	Iowa
California	Kansas
Colorado	Kentucky
Connecticut	Louisiana
Delaware	Maine
District of Columbia	Maryland
Florida	Massachusetts
Georgia	Michigan
Hawaii	Minnesota
Mississippi	Puerto Rico
Missouri	Rhode Island

Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, D.C., on October 31, 2009.

HILDA L. SOLIS
Secretary of Labor

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

CERTIFICATION OF STATE UNEMPLOYMENT COMPENSATION LAWS TO THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3303(b)(1) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named states, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 2009:

Alabama	Idaho
Alaska	Illinois
Arizona	Indiana
Arkansas	Iowa
California	Kansas
Colorado	Kentucky
Connecticut	Louisiana
Delaware	Maine
District of Columbia	Maryland
Florida	Massachusetts
Georgia	Michigan
Hawaii	Minnesota
Mississippi	Puerto Rico
Missouri	Rhode Island

Montana	South Carolina
Nebraska	South Dakota
Nevada	Tennessee
New Hampshire	Texas
New Jersey	Utah
New Mexico	Vermont
New York	Virginia
North Carolina	Virgin Islands
North Dakota	Washington
Ohio	West Virginia
Oklahoma	Wisconsin
Oregon	Wyoming
Pennsylvania	

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code.

Signed at Washington, D.C., on October 31, 2009.

HILDA L. SOLIS
Secretary of Labor

[FR Doc. E9–26703 Filed 11–3–09; 8:45 am]
BILLING CODE 4510–30–C

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Cornell University Site Visit in Physics (1208).

Date And Time: Wednesday, December 2, 2009 8 a.m.–6 p.m.; Thursday, December 3, 2009 8 a.m.–3 p.m.

Place: Cornell University, Ithaca, NY.

Type of Meeting: Partially Closed.

Contact Person: Dr. David Lissauer, Program Director for Elementary Particle Physics, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. *Telephone:* (703) 292–7061.

Purpose of Meeting: To provide an evaluation concerning the proposal submitted to the National Science Foundation.

Agenda

Wednesday. December 2, 2009

Closed—8–9 Executive Session
Open—9–3 CESR Discussion & tour of the Wilson Lab
Closed—3–3:30 Executive Session
Open—3:30–6 Project X for DUSEL

Thursday, December 3, 2009

Closed—8–9 Executive Session
Open—9–11:30 Muon & Tour Acceleration and Outreach
Closed—11:30–3:30 Executive Session & Close out with Lab Leaders

Reason For Closing: The proposal contains proprietary or confidential material including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c) and (6) of the Government in the Sunshine Act.

Dated: October 29, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9–26449 Filed 11–2–09; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board's Committee on Audit and Oversight, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

DATE AND TIME: Friday, November 6, 2009 at 12 p.m.

SUBJECT MATTER: Specific staffing or personnel issues and/or Office of the Inspector General investigations.

STATUS: Closed.

This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201Wilson Blvd., Arlington, VA 22230. Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb*) for information or schedule updates, or contact: Kim Silverman, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Ann Ferrante,

Technical Writer/Editor.

[FR Doc. E9–26597 Filed 11–2–09; 12:30 pm]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting Notice

TIME AND DATE: 9:30 a.m., Tuesday, November 17, 2009.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTER TO BE CONSIDERED: 8017A Marine Accident Report—Engineroom Fire On Board U.S. Small Passenger Vessel *Queen of the West*, Columbia River, near Rufus, Oregon, April 8, 2008.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 by Friday, November 13, 2009.

The public may view the meeting via a live or archived Webcast by accessing a link under ''News & Events'' on the NTSB home page at *http://www.ntsb.gov*.

FOR MORE INFORMATION CONTACT: Candi Bing, (202) 314–6403.

Dated: October 30, 2009.

Candi R. Bing,

Alternate Federal Register Liaison Officer.

[FR Doc. E9–26612 Filed 11–2–09; 11:15 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0214]

Notice of Availability of Final Interim Staff Guidance on Streamlined Review Process for License Renewal for Research Reactors and Response to Comments

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability of Final Interim Staff Guidance on Streamlined Review Process for License Renewal for Research Reactors and Response to Comments

FOR FURTHER INFORMATION CONTACT: Alexander Adams Jr., Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1127, e-mail *alexander.adams@nrc.gov*; or Marcus Voth, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1210, e-mail *marcus.voth@nrc.gov*.

ADDRESSES:

Federal e-Rulemaking Portal: Documents related to this notice, including public comments, are accessible at *http://www.regulations.gov*, by searching on Docket ID: NRC–2009–0214.

NRC's Public Document Room (PDR): The public may examine and have copied for a fee, publicly available documents at the NRC's PDR, Public File Area O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC 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 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's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*. The document, ''Interim Staff Guidance on Streamlined Review Process for License Renewal for Research Reactors'' is available electronically under ADAMS Accession Number ML092240244.

SUPPLEMENTARY INFORMATION: On June 16, 2009 (74 FR 28,583), the NRC

published a notice of availability and opportunity for comment on the draft Interim Staff Guidance Regarding the Review of Research and Test Reactor License Renewal Applications. When the comment period ended on July 16, 2009, one comment was received. The commenter cited practices of another federal agency that allowed for informal transmittal of information which, if applied to the license renewal process for research reactors, could result in improvements in efficiency. The staff considered the comment and notes that whenever possible less formal means are used. However, in license renewal matters most communication is a matter of official record. Under NRC regulations regarding internal rules and procedures an official record must be maintained.

Because there are no other comments on the draft guidance that was published, no major changes were initiated. Minor editorial corrections and enhancements were made to the document and it has been re-published and made available to the public by the means described above.

Dated at Rockville, Maryland, this 28th day of October 2009.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Chief, Research and Test Reactor Branch A, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E9–26535 Filed 11–3–09; 8:45 am]

BILLING CODE 7590–01–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 154, SEC File No. 270–438, OMB Control No. 3235–0495.

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), 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.

The federal securities laws generally prohibit an issuer, underwriter, or dealer from delivering a security for sale unless a prospectus meeting certain requirements accompanies or precedes the security. Rule 154 (17 CFR 230.154) under the Securities Act of 1933 (15 U.S.C. 77a) (the ''Securities Act'') permits, under certain circumstances, delivery of a single prospectus to investors who purchase securities from the same issuer and share the same address (''householding'') to satisfy the applicable prospectus delivery requirements.[1] The purpose of rule 154 is to reduce the amount of duplicative prospectuses delivered to investors sharing the same address.

Under rule 154, a prospectus is considered delivered to all investors at a shared address, for purposes of the Federal securities laws, if the person relying on the rule delivers the prospectus to the shared address and the investors consent to the delivery of a single prospectus. The rule applies to prospectuses and prospectus supplements. Currently, the rule permits householding of all prospectuses by an issuer, underwriter, or dealer relying on the rule if, in addition to the other conditions set forth in the rule, the issuer, underwriter, or dealer has obtained from each investor written or implied consent to householding.[2] The rule requires issuers, underwriters, or dealers that wish to household prospectuses with implied consent to send a notice to each investor stating that the investors in the household will receive one prospectus in the future unless the investors provide contrary instructions. In addition, at least once a year, issuers, underwriters, or dealers, relying on rule 154 for the householding of prospectuses relating to open-end management investment companies that are registered under the Investment Company Act of 1940 (''mutual funds'') must explain to investors who have provided written or implied consent how they can revoke their consent. Preparing and sending the notice and the annual explanation of the right to revoke are collections of information.

The rule allows issuers, underwriters, or dealers to household prospectuses if certain conditions are met. Among the conditions with which a person relying on the rule must comply are providing notice to each investor that only one prospectus will be sent to the household and, in the case of issuers that are mutual funds, providing to each investor who consents to householding an annual explanation of the right to revoke consent to the delivery of a single prospectus to multiple investors sharing an address. The purpose of the notice and annual explanation requirements of the rule is to ensure that investors who wish to receive individual copies of prospectuses are able to do so.

Although rule 154 is not limited to mutual funds, the Commission believes that it is used mainly by mutual funds and by broker-dealers that deliver mutual fund prospectuses. The Commission is unable to estimate the number of issuers other than mutual funds that rely on the rule.

The Commission estimates that, as of December 2008, there are approximately 1,960 mutual funds, approximately 150 of which engage in direct marketing and therefore deliver their own prospectuses. The Commission estimates that each direct-marketed mutual fund will spend an average of 20 hours per year complying with the notice requirement of the rule, for a total of 3,000 hours. The Commission estimates that each direct-marketed fund will also spend 1 hour complying with the explanation of the right to revoke requirement of the rule, for a total of 150 hours. The Commission estimates that there are approximately 320 broker-dealers that carry customer accounts and, therefore, may be required to deliver mutual fund prospectuses. The Commission estimates that each affected broker-dealer will spend, on average, approximately 20 hours complying with the notice requirement of the rule, for a total of 6,400 hours. Each broker-dealer will also spend 1 hour complying with the annual explanation of the right to revoke requirement, for a total of 320 hours. Therefore, the total number of respondents for rule 154 is 470 (150 mutual funds plus 320 broker-dealers), and the estimated total hour burden is 9,870 hours (3,150 hours for mutual funds plus 6,720 hours for broker-dealers).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Compliance with the collection of information requirements of the rule is

[1] The Securities Act requires the delivery of prospectuses to investors who buy securities from an issuer or from underwriters or dealers who participate in a registered distribution of securities. *See* Securities Act sections 2(a)(10), 4(1), 4(3), 5(b) (15 U.S.C. 77b(a)(10), 77d(1), 77d(3), 77e(b)); *see also* rule 174 under the Securities Act (17 CFR 230.174) (regarding the prospectus delivery obligation of dealers); rule 15c2–8 under the Securities Exchange Act of 1934 (17 CFR 240.15c2–8) (prospectus delivery obligations of brokers and dealers).

[2] Rule 154 permits the householding of prospectuses that are delivered electronically to investors only if delivery is made to a shared electronic address and the investors give written consent to householding. Implied consent is not permitted in such a situation. *See* rule 154(b)(4).

necessary to obtain the benefit of relying on the rule. Responses to the collections of information will not be kept confidential. The rule does not require these records be retained for any specific period of time. 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 at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 28, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26514 Filed 11–3–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28987; 812–13482]

MFS Government Markets Income Trust et al.; Notice of Application

October 29, 2009.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 19(b) of the Act and rule 19b–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common stock as frequently as twelve times each year, and as frequently as distributions are specified by or in accordance with the terms of any outstanding preferred stock that such investment companies may issue.

APPLICANTS: MFS Government Markets Income Trust, MFS Intermediate Income Trust (together, the ''Current Funds''), and Massachusetts Financial Services Company (the ''Adviser'').

FILING DATES: January 22, 2008, February 9, 2009 and May 27, 2009.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 23, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants, c/o Massachusetts Financial Services Company, 500 Boylston Street, Boston, MA 02116, Attention: Mark N. Polebaum, Esq.

FOR FURTHER INFORMATION CONTACT: Wendy Friedlander, Senior Counsel, at (202) 551–6837, or James M. Curtis, Branch Chief, at (202) 551–6825 (Division of Investment Management, Office of Chief Counsel).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm*, or by calling (202) 551–8090.

Applicants' Representations:

1. The Current Funds are registered closed-end management investment companies organized as Massachusetts business trusts. The Current Funds' primary investment objective is to provide high current income, and their secondary investment objective is capital appreciation.[1] The common stock of the Current Funds is listed and traded on the New York Stock Exchange. The Current Funds have not issued preferred stock. Applicants believe that the stockholders of the Current Funds may prefer an investment vehicle that provides regular/monthly distributions.

2. The Adviser is a Delaware corporation and is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser is the investment adviser for the Current Funds. The Adviser is a wholly-owned subsidiary of Sun Life of Canada (U.S.) Financial Services Holdings, Inc., which is an indirect wholly-owned subsidiary of Sun Life Financial Inc.

3. Applicants represent that in 2007 each Current Fund adopted a level-distribution policy with respect to its common stock. Applicants represent that at that time each Current Fund had substantial capital loss carryforwards and realized and unrealized net capital losses in its portfolio sufficient to offset the Current Fund's long-term capital gains for a period of time. Applicants represent that the Adviser believes that each of the Current Funds will be able to continue to make distributions in accordance with its respective existing distribution policy for the time being without exceeding applicable limits in the Act on long-term capital gains distributions. Applicants represent that the Current Funds will make distributions of long-term capital gains more frequently than the applicable limits under the Act only if the requested order is granted. Applicants represent that any such distributions made in reliance on the order will comply with the terms and conditions of this application.

4. Applicants represent that prior to making distributions in reliance on the requested order, the Board of a fund, including a majority of the trustees who are not ''interested persons'' of the fund, as defined in section 2(a)(19) of the Act (the ''Independent Trustees''), will have:

(1) Approved the fund's adoption of the distribution policy (''Plan'');

(2) Requested and evaluated, and the Adviser shall have furnished, such information as may be reasonably necessary for an informed determination of whether the Plan should be adopted and implemented;

(3) Determined that adoption and implementation of the Plan is consistent with the fund's investment objective(s) and policies and in the best interests of the fund and its shareholders, after considering the information in (2) above, including, without limitation:

(i) The purpose(s) of the Plan as stated in this application,

(ii) Information about any potential or actual conflicts of interest that the Adviser, any affiliated person of the

[1] Applicants request that any order issued granting the relief requested in the application also apply to any closed-end investment company (''future fund'') that in the future: (a) Is advised by the Adviser (including any successor in interest) or by any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with the Adviser; and (b) complies with the terms and conditions of the requested order. A successor in interest is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

Adviser, or any other affiliated person of the fund may have relating to the adoption or implementation of the Plan,

(iii) Whether the rate of distribution under the Plan will exceed the fund's expected total return (in relation to NAV); and

(iv) The reasonably foreseeable material effects of the Plan on the fund's long-term total return (in relation to market price and NAV);

(4) Approved the adoption of compliance policies and procedures in accordance with rule 38a–1 under the Act that:

(i) Are reasonably designed to ensure that all notices required to be sent to fund shareholders pursuant to section 19(a) of the Act and rule 19a–1 thereunder (each a ''Notice'') include the disclosure required by rule 19a–1 and the conditions below, and that all other communications by the fund or its agents about distributions under the Plan include the disclosure required by the conditions below, and

(ii) Require the fund to keep records that demonstrate its compliance with all of the conditions of the requested order and that are necessary for the fund to form the basis for, or demonstrate the calculation of, the amounts disclosed in its Notices; and

(5) Recorded the information, pursuant to representation (3) above, considered by it and the basis for its approval of the Plan in its meeting minutes, which must be made and preserved for a period of not less than six years from the date of such meeting, the first two years in an easily accessible place or such longer period as may otherwise be required by law.

Applicants' Legal Analysis:

1. Section 19(b) generally makes it unlawful for any registered investment company to make long-term capital gains distributions more than once each year. Rule 19b–1 limits the number of capital gains dividends, as defined in section 852(b)(3)(C) of the Code (''distributions''), that a fund may make with respect to any one taxable year to one, plus a supplemental ''clean up'' distribution made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year, plus one additional capital gain dividend made in whole or in part to avoid the excise tax under section 4982 of the Code.

2. Section 6(c) provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants state that the one of the concerns underlying section 19(b) and rule 19b–1 is that shareholders might be unable to differentiate between regular distributions of capital gains and distributions of investment income. Applicants state, however, that rule 19a–1 effectively addresses this concern by requiring that a separate statement showing the sources of a distribution (*e.g.*, estimated net income, net short-term capital gains, net long-term capital gains and/or return of capital) accompany any distributions (or the confirmation of the reinvestment of distributions) estimated to be sourced in part from capital gains or capital. Applicants state that the same information also is included in the Current Funds' annual reports to shareholders and on their IRS Forms 1099–DIV, which are sent to each common and preferred shareholder who received distributions during the year.

4. Applicants further state that each of the funds will make the additional disclosures required by the conditions set forth below, and each of them has adopted or will adopt compliance policies and procedures in accordance with rule 38a–1 to ensure that all required Notices and disclosures are sent to shareholders. Applicants argue that by providing the information required by section 19(a) and rule 19a–1, and by complying with the procedures adopted under each Plan and the conditions listed below, the funds would ensure that each fund's shareholders are provided sufficient information to understand that their periodic distributions are not tied to the fund's net investment income and realized capital gains to date, and may not represent yield or investment return.

5. Applicants note that section 19(b) and rule 19b–1 also were intended to prevent certain improper sales practices, including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming capital gains dividend (''selling the dividend''), where the dividend would result in an immediate corresponding reduction in NAV and would be in effect a taxable return of the investor's capital. Applicants assert that a periodic payout policy will help avoid the buildup of large end-of-the-year distributions and accordingly will help to avoid the scenario in which an investor acquires shares that are subject to a large upcoming capital gains distribution.

6. Applicants also note that common shares of closed-end funds that invest primarily in equity securities often trade in the marketplace at a discount to their NAV. Applicants believe that this discount may be reduced for closed-end funds that pay relatively frequent dividends on their common shares at a consistent rate, whether or not those dividends contain an element of long-term capital gain.

7. Applicants assert that the application of rule 19b–1 to a Plan actually could have an undesirable influence on portfolio management decisions. Applicants state that, in the absence of an exemption from rule 19b–1, the implementation of a Plan imposes pressure on management to realize capital gains on a regular and frequent basis and at a time when pure investment considerations would dictate not doing so. Applicants thus assert that the requested order would enable the funds to realize long-term capital gains as often as investment consideration dictate without fear of violating rule 19b–1.

8. Applicants state that *Revenue Ruling 89–81* under the Code requires that a fund that has both common stock and preferred stock outstanding designate the types of income, *e.g.* investment income and capital gains, in the same proportion as the total distributions distributed to each class for the tax year. To satisfy the proportionate designation requirements of *Revenue Ruling 89–81*, whenever a fund has realized a long-term capital gain with respect to a given tax year, the fund must designate the required proportionate share of such capital gain to be included in common and preferred stock dividends. Applicants state that although rule 19b–1 allows a fund some flexibility with respect to the frequency of capital gains distributions, a fund might use all of the exceptions available under the rule for a tax year and still need to distribute additional capital gains allocated to the preferred stock to comply with *Revenue Ruling 89–81.*

9. Applicants assert that the potential abuses addressed by section 19(b) and rule 19b–1 do not arise with respect to preferred stock issued by a closed-end fund. Applicants assert that such distributions are fixed or determined in periodic auctions by reference to short-term interest rates rather than by reference to performance of the issuer and *Revenue Ruling 89–81* determines the proportion of such distributions that are comprised of the long-term capital gains.

10. Applicants also submit that the ''selling the dividend'' concern is not applicable to preferred stock, which

entitles a holder to no more than a periodic dividend at a fixed rate or the rate determined by the market, and, like a debt security, is priced based upon its liquidation value, credit quality, and frequency of payment. Applicants state that investors buy preferred shares for the purpose of receiving payments at the frequency bargained for, and do not expect the liquidation value of their shares to change.

11. Applicants request an order under section 6(c) granting an exemption from the provisions of section 19(b) and rule 19b–1 to permit each fund's common stock to distribute periodic capital gains dividends (as defined in section 852(b)(3)(C) of the Code) as often as monthly in any one taxable year in respect of its common shares and as often as specified by or determined in accordance with the terms thereof in respect of its preferred shares.[2]

Applicants' Conditions:

Applicants agree that, with respect to each fund seeking to rely on the order, the order will be subject to the following conditions:

I. Compliance Review and Reporting

The fund's chief compliance officer will: (a) Report to the fund Board, no less frequently than once every three months or at the next regularly scheduled quarterly board meeting, whether (i) the fund and the Adviser have complied with the conditions to the requested order, and (ii) a Material Compliance Matter, as defined in rule 38a–1(e)(2), has occurred with respect to compliance with such conditions; and (b) review the adequacy of the policies and procedures adopted by the fund no less frequently than annually.

II. Disclosures to Fund Shareholders

A. Each Notice to the holders of the fund's common shares, in addition to the information required by section 19(a) and rule 19a–1:

1. Will provide, in a tabular or graphical format:

(a) The amount of the distribution, on a per common share basis, together with the amounts of such distribution amount, on a per common share basis and as a percentage of such distribution amount, from estimated: (A) Net investment income; (B) net realized short-term capital gains; (C) net realized long-term capital gains; and (D) return of capital or other capital source;

(b) The fiscal year-to-date cumulative amount of distributions, on a per common share basis, together with the amounts of such cumulative amount, on a per common share basis and as a percentage of such cumulative amount of distributions, from estimated: (A) Net investment income; (B) net realized short-term capital gains; (C) net realized long-term capital gains; and (D) return of capital or other capital source;

(c) The average annual total return in relation to the change in NAV for the 5-year period (or, if the fund's history of operations is less than five years, the time period commencing immediately following the fund's first public offering) ending on the last day of the month prior to the most recent distribution declaration date compared to the current fiscal period's annualized distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution declaration date; and

(d) The cumulative total return in relation to the change in NAV from the last completed fiscal year to the last day of the month prior to the most recent distribution declaration date compared to the fiscal year-to-date cumulative distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution declaration date.

Such disclosure shall be made in a type size at least as large as and as prominent as the estimate of the sources of the current distribution; and

2. Will include the following disclosure:

(a) ''You should not draw any conclusions about the fund's investment performance from the amount of this distribution or from the terms of the fund's Plan'';

(b) ''The fund estimates that it has distributed more than its income and net realized capital gains; therefore, a portion of your distribution may be a return of capital. A return of capital may occur for example, when some or all of the money that you invested in the fund is paid back to you. A return of capital distribution does not necessarily reflect the fund's investment performance and should not be confused with 'yield' or 'income' ''; [3] and

(c) ''The amounts and sources of distributions reported in this Notice are only estimates and are not being provided for tax reporting purposes. The actual amounts and sources of the amounts for tax reporting purposes will depend upon the fund's investment experience during the remainder of its fiscal year and may be subject to changes based on tax regulations. The fund will send you a Form 1099–DIV for the calendar year that will tell you how to report these distributions for federal income tax purposes.''

Such disclosure shall be made in a type size at least as large as and as prominent as any other information in the Notice and placed on the same page in close proximity to the amount and the sources of the distribution.

B. On the inside front cover of each report to shareholders under rule 30e–1 under the Act, the fund will:

1. Describe the terms of the Plan (including the fixed amount or fixed percentage of the distributions and the frequency of the distributions);

2. Include the disclosure required by condition II.A.2.a above;

3. State, if applicable, that the Plan provides that the Board may amend or terminate the Plan at any time without prior notice to fund shareholders; and

4. describe any reasonably foreseeable circumstances that might cause the fund to terminate the Plan and any reasonably foreseeable consequences of such termination.

C. Each report provided to shareholders under rule 30e–1 and in each prospectus filed with the Commission on Form N–2 under the Act, will provide the fund's total return in relation to changes in NAV in the financial highlights table and in any discussion about the fund's total return.

III. Disclosure to Shareholders, Prospective Shareholders and Third Parties

A. The fund will include the information contained in the relevant Notice, including the disclosure required by condition II.A.2 above, in any written communication (other than a Form 1099) about the Plan or distributions under the Plan by the fund, or agents that the fund has authorized to make such communication on the fund's behalf, to any fund common shareholder, prospective common shareholder or third-party information provider;

B. The fund will issue, contemporaneously with the issuance of any Notice, a press release containing the information in the Notice and will file with the Commission the information contained in such Notice, including the disclosure required by condition II.A.2 above, as an exhibit to its next filed Form N–CSR; and

C. The fund will post prominently a statement on its (or the Adviser's) Web site containing the information in each

[2] Applicants state that a future fund that relies on the requested order will satisfy each of the representations in the application except that such representations will be made in respect of actions by the board of directors of such future fund and will be made at a future time.

[3] This disclosure will be included only if the current distribution or the fiscal year-to-date cumulative distributions are estimated to include a return of capital.

Notice, including the disclosure required by condition II.A.2 above, and will maintain such information on such Web site for at least 24 months.

IV. *Delivery of Notices to Beneficial Owners:* If a broker, dealer, bank or other person (''financial intermediary'') holds common stock issued by the fund in nominee name, or otherwise, on behalf of a beneficial owner, the fund: (a) Will request that the financial intermediary, or its agent, forward the Notice to all beneficial owners of the fund's shares held through such financial intermediary; (b) will provide, in a timely manner, to the financial intermediary, or its agent, enough copies of the Notice assembled in the form and at the place that the financial intermediary, or its agent, reasonably requests to facilitate the financial intermediary's sending of the Notice to each beneficial owner of the fund's shares; and (c) upon the request of any financial intermediary, or its agent, that receives copies of the Notice, will pay the financial intermediary, or its agent, the reasonable expenses of sending the Notice to such beneficial owners.

V. Additional Board Determinations for Funds Whose Shares Trade at a Premium

If:

A. The fund's common shares have traded on the exchange that they primarily trade on at the time in question at an average premium to NAV equal to or greater than 10%, as determined on the basis of the average of the discount or premium to NAV of the fund's common shares as of the close of each trading day over a 12-week rolling period (each such 12-week rolling period ending on the last trading day of each week); and

B. The fund's annualized distribution rate for such 12-week rolling period, expressed as a percentage of NAV as of the ending date of such 12-week rolling period, is greater than the fund's average annual total return in relation to the change in NAV over the 2-year period ending on the last day of such 12-week rolling period; then:

1. At the earlier of the next regularly scheduled meeting or within four months of the last day of such 12-week rolling period, the Board including a majority of the Independent Directors:

(a) Will request and evaluate, and the Adviser will furnish, such information as may be reasonably necessary to make an informed determination of whether the Plan should be continued or continued after amendment;

(b) Will determine whether continuation, or continuation after amendment, of the Plan is consistent with the fund's investment objective(s) and policies and in the best interests of the fund and its shareholders, after considering the information in condition V.B.1.a above; including, without limitation:

(1) Whether the Plan is accomplishing its purpose(s);

(2) The reasonably foreseeable effects of the Plan on the fund's long-term total return in relation to the market price and NAV of the fund's common shares; and

(3) The fund's current distribution rate, as described in condition V.B above, compared to with the fund's average annual total return over the 2-year period, as described in condition V.B, or such longer period as the board deems appropriate; and

(c) Based upon that determination, will approve or disapprove the continuation, or continuation after amendment, of the Plan; and

2. The Board will record the information considered by it and the basis for its approval or disapproval of the continuation, or continuation after amendment, of the Plan in its meeting minutes, which must be made and preserved for a period of not less than six years from the date of such meeting, the first two years in an easily accessible place.

VI. Public Offerings

The fund will not make a public offering of the fund's common shares other than:

A. A rights offering below NAV to holders of the fund's common stock;

B. An offering in connection with a dividend reinvestment plan, merger, consolidation, acquisition, spin-off or reorganization of the fund; or

C. An offering other than an offering described in conditions VI.A and VI.B above, unless, with respect to such other offering:

1. The fund's annualized distribution rate for the six months ending on the last day of the month ended immediately prior to the most recent distribution declaration date,[4] expressed as a percentage of NAV per share as of such date, is no more than 1 percentage point greater than the fund's average annual total return for the 5-year period ending on such date;[5] and

2. The transmittal letter accompanying any registration statement filed with the Commission in connection with such offering discloses that the fund has received an order under section 19(b) to permit it to make periodic distributions of long-term capital gains with respect to its common stock as frequently as twelve times each year, and as frequently as distributions are specified in accordance with the terms of any outstanding preferred stock that such fund may issue.

VII. Amendments to Rule 19b–1

The requested relief will expire on the effective date of any amendment to rule 19b–1 that provides relief permitting certain closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common stock as frequently as twelve times each year.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26512 Filed 11–3–09; 8:45 am]

BILLING CODE 8011–01–P

[4] If the fund has been in operation fewer than six months, the measured period will begin immediately following the fund's first public offering.

[5] If the fund has been in operation fewer than five years, the measured period will begin immediately following the fund's first public offering.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Monday, November 9, 2009 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one of the exemption set forth in 5 U.S.C. 552b(c)(10) and 17 CFR 200.402(a)(10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the item listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Monday, November 9, 2009 will be:

Consideration of amicus participation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been

added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: November 2, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–26721 Filed 11–2–09; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60899; File No. SR–NASDAQ–2009–081]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Modify the Fees for Listing on the Nasdaq Stock Market and the Fee for Written Interpretations of Nasdaq Listing Rules

October 28, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on October 6, 2009, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. 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

Nasdaq proposes to modify the fees for listing on the Nasdaq Stock Market.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing modifications to the application, entry and annual fees currently charged to issuers listed on the Nasdaq Global and Global Select Markets[3] and to the fee for a written interpretation of Nasdaq listing rules, as set forth below.

Nasdaq Global and Global Select Application, Entry and Annual Fees

Nasdaq currently imposes a $5,000 application fee on a company applying to list on the Nasdaq Global or Global Select Markets.[4] This fee helps offset the cost of Nasdaq's review of the company's application. Nasdaq proposes to increase this fee to $25,000. The application fee would continue to be credited against entry fees upon listing, and thus this change would not affect the overall fees a company pays to list, but would better reflect the level of effort and cost associated with the review of an application and provide a stronger disincentive for frivolous applications.

Nasdaq also proposes to modify the entry fee a company pays when listing on the Nasdaq Global or Global Select Market. Currently, those fees are charged in three tiers, based on the number of shares the company has outstanding, and range from $100,000 to $150,000. Nasdaq proposes to create an additional tier for companies issuing over 50 million to 100 million shares and to increase the entry fee by $25,000 to $75,000, depending on the number of shares to be listed. The effect of adding a new tier will be to increase the number of shares a company must have outstanding before the company must pay a higher listing fee.[5] Nasdaq believes that the proposed increase to the entry fees would reflect the overall rise in costs since these fees were last increased in January 2002[6] and take into account a number of new initiatives by Nasdaq since that time, including Nasdaq's new online listing application center[7] and the IPO cross (an open auction process, which is used for every initial public offering on Nasdaq and maximizes transparency at the opening of trading of an initial public offering).[8]

In addition, Nasdaq proposes to modify the annual fee imposed on domestic and foreign issues and American Depositary Receipts (ADRs) listed on the Nasdaq Global and Global Select Markets. The proposed change would result in revised annual fees for domestic and foreign issues ranging from $35,000 to $99,500, based on their shares outstanding, and a maximum increase of $5,000, depending on the company's total shares outstanding.[9] In addition, Nasdaq proposes to combine two of the existing seven fee tiers to create a new tier for companies with over 10 million to 50 million shares outstanding. As a result, there would be no fee increase for approximately 25% of Nasdaq companies.[10] Annual fees for domestic companies were last increased in January 2007.[11] The revised fee applicable to ADRs would result in an annual increase ranging from $8,775 to $20,000, and the revised fee would range from $30,000 to $50,000, depending on the number of ADRs outstanding.[12] In addition, Nasdaq proposes to expand the size of the tiers of shares outstanding on which the fees are based, so that companies are more likely to be in a lower tier.[13] Annual fees for ADRs were last increased in February 2004.[14] Nasdaq believes that the proposed increases to the annual fees would reflect the overall rise in costs since the last increases and take into account a number of regulatory and other initiatives implemented by Nasdaq since that time, including substantial enhancements to Nasdaq's

[3] Fees for the Global and Global Select Market are set forth in Rule 5910. Because the Global Select Market is a segment of the Global Market, the same fees apply to securities listed on the Global Select Market as apply to securities listed on the Global Market. *See* Rules 5005(a)(25) and (29).

[4] The application fee is non-refundable.

[5] The Commission notes that, under the current fee structure, companies pay an entry fee of $150,000 for any issuances over 50 million shares. Therefore, the Commission notes that, under Nasdaq's proposal, the entry fees will increase to $200,000 for companies issuing over 50 million shares to 100 million shares and to $225,000 for those companies issuing over 100 million shares.

[6] *See* Securities Exchange Act Release No. 45206 (December 28, 2001), 67 FR 621 (January 4, 2002) (approving SR–NASD–2001–76).

[7] *https://listingapplications.nasdaqomx.com/.*

[8] Rules 4120(c)(7)(B) and 4753. The IPO cross is the process by which an initial public offering is released for trading. Prior to the IPO cross, trading is halted in the security.

[9] The current annual fees range from $30,000 to $95,000. Rule 5910(c).

[10] Companies with from 25 million to 50 million shares outstanding would not face a fee increase under the proposed change.

[11] *See* Securities Exchange Act Release No. 55202 (January 30, 2007), 72 FR 6017 (February 8, 2007) (approving SR–NASDAQ–2006–40).

[12] The current annual fees range from $21,225 to $30,000. Rule 5910(d).

[13] The current tiers of over 10 million—25 million ADRs outstanding, over 25 million—50 million ADRs outstanding, and over 50 million ADRs outstanding would be changed to over 10 million—50 million ADRs outstanding, over 50 million—75 million ADRs outstanding and over 75 million ADRs outstanding.

[14] *See* Securities Exchange Act Release No. 49169 (February 2, 2004), 69 FR 6009 (February 9, 2004) (approving SR–NASD–2003–178).

website to facilitate compliance by listed companies.[15] In addition, the change to the ADR fees would reduce the disparity in fees paid by ADR issuers and other Nasdaq-listed companies.

Fee for Written Interpretations of Nasdaq Listing Rules

Nasdaq also proposes to change the fee for written interpretations of Nasdaq listing rules. In connection with such a request today, a company is required to submit a non-refundable fee of $5,000 for a regular request, which is generally completed within four weeks from the date Nasdaq receives all information necessary to respond to the request, or $15,000 for an expedited request, in which the company requests a response by a specific date that is less than four weeks after the date Nasdaq receives all necessary information.

Since January 1, 2008, nearly 75% of all requests were submitted on an expedited basis. However, Nasdaq staff responded to many requests that were not submitted on an expedited basis in less than four weeks and some requests submitted on an expedited basis have taken longer than requested. In each case, Nasdaq staff attempts to respond as quickly as possible and, since adopting this process, Nasdaq has observed that the level of effort in each case, whether submitted on an expedited basis or not, is virtually the same. As such, Nasdaq proposes to eliminate the alternative for a non-expedited request and require all companies seeking an interpretation to pay $15,000. Nasdaq believes that this amount is reasonable given the level of attention required by these requests and that the fee change will not discourage such requests given the relatively few companies that have opted for non-expedited requests. Further, Nasdaq proposes to modify the timeframes stated in the rule in which Nasdaq will respond to interpretive requests. As revised, the rule would state that Nasdaq will respond to all requests for a written interpretation within four weeks from the date Nasdaq receives all information necessary to respond to the request,[16] although Nasdaq will attempt to respond by a sooner date if the Company so requires. Nasdaq believes that this modified time frame, which is similar to the time frame now provided for non-expedited requests, better aligns the rule with Nasdaq's experience as to the amount of time it takes to make appropriate decisions as to the application of the rules and respond to interpretive requests.[17]

Implementation

The revised annual fee schedule will be effective January 1, 2010.[18] The application and entry fee schedule will be effective for companies that apply for listing after SEC approval of the proposed rule change; thus a company that applied and paid the application fee prior to SEC approval would be charged an entry fee according to the fee schedule in effect at the time of its application. The change to the interpretive fees will be effective upon approval.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[19] in general and with Sections 6(b)(4) and 6(b)(5) of the Act[20] in particular. The proposed rule change is consistent with Section 6(b)(4) in that it provides for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls, and with Section 6(b)(5) of the Act, which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq's proposed fees are consistent with fees charged by competing listing markets and include a competitive service offering. The proposed fees will apply equally to similarly situated companies.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

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 such 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–NASDAQ–2009–081 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–NASDAQ–2009–081. 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

[15] *See http://www.nasdaq.com/services/insidenasdaq.stm.* This website includes over 375 frequently asked questions about Nasdaq's listing rules, over 80 decisions of the Nasdaq Listing and Hearing Review Council, and summaries of over 275 interpretations issued by the Nasdaq staff in response to requests for written interpretations, as discussed below. This material provides transparency to Nasdaq's application of the listing rules and serves as a valuable resource to listed companies.

[16] The Commission notes that under the proposal, Rule 5602 regarding Written Interpretations of Nasdaq Listing Rules states that ''A response to a request for a written interpretation *generally* will be provided within four weeks from the date Nasdaq receives all information necessary to respond to the request * * *'' (emphasis added).

[17] The Commission notes that Nasdaq has stated that it does not charge companies for oral interpretation requests of their rules. Telephone conversation on October 28, 2009 between Arnold Golub, Vice President and Associate General Counsel, Nasdaq and Sharon Lawson, Senior Special Counsel, Commission.

[18] Following the date of approval of the proposed rule change until January 1, 2010, Nasdaq would include language at the start of Rule 5910 on its website notifying users that amendments to the rule have been approved and will be effective January 1, 2010. This notice will allow users to click a link to view the text of the rule as it will be in effect on January 1, 2010, showing the revisions made by this filing. As such, Nasdaq believes there will be no confusion as to the currently applicable rule language (and fees) and users also will be able to see the approved fees that will become effective on January 1, 2010.

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(4) and 78f(b)(5).

Internet Web site *(http://www.sec.gov/rules/sro.shtml)*. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NASDAQ–2009–081 and should be submitted on or before November 25, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26513 Filed 11–3–09; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60893; File No. SR–NASDAQ–2009–089]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Its Optional Anti-Internalization Functionality

October 28, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 14, 2009, The NASDAQ Stock Market LLC (the ''Exchange'' or ''Nasdaq'') 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 Nasdaq. Nasdaq has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify its optional anti-internalization functionality.

The text of the proposed rule change is below. Proposed new language is *italicized* and proposed deletions are in brackets.[4]

* * * * *

4757. Book Processing

(a) System orders shall be executed through the Nasdaq Book Process set forth below:

(1)–(3) No Change.

(4) Exception: Anti-Internalization—Market participants may direct that quotes/orders entered into the System not execute against quotes/orders entered under the same MPID. In such a case, *a market participant may elect from the following options;*

(i) if the interacting *quotes/*orders from the same MPID are equivalent in size, both quotes/orders will be cancelled back to their entering parties. If the interacting *quotes/*orders from the same MPID are not equivalent in size, share amounts equal to the size of the smaller of the two *quotes/*orders will be cancelled back to their originating parties with the remainder of the larger quote/order being retained by the System for potential execution[.]*; or*

(ii) regardless of the size of the interacting quotes/orders, cancelling the oldest of them in full.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[3] 17 CFR 240.19b–4(f)(6).

[4] Changes are marked to the rules of The NASDAQ Stock Market LLC found at *http://nasdaqomx.cchwallstreet.com.*

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to provide an additional alternative to its voluntary anti-internalization functionality. Under the proposal, market participants will be given an additional option when entering quotes and orders using the same market participant identifier (''MPID'') that they do not wish to have automatically interact with each other in the System. This option will direct the System to not execute any part of the interacting quotes/orders from the same MPID and, instead, cancel the oldest of the interacting quotes/orders back to the entering party.

Anti-internalization processing is available only on an individual MPID-wide basis with only a single option being allowed per MPID. Market participants direct that a particular version of anti-internalization processing be applied to a particular MPID, which is then applied by the system to all quotes/orders entered using that MPID.

Anti-internalization functionality is designed to assist market participants in complying with certain rules and regulations of the Employee Retirement Income Security Act (''ERISA'') that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts. It can also assist market participants in reducing execution fees potentially resulting from the interaction of executable buy and sell trading interest from the same firm. Nasdaq notes that use of the functionality does not relieve or otherwise modify the duty of best execution owed to orders received from public customers. As such, market participants using anti-internalization functionality will need to take appropriate steps to ensure that public customer orders that do not execute because of the use of anti-internalization functionality ultimately receive the same execution price (or better) they would have originally obtained if execution of the order was not inhibited by the functionality.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections [sic] 6(b)(5) of the Act,[6] in particular, in that the

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

proposal 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 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. Nasdaq notes that similar functionality has previously [sic] approved for other markets.[7]

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the benefits of this functionality to Nasdaq market participants expected from the rule change can be implemented on or about November 2, 2009, when the Exchange expects to have the technological changes in place to support the proposed rule change. The Commission believes that waiving the 30-day operative delay[10] to make this functionality available on November 2, 2009 is consistent with the protection of investors and the public interest. The Commission notes that the proposal is similar to rules of other exchanges.[11] Therefore, the Commission designates the proposal operative on November 2, 2009.

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–NASDAQ–2009–089 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–NASDAQ–2009–089. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2009–089 and should be submitted on or before November 25, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26511 Filed 11–3–09; 8:45 am]

BILLING CODE 8011–01–P

[7] *See* BATS Exchange Rule 11.9(f)(2) and NYSE Arca Equities Rule 7.31(qq)(2).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of 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 fulfilled this requirement.

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] *See* BATS Exchange Rule 11.9(f) and NYSE Arca Equities Rule 7.31(qq).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60894; File No. SR–BX–2009–068]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Its Optional Anti-Internalization Functionality

October 28, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 23, 2009, NASDAQ OMX BX, Inc. (''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 Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify its optional anti-internalization functionality.

The text of the proposed rule change is below. Proposed new language is *italicized* and proposed deletions are in brackets.[4]

* * * * *

4757. Book Processing

System orders shall be executed through the Book Process set forth below:

(a) Execution Algorithm—Price/Time—The System shall execute equally priced or better priced trading interest within the System in price/time priority in the following order:

(1)–(2) No Change.

(3) Exception: Anti-Internalization—Market participants may direct that quotes/orders entered into the System not execute against quotes/orders entered under the same MPID. In such a case, *a market participant may elect from the following options;*

(i) if the interacting *quotes*/orders from the same MPID are equivalent in size, both quotes/orders will be cancelled back to their entering parties. If the interacting *quotes*/orders from the same MPID are not equivalent in size, share amounts equal to size of the smaller of the two *quotes*/orders will be cancelled back to their originating parties with the remainder of the larger quote/order being retained by the System for potential execution[.]*; or*

(ii) regardless of the size of the interacting quotes/orders, cancelling the oldest of them in full.

(b) No Change.

(c) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to provide an additional alternative to its voluntary anti-internalization functionality. Under the proposal, market participants will be given an additional option when entering quotes and orders using the same market participant identifier (''MPID'') that they do not wish to have automatically interact with each other in the System. This option will direct the System to not execute any part of the interacting quotes/orders from the same MPID and, instead, cancel the oldest of the interacting quotes/orders back to the entering party.

Anti-internalization processing is available only on an individual MPID-wide basis with only a single option being allowed per MPID. Market participants direct that a particular version of anti-internalization processing be applied to a particular MPID, which is then applied by the system to all quotes/orders entered using that MPID.

Anti-internalization functionality is designed to assist market participants in complying with certain rules and regulations of the Employee Retirement Income Security Act (''ERISA'') that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts. It can also assist market participants in reducing execution fees potentially resulting from the interaction of executable buy and sell trading interest from the same firm. The Exchange notes that use of the functionality does not relieve or otherwise modify the duty of best execution owed to orders received from public customers. As such, market participants using anti-internalization functionality will need to take appropriate steps to ensure that public customer orders that do not execute because of the use of anti-internalization functionality ultimately receive the same execution price (or better) they would have originally obtained if execution of the order was not inhibited by the functionality.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections [sic] 6(b)(5) of the Act,[6] in particular, in that the proposal 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 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. The Exchange notes that similar functionality has previously [sic] approved for other markets.[7]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

[3] 17 CFR 240.19b–4(f)(6).

[4] Changes are marked to the rules of NASDAQ OMX BX, Inc. found at: *http://nasdaqomxbx.cchwallstreet.com.*

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] *See* BATS Exchange Rule 11.9(f)(2) and NYSE Arca Equities Rule 7.31(qq)(2).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of 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 fulfilled this requirement.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the benefits of this functionality to Exchange market participants expected from the rule change can be implemented on or about November 2, 2009, when the Exchange expects to have the technological changes in place to support the proposed rule change. The Commission believes that waiving the 30-day operative delay [10] to make this functionality available on November 2, 2009 is consistent with the protection of investors and the public interest. The Commission notes that the proposal is similar to rules of other exchanges.[11] Therefore, the Commission designates the proposal operative on November 2, 2009.

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–BX–2009–068 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–BX–2009–068. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2009–068 and should be submitted on or before November 25, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26510 Filed 11–3–09; 8:45 am]

BILLING CODE 8011–01–P

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] *See* BATS Exchange Rule 11.9(f) and NYSE Arca Equities Rule 7.31(qq).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60897; File No. SR–ISE–2009–85]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange, LLC Related to Market Maker Guidelines

October 28, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on October 22, 2009, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has 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 amend Rule 803 to eliminate the provision providing for bids (offers) to be no more than $1 lower (higher) that the last preceding transaction plus or minus the aggregate change in the last sale price of the underlying, and amend the provision pertaining to trades that are more than $0.25 below parity. The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.com,* at the principal office of the Exchange, 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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposed rule change is based on a filing previously submitted by the Chicago Board Options Exchange (''CBOE'') that was effective on filing.[5]

ISE proposes to amend Rule 803 to eliminate the provision providing for bids (offers) to be no more than $1 lower (higher) that the last preceding transaction plus or minus the aggregate change in the last sale price of the

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 60295 (July 13, 2009), 74 FR 35215 (July 20, 2009) (SR–CBOE–2009–49).

underlying, and amend the provision pertaining to trades that are more than $0.25 below parity. Rule 803, in part, provides that market makers are expected ordinarily, except in unusual market conditions, not to bid more than $1 lower or offer more than $1 higher that the last preceding transaction price for the particular option contract plus or minus the aggregate change in the last sale price of the underlying security since the time of the last preceding transaction for the particular option contract (the ''one point'' rule). In addition, market makers are expected ordinarily, except in unusual market conditions, to refrain from purchasing a call option or a put option at a price more than $0.25 below parity. In the case of call options, parity is measured by the bid in the underlying security, and in the case of put options, parity is measured by the offer in the underlying security (the ''parity'' rule).

First, the Exchange proposes to eliminate the one point rule. The one point rule has been in place at the Exchange since its inception.[6] Since that time, various market changes have rendered the rule obsolete and unnecessary. For example, market makers are now subject to various quotation requirements, including bid/ask quote width requirements contained elsewhere in Rule 803. The Exchange also has an obvious error rule that contains provisions on erroneous pricing errors (*e.g.,* Rule 720) and has in place certain price check parameters that will not permit the automatic execution of certain orders if the execution would take place at prices inferior to the national best bid/offer (*e.g.,* Rules 714(a), 721).

Second, at this time the Exchange is proposing to retain the parity rule, which has also been in place at the Exchange since its inception,[7] as a guideline but to modify it to provide that an amount larger than $0.25 may be appropriate considering the particular market conditions (not just unusual market conditions as the rule currently states). The text will also be revised to provide that the $0.25 guideline may be increased, or the parity rule waived, by the Exchange on a series-by-series basis. The Exchange believes that revising the $0.25 parity rule in this manner modernizes the guideline to reflect market changes (including those discussed above) and will provide more flexibility to take into consideration the particular trading in a security, including but not limited to the underlying market price, market conditions, and applicable minimum bid/ask width requirements for a given options series.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'')[8] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, because it will eliminate the outdated one point rule and update the parity rule to incorporate more flexibility and recognize changing market conditions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative for 30 days after the date of 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)(iii)[12] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[13]

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–ISE–2009–85 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–ISE–2009–85. 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,

[6] *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(1).

[9] 15 U.S.C. 78(f)(b).

[10] 15 U.S.C. 78(f)(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of 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 the pre-filing requirement.

[13] 15 U.S.C. 78s(b)(3)(C).

DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2009–85 and should be submitted on or before November 25, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26509 Filed 11–3–09; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 6782]

Industry Advisory Panel: Notice of Open Meeting

The Industry Advisory Panel of the Bureau Overseas Buildings Operations will meet on Tuesday, December 1, 2009 from 9:30 a.m. until 3:30 p.m. Eastern Standard Time. The meeting is open to the public as seating permits and will be held in room 1107 of the U.S. Department of State, located at 2201 C Street, NW., (entrance on 23rd Street) Washington, DC. For logistical and security reasons, it is imperative that everyone enter and exit using only the 23rd Street entrance. The majority of the meeting will be devoted to an exchange of ideas between the Department's senior management and the panel members on design, operations, and building maintenance. There will be a reasonable time provided for members of the public to provide comment.

Entry to the building is controlled; to obtain pre-clearance for entry, members of the public planning to attend should provide, by November 15, 2009, their name, professional affiliation, date of birth, citizenship, and a valid government-issued ID number (*i.e.*, U.S. government ID, U.S. military ID, passport, or drivers license) by e-mailing: *FousheeCT@state.gov*. Requests for reasonable accommodation should be sent to the same e-mail address by November 19, 2009. Requests made after that time will be considered, but may not be able to be fulfilled. Because of space restrictions, we request that companies interested in attending send only one representative.

Please contact Jonathan Blyth at *BlythJJ@State.Gov* or on (703) 875–4131 with any questions.

Dated: October 23, 2009.

Adam E. Namm,

Director, Acting, U.S. Department of State, Bureau of Overseas Buildings Operations.

[FR Doc. E9–26613 Filed 11–3–09; 8:45 am]

BILLING CODE 4710–24–P

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2007–51]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before November 24, 2009.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–1296 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for 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).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Anna Bruse, 202–267–9655, or Tyneka L. Thomas, 202–267–7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on October 29, 2009.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2008–1296.

Petitioner: Highest Wind.

Section of 14 CFR Affected: §§ 101.13(a)(1), (2), and (3), and 101.17(a) and (b). Description of Relief Sought: Highest Wind seeks an exemption from 14 CFR 101.13(a)(1), (2), and (3), and 101.17(a) and (b) to operate its unmanned, tethered, semi-autonomous glider, at approximately 1,000 feet above ground level (AGL), for the purpose of generating electrical power from the wind.

[FR Doc. E9–26500 Filed 11–3–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (VA Form 10–0476)]

Proposed Information Collection (Survey of Appropriate and Timely Diagnosis of Infectious Diseases) Activity: Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an

opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine a veteran's medical care for infectious diseases acquired while in Iraq or Afghanistan.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 4, 2010.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or *e-mail: mary.stout@va.gov.* Please refer to ''2900–New (VA Form 10–0476)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Mary Stout (202) 461–5867 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Survey of Appropriate and Timely Diagnosis of Infectious Diseases (Leishmaniasis), VA Form 10–0476.

b. Survey of Appropriate and Timely Diagnosis of Infectious Diseases (Malaria), VA Form 10–0476a.

OMB Control Number: 2900–New (VA Form 10–0476).

Type of Review: New collection.

Abstract: The data collected will be used to determine whether rural veterans have difficulty receiving appropriate and timely care for infectious diseases acquired while in Iraq or Afghanistan compared to veterans residing in urban areas.

Affected Public: Individuals or Households.

Estimated Total Annual Burden: 8 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 100.

Dated: October 29, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–26458 Filed 11–3–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0525]

Agency Information Collection (VA MATIC Change) Activities: Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 4, 2009.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0525'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0525.''

SUPPLEMENTARY INFORMATION:

Title: VA MATIC Change, VA Form 29–0165.

OMB Control Number: 2900–0525.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Form 29–0165 to enroll in VA MATIC or change their financial institution from which VA currently deducts his/her Government Life Insurance premium.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 26, 2009, at page 43228.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 5,000.

Dated: October 29, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–26459 Filed 11–3–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (Supplier)]

Proposed Information Collection (Supplier Perception Survey) Activity; Comment Request

AGENCY: Office of Acquisition, Logistics and Construction, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Acquisition, Logistics and Construction (OALC), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the

Federal Register concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to transform the acquisition and logistics operation.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 4, 2010.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Dan Coakley, Acquisition and Logistics (001AL–P2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or *e-mail: daniel.coakley@va.gov.* Please refer to ''OMB Control No. 2900–New (Supplier)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Dan Coakley at (202) 461–6904, FAX 202–273–6225

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OALC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OALC's functions, including whether the information will have practical utility; (2) the accuracy of OALC's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Department of Veterans Affairs Supplier Perception Survey.

OMB Control Number: 2900–New (Supplier).

Type of Review: New collection.

Abstract: The data collected will be used to improve the quality of services delivered to VA customers and to help develop key performance indicators in acquisition and logistics operations across VA enterprise.

Affected Public: Business or other for-profit and Not-for-profit institutions.

Estimated Annual Burden: 48,600 hours.

Estimated Average Burden per Respondent: 32 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 90,240.

Dated: October 29, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E9–26460 Filed 11–3–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (VA Form 10–0478)]

Proposed Information Collection (Health-Care Use Survey for Enduring Freedom and Operation Iraqi Freedom (OEF/OIF) Veterans) Activity: Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to measure the barriers of the care that can be used by researchers to study factors that influence Veterans' health-care behaviors.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 4, 2010.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov.* Please refer to ''OMB Control No. 2900–New (VA Form 10–0478)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Mary Stout at (202) 461–5867 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Health-Care Use Survey for Enduring Freedom and Operation Iraqi Freedom (OEF/OIF) Veterans.

OMB Control Number: 2900–New (VA Form 10–0478).

Type of Review: New collection.

Abstract: The data collected will be used to better understand the factors that impact Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF) veterans' use of healthcare services, both within and outside of the VA.

The objective of the study is to: (1) Examine the stigma-related barriers to VA health care; (2) document unique barriers to VA care for women and men; and (3) provide reliable and valid measures of barriers to care that can be used by other researchers to study factors that influence veterans' health care behaviors.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,058.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 1,410.

Dated: October 29, 2009.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–26463 Filed 11–3–09; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
November 4, 2009

Part II

The President

Proclamation 8444—Military Family Month, 2009

Proclamation 8445—National Adoption Month, 2009

Proclamation 8446—National Alzheimer's Disease Awareness Month, 2009

Proclamation 8447—National Diabetes Month, 2009

Proclamation 8448—National Family Caregivers Month, 2009

Proclamation 8449—National Native American Heritage Month, 2009

Proclamation 8450—Veterans Day, 2009

Federal Register
Vol. 74, No. 212
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Presidential Documents

Title 3—

The President

Proclamation 8444 of October 30, 2009

Military Family Month, 2009

By the President of the United States of America

A Proclamation

No one pays a higher price for our freedom than members of our Nation's military and their families. As sons and daughters, husbands and wives, and mothers and fathers are deployed, military families endure with exceptional resilience and courage. They provide our troops with invaluable encouragement and love, and serve our Nation in their own right. During Military Family Month, we honor the families of our Armed Forces and thank them for their dedication to our country.

Though only a small percentage of our Nation's population, our troops bear the great responsibility of protecting our people. They, along with their families, serve us every day with courage and dignity. Ensuring that military families receive the respect they deserve and the support they have earned is a top priority for my Administration.

The strength of our Nation is measured not just by our success on the battlefield, but also by our ability to support those families who have made so many sacrifices for us. Time and again, military families have shown their heart in the face of adversity. We have a solemn obligation to ensure that while our men and women in uniform discharge their duties, we do all we can to promote and preserve the well-being of their families. We must also support the families of our wounded warriors and our fallen heroes who have paid the ultimate price for the freedoms we enjoy.

This month, we celebrate the tremendous contributions of military families, convey to them our deepest respect and appreciation, and recommit ourselves to their support.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2009 as Military Family Month. I call on all Americans to honor military families through private actions and public service for the tremendous contributions they make in the support of our service members and our Nation.

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

[FR Doc. E9–26758
Filed 11–3–09; 11:15 am]
Billing code 3195–W9–P

Presidential Documents

Proclamation 8445 of October 30, 2009

National Adoption Month, 2009

By the President of the United States of America

A Proclamation

All children deserve a safe, loving family to protect and care for them. In America, thousands of young people are waiting for that opportunity. During National Adoption Month, we honor those families that have strengthened America through adoption, and we recommit to reducing the number of children awaiting adoption into loving families.

America is a country rich in resources and filled with countless caring men and women who hope to adopt. These individuals come from all walks of life, united in their commitment to love a child who is in need of the protective arms of a parent. We must do more to ensure that adoption is a viable option for them. By continually opening up the doors to adoption, and supporting full equality in adoption laws for all American families, we allow more children to find the permanent homes they yearn for and deserve.

This month, we also focus on children in foster care. These children are not in the system by their own choosing, but are forced into it by unfortunate or tragic circumstances. These young people have specific needs and require unique support. Federal, State, and local governments, communities, and individuals all have a role to play in ensuring that foster children have the resources and encouragement they need to realize their hopes and dreams.

The course of our future will depend on what we do to help the next generation of Americans succeed. This month, we celebrate those families brought together by adoption and renew our commitments to children in the foster care system.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2009 as National Adoption Month. I call upon all Americans to observe this month by reaching out to support and honor adoptive families, as well as to participate actively in efforts to find permanent homes for waiting children.

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

[FR Doc. E9–26759
Filed 11–3–09; 11:15 am]
Billing code 3195–W9–P

Presidential Documents

Proclamation 8446 of October 30, 2009

National Alzheimer's Disease Awareness Month, 2009

By the President of the United States of America

A Proclamation

Every day, millions of American families experience the difficult reality of Alzheimer's disease. The physical and emotional demands of caring for a loved one with Alzheimer's can be overwhelming, but no one should face this disease alone. During National Alzheimer's Disease Awareness Month, we recognize all those living with Alzheimer's disease and honor the caregivers, including families and friends, who support them. We also renew our commitment to research that is improving treatments for this illness and may one day prevent it entirely.

Alzheimer's disease is an irreversible and progressive brain disorder that slowly destroys memory and thinking skills. Symptoms usually appear after age 60, but many scientists now believe damage to the brain may begin decades earlier. Research conducted and supported by the National Institutes of Health and the Veterans Health Administration has shed light on these early effects and identified genetic risk factors for Alzheimer's. Doctors are now able to start treatments earlier, slowing the loss of brain cells and the progression of debilitating physical and mental impairments.

As we seek hope for families struggling with Alzheimer's disease, we must leave no avenue unexplored. Embryonic stem cells may hold the key for us to better understand, and possibly cure, some of our most devastating diseases and conditions. That is why I signed an Executive Order lifting the ban on Federal funding for embryonic stem cell research, with proper guidelines and strict oversight to prohibit abuse.

We must continue the urgent work of giving substance to hope for all who dream of a day when words like ''terminal'' and ''incurable'' are finally retired from our vocabulary. Until then, we must strive to ease the burden of every individual struggling to recall a spouse's name; every parent unable to recognize a child's face; and every family member or friend who brings them comfort and care.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2009 as National Alzheimer's Disease Awareness Month. I call upon the people of the United States to observe this month with appropriate programs and activities.

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

[FR Doc. E9–26761
Filed 11–3–09; 11:15 am]
Billing code 3195–W9–P

Presidential Documents

Proclamation 8447 of October 30, 2009

National Diabetes Month, 2009

By the President of the United States of America

A Proclamation

Diabetes directly affects the lives of millions of Americans and their families. While no cure exists, medical advancements are continually producing new, more effective treatments to control the disease. Individuals who manage their diabetes properly can lower their risk of complications and live productive, normal lives. During National Diabetes Month, we recommit to educating Americans about the warning signs of diabetes, and help those with the condition to mitigate the effects of this devastating disease.

The two common forms of diabetes are known as type 1 and type 2. Type 1 diabetes occurs when an individual's immune system destroys insulin-producing cells. The outlook for those with type 1 diabetes has dramatically improved in the past few decades due to a host of innovations. Type 2 diabetes is the most prevalent form of diabetes, and usually affects individuals age 40 and older, and those who are overweight, inactive, or have a family history of the disease. Every day, 10 children in this country are diagnosed with type 2 diabetes—a staggering statistic that reflects the growing epidemic of obesity in our country.

Preventive care is the simplest way to avoid diabetes and its complications. A healthy diet, combined with daily exercise, has been shown to dramatically reduce incidence of this disease. African Americans, Latinos, and Native Americans, as well as the elderly, are at greater risk of developing diabetes over their lifetimes. As a Nation, we must ensure that all Americans know the warning signs of this disease, and if diagnosed, have access to affordable, quality medical care to help control it.

While diabetes is a complex and challenging disease, dedicated researchers continue to make important discoveries. This month, we honor those who have made these successes possible, support those who are battling diabetes, and rededicate ourselves to sustaining Federal investments in research and education programs that improve the prevention and treatment of this disease.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2009 as National Diabetes Month. I encourage citizens, medical institutions, Government and social service agencies, businesses, non-profit organizations, and other interested groups to join in activities that help prevent, treat, and manage diabetes.

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

[FR Doc. E9–26762
Filed 11–3–09; 11:15 am]
Billing code 3195–W9–P

Presidential Documents

Proclamation 8448 of October 30, 2009

National Family Caregivers Month, 2009

By the President of the United States of America

A Proclamation

The true strength of the American family finds its roots in an unwavering commitment to care for one another. In difficult times, Americans come together to ensure our loved ones are comfortable and safe. Whether caring for a parent, relative, or child, our Nation's caregivers selflessly devote their time and energy to the well-being of those they look after. During National Family Caregivers Month, we honor the individuals providing essential services to family members who could not otherwise look after themselves.

Caregiver support is at the heart of my Administration's commitment to assisting our Nation's families. Currently, a variety of programs and services offer help and encouragement to family caregivers. The National Family Caregiver Support Program and the Lifespan Respite Care Act include important resources for caregivers of children and adults, with opportunities to receive much-needed assistance and take part in support programs with other families. These programs allow individuals to remain with their families for as long as possible while helping to ensure the wellness of participating care providers.

My Administration's dedication to caregivers is also embodied in our efforts to develop policies to support workers trying to manage their responsibilities on the job and at home. Families are best able to care for their loved ones when they can take time away from work without fear of losing their job or their income. We all have roles to play, including employers, by providing paid leave, flexible work arrangements, and other programs when feasible, to help ensure that caregivers are able to successfully meet their work and household responsibilities.

Every day, family caregivers assist loved ones with tasks ranging from personal care and homemaking, to transportation and financial assistance. As the foundation of America's long-term care system, these individuals give millions of Americans the peace of mind and security that only family can provide.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2009 as National Family Caregivers Month. I encourage all Americans to pay tribute and support those who are caring for their family members, friends, and neighbors in need of assistance.

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

[FR Doc. E9–26764
Filed 11–3–09; 11:15 am]
Billing code 3195–W9–P

Presidential Documents

Proclamation 8449 of October 30, 2009

National Native American Heritage Month, 2009

By the President of the United States of America

A Proclamation

The indigenous peoples of North America—the First Americans—have woven rich and diverse threads into the tapestry of our Nation's heritage. Throughout their long history on this great land, they have faced moments of profound triumph and tragedy alike. During National Native American Heritage Month, we recognize their many accomplishments, contributions, and sacrifices, and we pay tribute to their participation in all aspects of American society.

This month, we celebrate the ancestry and time-honored traditions of American Indians and Alaska Natives in North America. They have guided our land stewardship policies, added immeasurably to our cultural heritage, and demonstrated courage in the face of adversity. From the American Revolution to combat missions in Iraq and Afghanistan, they have fought valiantly in defense of our Nation as dedicated servicemen and women. Their native languages have also played a pivotal role on the battlefield. During World Wars I and II, Native American code talkers developed unbreakable codes to communicate military messages that saved countless lives. Native Americans have distinguished themselves as inventors, entrepreneurs, spiritual leaders, and scholars. Our debt to our First Americans is immense, as is our responsibility to ensure their fair, equal treatment and honor the commitments we made to their forebears.

The Native American community today faces huge challenges that have been ignored by our Government for too long. To help address this disparity, the American Recovery and Reinvestment Act allocates more than $3 billion to help these communities deal with their most pressing needs. In the Fiscal Year 2010 budget, my Administration has proposed over $17 billion for programs carried out by the Bureau of Indian Affairs, Indian Health Service, and other Federal agencies that have a critical role to play in improving the lives of Native Americans. These programs will increase educational opportunities, address the scourge of alcohol abuse and domestic violence, promote economic development, and provide access to comprehensive, accessible, and affordable health care. While funding increases do not make up for past deficiencies, they do reflect our determination to honor tribal sovereignty and ensure continued progress on reservations across America.

As we seek to build on and strengthen our nation-to-nation relationship, my Administration is committed to ensuring tribal communities have a meaningful voice in our national policy debates as we confront the challenges facing all Americans. We will continue this constructive dialogue at the White House Tribal Nations Conference held in Washington, D.C., this month. Native American voices have echoed through the mountains, valleys, and plains of our country for thousands of years, and it is now our time to listen.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2009 as National Native American Heritage Month. I call upon all Americans

to commemorate this month with appropriate programs and activities, and to celebrate November 27, 2009, as Native American Heritage Day.

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

[FR Doc. E9–26765
Filed 11–3–09; 11:15 am]
Billing code 3195–W9–P

Federal Register
Vol. 74, No. 212
Wednesday, November 4, 2009

Presidential Documents

Title 3—

The President

Proclamation

Veterans Day, 2009 8450

By the President of the United States of America

A Proclamation

We have a sacred trust with those who wear the uniform of the United States of America. From the Minutemen who stood watch over Lexington and Concord to the service members who served in Iraq and Afghanistan, American veterans deserve our deepest appreciation and respect. Our Nation's servicemen and women are our best and brightest, enlisting in times of peace and war, serving with honor under the most difficult circumstances, and making sacrifices that many of us cannot begin to imagine. Today, we reflect upon the invaluable contributions of our country's veterans and reaffirm our commitment to provide them and their families with the essential support they were promised and have earned.

Caring for our veterans is more than a way of thanking them for their service. It is an obligation to our fellow citizens who have risked their lives to defend our freedom.

This selflessness binds our fates with theirs, and recognizing those who were willing to give their last full measure of devotion for us is a debt of honor for every American.

We also pay tribute to all who have worn the uniform and continue to serve their country as civilians. Many veterans act as coaches, teachers, and mentors in their communities, selflessly volunteering their time and expertise. They visit schools to tell our Nation's students of their experiences and help counsel our troops returning from the theater of war. These men and women possess an unwavering belief in the idea of America: no matter where you come from, what you look like, or who your parents are, this is a place where anything is possible. Our veterans continue to stand up for those timeless American ideals of liberty, self-determination, and equal opportunity.

On Veterans Day, we honor the heroes we have lost, and we rededicate ourselves to the next generation of veterans by supporting our Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen as they return home from duty. Our grateful Nation must keep our solemn promises to these brave men and women and their families. They have given their unwavering devotion to the American people, and we must keep our covenant with them.

With respect for and in recognition of the contributions our servicemen and women have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor our Nation's veterans.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim November 11, 2009, as Veterans Day. I encourage all Americans to recognize the valor and sacrifice of our veterans through appropriate public ceremonies and private prayers. I call upon Federal, State, and local officials to display the flag of the United States and to participate in patriotic activities in their communities. I call on all Americans, including civic and fraternal organizations, places of worship,

schools, and communities to support this day with commemorative expressions and programs.

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

[FR Doc. E9–26767
Filed 11–3–09; 8:45 am]
Billing code 3195–W9–P

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Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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S. 1793/P.L. 111–87

Ryan White HIV/AIDS Treatment Extension Act of 2009 (Oct. 30, 2009; 123 Stat. 2885)

H.R. 2996/P.L. 111–88

Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes. (Oct. 30, 2009; 123 Stat. 2904)

S. 1929/P.L. 111–89

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes. (Oct. 30, 2009; 123 Stat. 2975)

Last List November 2, 2009

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