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WHEN: Tuesday, November 10, 2009
9 a.m.–12:30 p.m.

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

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Rules and Regulations

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

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

Office of the Secretary

7 CFR Part 11

RIN 0503–AA38

National Appeals Division Rules of Procedure; Applicability of Equal Access to Justice Act and Administrative Procedure Act

AGENCY: Office of the Secretary, National Appeals Division, USDA.

ACTION: Final rule.

SUMMARY: This document amends the National Appeals Division rules of procedure to reflect recent judicial rulings regarding the applicability of the Equal Access to Justice Act and the Administrative Procedure Act to National Appeals Division administrative proceedings. The rules of procedure are amended to provide that the provisions of the Administrative Procedure Act generally applicable to agency adjudications, and the Equal Access to Justice Act and its implementing regulations, shall apply to National Appeals Division hearings.

DATES: *Effective Date:* November 6, 2009.

FOR FURTHER INFORMATION CONTACT: Adam J. Hermann, Attorney-Advisor, General Law Division, Office of the General Counsel, United States Department of Agriculture, STOP 1415, 1400 Independence Ave., SW., Washington, DC 20250, (202) 720–5565.

SUPPLEMENTARY INFORMATION: USDA is amending the National Appeals Division (''NAD'') rules of procedure in 7 CFR part 11, subpart A, to reflect judicial rulings in four Circuits regarding the applicability of the Equal Access to Justice Act (''EAJA''), 5 U.S.C. 504, and by extension, the Administrative Procedure Act (''APA''), to NAD proceedings.

Prior to publication of this final rule, the position of USDA was that EAJA (5 U.S.C. 504) and the provisions of the APA applicable to formal adjudicative proceedings (5 U.S.C. 554–557) did not apply to NAD proceedings except where required by judicial ruling. *See* 64 FR 33367, 33368 (June 23, 1999). At that time, only one U.S. Circuit Court of Appeals—the 8th—had issued a decision holding that EAJA applies to NAD proceedings. *See Lane* v. *USDA,* 120 F.3d 106 (8th Cir. 1997).

Since then, the 7th and 9th Circuits also have issued decisions holding that EAJA applies to NAD proceedings. *See Five Points Rd. Joint Venture* v. *Johanns,* 542 F.3d 1121 (7th Cir. 2008); *Aageson Grain & Cattle* v. *USDA,* 500 F.3d 1038 (9th Cir. 2007). Additionally, on May 1, 2009, a U.S. District Court in the 5th Circuit entered a decision following the 7th, 8th, and 9th Circuits. *See Rosenbaum* v. *USDA,* No. 07–02808 (S.D. Tex. May 1, 2009) (final judgment).

In light of the decisions in these four Circuits, USDA is no longer maintaining the position that the APA and EAJA do not apply to NAD proceedings except where required by judicial ruling. Effective immediately, EAJA and USDA's implementing regulations at 7 CFR part 1, subpart J, will apply universally to NAD proceedings regardless of the judicial Circuit in which the proceeding arises. While the four decisions cited above addressed only the issue of whether EAJA applies to NAD proceedings, the applicability of EAJA is derivative of the applicability of the APA and thus, by extension, the court rulings apply to the applicability of the APA as well. Therefore, the provisions of the APA generally applicable to agency adjudications (5 U.S.C. 554–557) also will apply generally to NAD proceedings regardless of the judicial Circuit in which the proceeding arises. However, it is the position of USDA that the applicability of the APA does not require any changes to existing NAD administrative procedures.

This final rule applies to proceedings conducted under 7 CFR part 11, except for proceedings under § 11.5 (USDA agency informal reviews of adverse decisions) and § 11.6(a) (NAD Director reviews of USDA agency determinations of appealability).

Classification

This rule relates to internal agency management. Accordingly, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. This rule also is exempt from the provisions of Executive Order 12866. This action is not a rule as defined by the Regulatory Flexibility Act, Public Law 96–354, and the Small Business Regulatory Fairness Enforcement Act, 5 U.S.C. 801 *et seq.,* and thus is exempt from the provisions of those Acts. This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 11

Administrative practice and procedure, Agriculture, Agricultural commodities, Crop insurance, Ex parte communications, Farmers, Federal aid programs, Guaranteed loans, Insured loans, Loan programs, Price support programs, Soil conservation.

■ Accordingly, Title 7 of the Code of Federal Regulations is amended as set forth below:

PART 11—NATIONAL APPEALS DIVISION

■ 1. The authority for part 11 continues to read as follows:

Authority: 5 U.S.C. 301; Title II, Subtitle H, Public Law 103–354, 108 Stat. 3228 (7 U.S.C. 6991 *et seq.*); Reorganization Plan No. 2 of 1953 (5 U.S.C. App.).

Subpart A—National Appeals Division Rules of Procedure

■ 2. Amend § 11.4 by revising the section heading and adding paragraph (a), to read as follows:

§ 11.4 Other laws and regulations.

(a) The provisions of the Administrative Procedure Act generally applicable to agency adjudications (5 U.S.C. 554–557), and the Equal Access to Justice Act (5 U.S.C. 504) and its implementing regulations at 7 CFR part 1, subpart J, shall apply to proceedings under this part except for proceedings under § 11.5 and § 11.6(a).

* * * * *

Done at Washington, DC, this 2nd day of November 2009.

Thomas J. Vilsack,

Secretary of Agriculture.

[FR Doc. E9–26747 Filed 11–5–09; 8:45 am]

BILLING CODE 3410–90–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1024; Directorate Identifier 2009–NM–182–AD; Amendment 39–16083; AD 2008–05–18 R1]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.27 Mark 050, 200, 300, 400, 500, 600, and 700 Airplanes

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

ACTION: Final rule; request for comments.

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

> Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, * * * Special Federal Aviation Regulation 88 (SFAR88) * * * required a safety review of the aircraft Fuel Tank System * * *.
>
> * * * * *
>
> Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' * * *. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

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

DATES: This AD becomes effective November 23, 2009.

On April 16, 2008 (73 FR 13071, March 12, 2008), the Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD.

We must receive comments on this AD by December 21, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; e-mail *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

On February 28, 2008, we issued AD 2008–05–18, Amendment 39–15412 (73 FR 13071, March 12, 2008). That AD applied to certain Fokker Model F.27 Mark 050, 200, 300, 400, 500, 600, and 700 airplanes. That AD required revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Critical design configuration control limitations (CDCCLs) are limitation requirements to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Since we issued that AD, we have determined that it is necessary to clarify the AD's intended effect on spare and on-airplane fuel tank system components, regarding the use of maintenance manuals and instructions for continued airworthiness.

Section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)) specifies the following:

> No person may operate an aircraft for which a manufacturer's maintenance manual or instructions for continued airworthiness has been issued that contains an airworthiness limitation section unless the mandatory * * * procedures * * * have been complied with.

Some operators have questioned whether existing components affected by the new CDCCLs must be reworked. We did not intend for the AD to retroactively require rework of components that had been maintained using acceptable methods before the effective date of the AD. Owners and operators of the affected airplanes therefore are not required to rework affected components identified as airworthy or installed on the affected airplanes before the required revisions of the ALS. But once the CDCCLs are incorporated into the ALS, future maintenance actions on components must be done in accordance with those CDCCLs.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. This new AD retains the requirements of the existing AD, and adds a new note to clarify the intended effect of the AD on spare and on-airplane fuel tank system components. We have renumbered subsequent notes accordingly.

Explanation of Additional Change to AD

AD 2008–05–18 allowed the use of alternative inspections, inspection intervals, or CDCCLs if they are part of a later revision of a Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and CDCCL Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008. That provision has been removed from this AD. Allowing the use of ''a later revision'' of a specific service document violates Office of the Federal Register policies for approving materials that are

incorporated by reference. Affected operators, however, may request approval to use a later revision of the referenced service documents as an alternative method of compliance, under the provisions of paragraph (g) of this AD.

Differences Between the AD and the MCAI or Service Information

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

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

Costs of Compliance

This revision imposes no additional economic burden. The current costs for this AD are repeated for the convenience of affected operators, as follows:

We estimate that this AD will affect about 24 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $1,920, or $80 per product.

FAA's Justification and Determination of the Effective Date

This revision merely clarifies the intended effect on spare and on-airplane fuel tank system components, and makes no substantive change to the AD's requirements. For this reason, it is found that notice and opportunity for prior public comment for this action are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–1024; Directorate Identifier 2009–NM–182–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing amendment 39–15412 (73 FR 13071, March 12, 2008) and adding the following new AD:

2008–05–18 R1 Fokker Services B.V.: Amendment 39–16083. Docket No. FAA–2009–1024; Directorate Identifier 2009–NM–182–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 23, 2009.

Affected ADs

(b) This AD revises AD 2008–05–18, Amendment 39–15412.

Applicability

(c) This AD applies to Fokker Model F.27 Mark 050 airplanes, all serial numbers; and Fokker F.27 Mark 200, 300, 400, 500, 600, and 700 airplanes, serial numbers 10102 through 10692 inclusive; certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

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

Reason

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

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation

Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's (National Aviation Authorities) using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *http://www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: the date of 31–12–2005 for the unsafe related actions has now been set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations, comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action includes revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Restatement of Requirements of AD 2008–05–18, With Changes to Compliance Method

Actions and Compliance

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

(1) Within 3 months after April 16, 2008 (the effective date of AD 2008–05–18), revise the ALS of the Instructions for Continued Airworthiness to incorporate the limits (inspections, thresholds, and intervals) specified in Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable. For all tasks identified in Report SE–671 or Service Bulletin SBF27–28–070, the initial compliance times are as specified in Table 1 or Table 2 of this AD, as applicable. The repetitive inspections must be accomplished thereafter at the intervals specified in Report SE–671 or Service Bulletin SBF27–28–070, as applicable, except as provided by paragraphs (f)(3) and (g)(1) of this AD.

TABLE 1—INITIAL COMPLIANCE TIMES FOR ALS REVISION FOR MODEL F.27 MARK 050 AIRPLANES

For—	The later of—
Task 280000–01	102 months after April 16, 2008; or 102 months after the date of issuance of the original Dutch standard airworthiness certificate or the date of issuance of the original Dutch export certificate of airworthiness.
Task 280000–02	30 months after April 16, 2008; or 30 months after the date of issuance of the original Dutch standard airworthiness certificate or the date of issuance of the original Dutch export certificate of airworthiness.

TABLE 2—INITIAL COMPLIANCE TIMES FOR ALS REVISION FOR MODEL F.27 MARK 200, 300, 400, 500, 600, AND 700 AIRPLANES

For—	The later of—
Task 280000–01	78 months after April 16, 2008; or 78 months after the date of issuance of the original Dutch standard airworthiness certificate or the date of issuance of the original Dutch export certificate of airworthiness.
Task 280000–02	18 months after April 16, 2008; or 18 months after the date of issuance of the original Dutch standard airworthiness certificate or the date of issuance of the original Dutch export certificate of airworthiness.

(2) Within 3 months after April 16, 2008, revise the ALS of the Instructions for Continued Airworthiness to incorporate the CDCCLs as defined in Fokker 50/60 Fuel Airworthiness Limitations Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable.

(3) Where Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable; allow for exceptional short-term extensions, an exception is acceptable to the FAA if it is approved by the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(4) After accomplishing the actions specified in paragraphs (f)(1) and (f)(2) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used, unless the inspections, inspection intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

(5) Actions done before April 16, 2008, in accordance with Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 1, dated January 31, 2006; and Fokker Service Bulletin SBF27/28–070, dated June 30, 2006; are acceptable for compliance with the corresponding requirements of this AD.

New Information:

Explanation of CDCCL Requirements

Note 2: Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before the revision of the ALS of the Instructions for Continued Airworthiness, as required by paragraphs (f)(1) and (f)(2) of this AD, do not need to be reworked in accordance with the CDCCLs. However, once the ALS has been revised, future maintenance actions on these components must be done in accordance with the CDCCLs.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2006–0207, dated July 12, 2006; EASA Airworthiness Directive 2006–0209, dated July 12, 2006 (corrected September 1, 2006); Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; and Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; for related information.

Material Incorporated by Reference

(i) You must use Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; and Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register previously approved the incorporation by reference of Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; and Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; on April 16, 2008 (73 FR 13071, March 12, 2008).

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; e-mail *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.*

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

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

Issued in Renton, Washington, on October 26, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–26382 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0910; Directorate Identifier 2009–NM–175–AD; Amendment 39–16046; AD 2008–09–06 R1]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aerosystems Model SAAB 340A (SAAB/SF340A) and SAAB 340B Airplanes

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

ACTION: Final rule; request for comments.

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

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, * * * Special Federal Aviation Regulation 88 (SFAR88) * * * required a safety review of the aircraft Fuel Tank System * * *.

* * * * *

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' * * *. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

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

DATES: This AD becomes effective November 23, 2009.

On June 2, 2008 (73 FR 22789, April 28, 2008), the Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD.

We must receive comments on this AD by December 21, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Saab Aircraft AB, SAAB Aerosystems, SE 581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; e-mail *saab2000.techsupport@saabgroup.com*; Internet *http://www.saabgroup.com.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

On April 15, 2008, we issued AD 2008–09–06, Amendment 39–15487 (73

FR 22789, April 28, 2008). That AD applied to all Saab Model SAAB-Fairchild SF340A (SAAB/SF340A) and SAAB 340B airplanes. That AD required revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Critical design configuration control limitations (CDCCLs) are limitation requirements to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Since we issued that AD, we have determined that it is necessary to clarify the AD's intended effect on spare and on-airplane fuel tank system components, regarding the use of maintenance manuals and instructions for continued airworthiness.

Section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)) specifies the following:

> No person may operate an aircraft for which a manufacturer's maintenance manual or instructions for continued airworthiness has been issued that contains an airworthiness limitation section unless the mandatory * * * procedures * * * have been complied with.

Some operators have questioned whether existing components affected by the new CDCCLs must be reworked. We did not intend for the AD to retroactively require rework of components that had been maintained using acceptable methods before the effective date of the AD. Owners and operators of the affected airplanes therefore are not required to rework affected components identified as airworthy or installed on the affected airplanes before the required revisions of the ALS. But once the CDCCLs are incorporated into the ALS, future maintenance actions on components must be done in accordance with those CDCCLs.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. This new AD retains the requirements of the existing AD, and adds a new note to clarify the intended effect of the AD on spare and on-airplane fuel tank system components. We have renumbered subsequent notes accordingly.

Explanation of Additional Change to AD

AD 2008–09–06 allowed the use of alternative inspection, inspection intervals, or CDCCLs, if they are part of a later revision of the Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006. That provision has been removed from this AD. Allowing the use of ''a later revision'' of a specific service document violates Office of the Federal Register policies for approving materials that are incorporated by reference. Affected operators, however, may request approval to use an alternative inspection, inspection intervals, or CDCCLs that are part of a later revision of the referenced service document as an alternative method of compliance, under the provisions of paragraph (g)(1) of this AD.

Differences Between the AD and the MCAI or Service Information

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

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

Costs of Compliance

This revision imposes no additional economic burden. The current costs for this AD are repeated for the convenience of affected operators, as follows:

We estimate that this AD will affect about 144 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $11,520, or $80 per product.

FAA's Justification and Determination of the Effective Date

This revision merely clarifies the intended effect on spare and on-airplane fuel tank system components, and makes no substantive change to the AD's requirements. For this reason, it is found that notice and opportunity for prior public comment for this action are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0910; Directorate Identifier 2009–NM–175–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing amendment 39–15487 (73 FR 22789, April 28, 2008) and adding the following new AD:

2008–09–06 R1 Saab AB, Saab Aerosystems: Amendment 39–16046. Docket No. FAA–2009–0910; Directorate Identifier 2009–NM–175–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 23, 2009.

Affected ADs

(b) This AD revises AD 2008–09–06.

Applicability

(c) This AD applies to all Saab AB, Saab Aerosystems Model SAAB 340A (SAAB/SF340A) and SAAB 340B airplanes, certificated in any category, all serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

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

Reason

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

''Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

''A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's (National Aviation Authorities) using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

''In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *http://www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: the date of 31–12–2005 for the unsafe related actions has now been set at 01–07–2006.

''Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

''This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.''

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Restatement of AD 2008–09–06, With Revised Compliance Method

Actions and Compliance

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

(1) Within 3 months after June 2, 2008 (the effective date of AD 2008–09–06), revise the ALS of the Instructions for Continued Airworthiness to incorporate the maintenance and inspection instructions in Part 1 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006. For all tasks identified in Part 1 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, the initial compliance times start from June 2, 2008, and the repetitive inspections must be accomplished thereafter at the interval specified in Part 1 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006; except as provided by paragraphs (f)(3) and (g) of this AD.

(2) Before December 16, 2008, revise the ALS of the Instructions for Continued Airworthiness to incorporate the CDCCLs as defined in Part 2 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006.

(3) After accomplishing the actions specified in paragraphs (f)(1) and (f)(2) of this AD, no alternative inspection, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

(4) Where Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, allows for exceptional short-term extensions, an exception is acceptable to the FAA if it is approved by the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

New Information

Explanation of CDCCL Requirements

Note 2: Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before the revision of the ALS, as required by paragraphs (f)(1) and (f)(2) of this AD, do not need to be reworked in accordance with the CDCCLs. However, once the ALS has been revised, future maintenance actions on these components must be done in accordance with the CDCCLs.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies,

notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2006–0221, dated July 20, 2006; and Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006; for related information.

Material Incorporated by Reference

(i) You must use Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register previously approved the incorporation by reference of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, on June 2, 2008 (73 FR 22789, April 28, 2008).

(2) For service information identified in this AD, contact Saab Aircraft AB, SAAB Aerosystems, SE 581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; e-mail *saab2000.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.*

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

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

Issued in Renton, Washington, on October 26, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–26384 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27747; Directorate Identifier 2007–CE–030–AD; Amendment 39–16074; AD 2009–10–09 R1]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company 150 and 152 Series Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) to revise AD 2009–10–09, which applies to Cessna Aircraft Company (Cessna) 150 and 152 series airplanes. AD 2009–10–09 requires either installing a placard prohibiting spins and other acrobatic maneuvers in the airplane or replacing the rudder stop, the rudder stop bumper, and the attachment hardware with a new rudder stop modification kit and replacing the safety wire with jamnuts. Since we issued AD 2009–10–09, we became aware of a need to clarify certain model and serial number designations, remove the duplicate requirement of replacing the safety wire with jamnuts, and clarify the conditional acceptability of using modification kit part number (P/N) SK152–25 as a terminating action to this AD. Consequently, this AD retains the actions currently required in AD 2009–10–09, corrects model designation for certain serial numbers, removes the duplicate requirement of replacing safety wire with jamnuts, and clarifies the conditional acceptability of using modification kit P/N SK152–25 as a terminating action to this AD. We are issuing this AD to prevent the rudder from traveling past the normal travel limit. Operation in this non-certificated control position is unacceptable and could cause undesirable consequences, such as contact between the rudder and the elevator.

DATES: This AD becomes effective on December 11, 2009.

As of June 17, 2009 (74 FR 22429, May 13, 2009), the Director of the Federal Register approved the incorporation by reference of Cessna Aircraft Company Service Bulletin SEB01–1, dated January 22, 2001; Cessna Aircraft Company Service Kit SK152–25A, Revision A, dated February 9, 2001; and Cessna Aircraft Company Service Kit SK152–24A, Revision A, dated March 9, 2001, listed in this AD.

ADDRESSES: For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; Internet: *http://www.cessna.com.*

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov.* The docket number is FAA–2007–27747; Directorate Identifier 2007–CE–030–AD.

FOR FURTHER INFORMATION CONTACT: Ann Johnson, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4105; fax: (316) 946–4107; e-mail: *ann.johnson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On August 7, 2009, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Cessna 150 and 152 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 14, 2009 (74 FR 41096). The NPRM proposed to revise AD 2009–10–09 with a new AD that would retain the actions currently required in AD 2009–10–09, correct model designation for certain serial numbers, remove the duplicate requirement to replace the safety wire with jamnuts, and clarify the conditional acceptability of using the P/N SK152–25 kit as a terminating action to the proposed AD.

Comments

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

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 17,090 airplanes in the U.S. registry.

We estimate the following costs to do the insertion of the operational limitation:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour × $80 per hour = $80	Not applicable	$80	$1,367,200

We estimate the following costs to do the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 work-hours × $80 per hour = $320	$90	$410	$7,006,900

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–27747; Directorate Identifier 2007–CE–030–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2009–10–09, Amendment 39–15904 (74 FR 22429, May 13, 2009), and adding the following new AD:

2009–10–09 R1 Cessna Aircraft Company: Amendment 39–16074; Docket No. FAA–2007–27747; Directorate Identifier 2007–CE–030–AD.

Effective Date

(a) This AD becomes effective on December 11, 2009.

Affected ADs

(b) This AD revises AD 2009–10–09, Amendment 39–15904.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Models	Serial Nos.
(1) 150F	15061533 through 15064532.
(2) 150G	15064533 through 15064969 and 15064971 through 15067198.
(3) 150H	15067199 through 15069308 and 649.
(4) 150J	15069309 through 15071128.
(5) 150K	15071129 through 15072003.
(6) 150L	15072004 through 15075781.
(7) 150M	15075782 through 15079405.
(8) A150K	A1500001 through A1500226.
(9) A150L	A1500227 through A1500432 and A1500434 through A1500523.
(10) A150M	A1500524 through A1500734 and 15064970.
(11) F150F	F150–0001 through F150–0067.
(12) F150G	F150–0068 through F150–0219.
(13) F150H	F150–0220 through F150–0389.
(14) F150J	F150–0390 through F150–0529.
(15) F150K	F15000530 through F15000658.
(16) F150L	F15000659 through F15001143.

Models	Serial Nos.
(17) F150M	F15001144 through F15001428.
(18) FA150K	FA1500001 through FA1500081.
(19) FA150L	FA1500082 through FA1500120.
(20) FA150L or FRA150L	FA1500121 through FA1500261 that are equipped with FKA150–2311 and FKA150–2316, or FRA1500121 through FRA1500261.
(21) FA150M or FRA150M	FA1500262 through FA1500336 that are equipped with FKA150–2311 and FKA150–2316, or FRA1500262 through FRA1500336.
(22) 152	15279406 through 15286033.
(23) A152	A1520735 through A1521049, A1500433, and 681.
(24) F152	F15201429 through F15201980.
(25) FA152	FA1520337 through FA1520425.

Note: This AD revision clarifies the applicability of AD 2009–10–09, eliminates a duplicate requirement for replacement of safety wire with jamnuts, and clarifies the intent of the conditional acceptability of using modification kit P/N SK152–25 as a terminating requirement to the AD. No further action is required for those already in compliance with AD 2009–10–09.

Unsafe Condition

(d) Aircraft in full conformity with type design can exceed the travel limits set by the rudder stops. We are issuing this AD to prevent the rudder from traveling past the normal travel limit. Operation in this non-certificated control position is unacceptable and could cause undesirable consequences, such as contact between the rudder and the elevator.

Compliance

(e) To address this problem, you must do either the actions in option 1 or option 2 of this AD, unless already done:

Actions	Compliance	Procedures
(1) *Option 1:* For all airplanes that do not have modification kits part number (P/N) SK152–25A or P/N SK152–24A installed, do the following: (i) Insert the following text into the Limitations section of the FAA-approved airplane flight manual (AFM), and pilots operating handbook (POH): "INTENTIONAL SPINS AND OTHER ACROBATIC/AEROBATIC MANEUVERS PROHIBITED PER AD 2009–10–09. NOTE: THIS AD DOES NOT PROHIBIT PERFORMING INTENTIONAL STALLS." (ii) Fabricate a placard (using at least 1/8-inch letters) with the following words and install the placard on the instrument panel within the pilot's clear view: "INTENTIONAL SPINS AND OTHER ACROBATIC/AEROBATIC MANEUVERS PROHIBITED PER AD 2009–10–09.". (iii) The AFM and POH limitations in paragraph (e)(1)(i) of the AD and the placard in paragraph (e)(1)(ii) of this AD may be removed after either paragraph (e)(2)(i) or paragraph (e)(2)(ii) of this AD is done.	Within the next 100 hours time-in-service (TIS) after June 17, 2009 (the effective date retained from AD 2009–10–09), or within the next 12 months after June 17, 2009 (the effective date retained from AD 2009–10–09), whichever occurs first.	A person authorized to perform maintenance as specified in 14 CFR section 43.3 of the Federal Aviation Administration Regulations (14 CFR 43.3) is required to make the AFM and POH changes, fabricate the placard required in paragraph (e)(1)(i) of this AD, and make an entry into the aircraft logbook showing compliance with the portion of the AD per compliance with 14 CFR 43.9.
(2) *Option 2:* Install a rudder stop modification kit: (i) For airplanes with a forged bulkhead, replace the rudder stops, rudder stop bumpers, and attachment hardware with the new rudder stop modification kit P/N SK152–25A, which includes replacing the safety wire with jamnuts (ii) For airplanes with a sheet metal bulkhead, replace the rudder stops, rudder stop bumpers, and attachment hardware with the new rudder stop modification kit P/N SK152–24A, which includes replacing the safety wire with jamnuts.	Within the next 100 hours TIS after June 17, 2009 (the effective date retained from AD 2009–10–09), or within the next 12 months after June 17, 2009 (the effective date retained from AD 2009–10–09), whichever occurs first.	Follow Cessna Aircraft Company Service Bulletin SEB01–1, dated January 22, 2001; and, as applicable, either Cessna Aircraft Company Service Kit SK152–25A, Revision A, dated February 9, 2001, or Cessna Aircraft Company Service Kit SK152–24A, Revision A, dated March 9, 2001.

(f) Kit P/Ns SK152–24 and SK152–25, which are listed in SEB01–1, were superseded by kit P/Ns SK152–24A and SK152–25A. Cessna has not revised the service bulletin to reflect the new P/Ns. The kits P/Ns SK152–24 and SK152–25 will automatically be filled with P/Ns SK152–24A and SK152–25A, respectively.

(1) The P/N SK152–24 kit does not address the unsafe condition because the nutplate in the kit can not be used due to rivet spacing on the aft bulkhead. In addition, a note was added to kit P/N SK152–24A stating "some airplanes in this serial range may have a forged bulkhead installed after leaving the factory. Service Kit SK152–25A or later revision must be used to modify these airplanes." Therefore, kit P/N SK152–24 is not allowed for installation for this AD.

(2) The P/N SK152–25 kit did not address the unsafe condition because a washer that was too small, P/N NAS1149FN832P, was included in the kit. This error was corrected in the P/N SK152–25A kit. If a P/N SK152–25 kit is installed using the correct washer P/N NAS1149F0332P (and this information is recorded in the maintenance log), credit will be given for installing P/N SK152–25A kit because this was the only difference between the kits.

(3) If you previously installed a kit P/N SK152–24 or a kit P/N SK152–25 with washer P/N NAS1149FN832P, and you choose the Option 2 kit installation to comply with this AD, then kit P/N SK152–24A or either kit P/N SK152–25 with washer P/N NAS1149F0332P or kit P/N SK152–25A, as applicable, must be installed.

(4) If a P/N SK152–25 kit was installed prior to this AD and the washer P/N used in the installation is unknown (not recorded in the maintenance log), and you wish to use Option 2 to comply with this AD, the installed washer must be replaced with a P/N NAS1149F0332P washer, and this work must be recorded in the maintenance log.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, FAA, ATTN: Ann Johnson, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4105; fax: (316) 946–4107; e-mail: *ann.johnson@faa.gov,* has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(h) AMOCs approved for AD 2009–10–09 are approved for this AD.

Material Incorporated by Reference

(i) If you choose to comply with this AD using paragraph (e)(2) of this AD, you must use Cessna Aircraft Company Service Bulletin SEB01–1, dated January 22, 2001; and, as applicable, either Cessna Aircraft Company Service Kit SK152–25A, Revision A, dated February 9, 2001; or Cessna Aircraft Company Service Kit SK152–24A, Revision A, dated March 9, 2001, to do the actions required by this AD, unless the AD specifies otherwise.

(1) On June 17, 2009 (74 FR 22429, May 13, 2009), the Director of the Federal Register approved the incorporation by reference of Cessna Aircraft Company Service Bulletin SEB01–1, dated January 22, 2001; Cessna Aircraft Company Service Kit SK152–25A, Revision A, dated February 9, 2001; and Cessna Aircraft Company Service Kit SK152–24A, Revision A, dated March 9, 2001 under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277.

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

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

Issued in Kansas City, Missouri, on October 27, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–26399 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1023; Directorate Identifier 2009–NM–176–AD; Amendment 39–16082; AD 2009–01–06 R1]

RIN 2120–AA64

Airworthiness Directives; 328 Support Services GmbH Dornier Model 328–300 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is revising an existing airworthiness directive (AD), which applies to certain 328 Support Services GmbH Dornier Model 328–300 airplanes. That AD currently requires modifying the electrical wiring of the fuel pumps; installing insulation at the flow control and shut-off valves, and other components of the environmental control system; installing markings at fuel wiring harnesses; replacing the wiring harness of the auxiliary fuel system with a new wiring harness; and installing insulated couplings in the fuel system; as applicable. That AD also currently requires revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new inspections of the fuel tank system. This AD clarifies the intended effect of the AD on spare and on-airplane fuel tank system components. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD is effective November 23, 2009.

On April 3, 2009 (74 FR 8853, February 27, 2009), the Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD.

On September 6, 2005 (70 FR 44046, August 1, 2005), the Director of the Federal Register approved the incorporation by reference of certain other publications listed in the AD.

We must receive any comments on this AD by December 21, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact 328 Support Services GmbH, Global Support Center, P.O. Box 1252, D–82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax +49 8153 88111 6565; e-mail *gsc.op@328support.de;* Internet *http://www.328support.de.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

On December 18, 2008, we issued AD 2009–01–06, Amendment 39–15785 (74 FR 8853, February 27, 2009). That AD applied to certain 328 Support Services GmbH Dornier Model 328–300 airplanes. That AD required modifying the electrical wiring of the fuel pumps; installing insulation at the flow control and shut-off valves, and other components of the environmental control system; installing markings at fuel wiring harnesses; replacing the wiring harness of the auxiliary fuel system with a new wiring harness; and installing insulated couplings in the fuel system; as applicable. That AD also required revising the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness to incorporate new inspections of the fuel tank system.

Critical design configuration control limitations (CDCCLs) are limitation requirements to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Actions Since AD Was Issued

Since we issued that AD, we have determined that it is necessary to clarify the AD's intended effect on spare and on-airplane fuel tank system components, regarding the use of maintenance manuals and instructions for continued airworthiness.

Section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)) specifies the following:

> No person may operate an aircraft for which a manufacturer's maintenance manual or instructions for continued airworthiness has been issued that contains an airworthiness limitation section unless the mandatory * * * procedures * * * have been complied with.

Some operators have questioned whether existing components affected by the new CDCCLs must be reworked. We did not intend for the AD to retroactively require rework of components that had been maintained using acceptable methods before the effective date of the AD. Owners and operators of the affected airplanes therefore are not required to rework affected components identified as airworthy or installed on the affected airplanes before the required revisions of the ALS. But once the CDCCLs are incorporated into the ALS, future maintenance actions on components must be done in accordance with those CDCCLs.

FAA's Determination and Requirements of This AD

The affected products have been approved by the aviation authority of another country, and are approved for operation in the United States. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This new AD retains the requirements of the existing AD, and adds a new note to clarify the intended effect of the AD on spare and on-airplane fuel tank system components.

Costs of Compliance

This revision imposes no additional economic burden. The current costs for this AD are repeated for the convenience of affected operators, as follows:

The following table provides the estimated costs for U.S. operators to comply with this AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Actions	Work hours	Parts	Number of U.S.-registered airplanes	Cost per airplane	Fleet cost
Modification/installation with option 033F003 installed (required by AD 2005–15–16 and retained in this AD).	95	$9,402	None, currently	$17,002 if an affected airplane is placed on the U.S. Register in the future.	None.
Modification/installation without option 033F003 installed (required by AD 2005–15–16 and retained in this AD).	70	$14,118	28	$19,718	$552,104.
Airworthiness limitations revision	1	None	28	$80	$2,240.

FAA's Justification and Determination of the Effective Date

This revision merely clarifies the intended effect on spare and on-airplane fuel tank system components, and makes no substantive change to the AD's requirements. For this reason, it is found that notice and opportunity for prior public comment for this action are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–1023; Directorate Identifier 2009–NM–176–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify that the regulation:

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–15785 (74 FR 8853, February 27, 2009) and adding the following new AD:

2009–01–06 R1 328 Support Services GmbH (Formerly, AvCraft Aerospace GmbH, formerly Fairchild Dornier GmbH, formerly Dornier Luftfahrt GmbH): Amendment 39–16082. Docket No. FAA–2009–1023; Directorate Identifier 2009–NM–176–AD.

Effective Date

(a) This airworthiness directive (AD) is effective November 23, 2009.

Affected ADs

(b) This AD revises AD 2009–01–06, Amendment 39–15785.

Applicability

(c) This AD applies to all 328 Support Services GmbH Dornier Model 328–300 airplanes, certificated in any category, serial numbers 3105 through 3223 inclusive.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Note 1: This AD requires revisions to certain operator maintenance documents to include inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Restatement of the Requirements of AD 2005–15–16

Without Option 033F003 Installed: Modification and Installations

(f) For airplanes without option 033F003 installed: Within 12 months after September 6, 2005 (the effective date of AD 2005–15–16), do the actions in Table 1 of this AD in accordance with the Accomplishment Instructions of AvCraft Service Bulletin SB–328J–00–197, dated August 23, 2004.

TABLE 1—REQUIREMENTS FOR AIRPLANES WITHOUT OPTION 033F003 INSTALLED

Do the following actions—	By accomplishing all the actions specified in—
(1) Modify the electrical wiring of the left-hand and right-hand fuel pumps	Paragraph 1.B(1) of the service bulletin.
(2) Install insulation at the left-hand and right-hand flow control and shut-off valves and other components of the environmental control system.	Paragraph 1.B(2) of the service bulletin.
(3) Install markings at fuel wiring harnesses	Paragraph 1.B(3) of the service bulletin.

With Option 033F003 Installed: Modification, Replacement, and Installation

(g) For airplanes with option 033F003 installed: Within 12 months after September 6, 2005, do the actions in Table 2 of this AD, in accordance with the Accomplishment Instructions of AvCraft Service Bulletin SB–328J–00–198, dated August 23, 2004.

TABLE 2—REQUIREMENTS FOR AIRPLANES WITH OPTION 033F003 INSTALLED

Do the following actions—	By accomplishing all the actions specified in—
(1) Modify the electrical wiring of the left-hand and right-hand fuel pumps	Paragraph 2.B(1) of the service bulletin.
(2) Replace the wiring harness of the auxiliary fuel system with a new wiring harness	Paragraph 2.B(2) of the service bulletin.
(3) Install markings at fuel wiring harnesses	Paragraph 2.B(3) of the service bulletin.
(4) Install insulated couplings in the fuel system	Paragraph 2.B(5) of the service bulletin.

Revision to Airworthiness Limitations

(h) Within 12 months after September 6, 2005, revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate the information in AvCraft Temporary Revision (TR) ALD–028, dated October 15, 2003, into the AvCraft 328JET Airworthiness Limitations Document (ALD). Thereafter, except as provided by paragraph (k) of this AD, no alternative inspection intervals may be approved for this fuel tank system.

Note 2: This may be done by inserting a copy of AvCraft TR ALD–028, dated October 15, 2003, in the AvCraft 328JET ALD. When this TR has been included in general revisions of the AvCraft 328JET ALD, the TR no longer needs to be inserted into the revised Airworthiness Limitations document.

Restatement of the Requirments of AD 2009–01–06, With No Changes

Revised Initial Compliance Time

(i) For Sub-tasks 28–00–00–02 and 28–00–00–03 (''Detailed Inspection of Outer and Inner Fuel Tank Harness Internal''), as identified in AvCraft TR ALD–028, dated October 15, 2003; or Section G, ''Fuel Tank System Limitations,'' of the AvCraft Dornier 328JET ALD TM–ALD–010599–ALL, Revision 2, dated January 31, 2005; the initial compliance time is within 8 years after April 3, 2009. Thereafter, except as provided by paragraph (k) of this AD, these tasks must be accomplished at the repetitive interval specified in Section G, ''Fuel Tank System Limitations,'' of the AvCraft Dornier 328JET ALD TM–ALD–010599–ALL, Revision 2, dated January 31, 2005.

No Alternative Inspections, Inspection Intervals, or Critical Design Configuration Control Limitations (CDCCLs)

(j) After accomplishing the actions specified in paragraphs (f), (g), and (h), and the initial inspections in paragraph (i) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k) of this AD.

New Information

Explanation of CDCCL Requirements

Note 3: Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before the revision of the Airworthiness Limitations section, as required by paragraph (h) of this AD, do not need to be reworked in accordance with the CDCCLs. However, once the Airworthiness Limitations section has been revised, future maintenance actions on these components must be done in accordance with the CDCCLs.

Alternative Methods of Compliance (AMOCs)

(k) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1503; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Related Information

(l) European Aviation Safety Agency Airworthiness Directive 2006–0197 [Corrected], dated July 11, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(m) You must use the service information contained in Table 3 of this AD, as applicable, to do the actions required by this AD, unless the AD specifies otherwise.

TABLE 3—ALL MATERIAL INCORPORATED BY REFERENCE

Service information	Revision	Date
AvCraft Service Bulletin SB–328J–00–197, including Price Information Sheet	Original	August 23, 2004.
AvCraft Service Bulletin SB–328J–00–198, including Price Information Sheet	Original	August 23, 2004.
AvCraft Temporary Revision ALD–028 to the AvCraft 328JET Airworthiness Limitations Document	Original	October 15, 2003.
Section G of the AvCraft Dornier 328JET ALD TM–ALD–010599–ALL	2	January 31, 2005.

(1) The Director of the Federal Register previously approved the incorporation by reference of Section G, ''Fuel Tank System Limitations,'' of the AvCraft Dornier 328JET ALD TM–ALD–010599–ALL, Revision 2, dated January 31, 2005, on April 3, 2009 (74 FR 8853, February 27, 2009).

(2) The Director of the Federal Register previously approved the incorporation by reference of the service information identified in Table 4 of this AD on September 6, 2005 (70 FR 44046, August 1, 2005).

TABLE 4—MATERIAL PREVIOUSLY INCORPORATED BY REFERENCE ON SEPTEMBER 6, 2005

Service information	Date
AvCraft Service Bulletin SB–328J–00–197, including Price Information Sheet	August 23, 2004.
AvCraft Service Bulletin SB–328J–00–198, including Price Information Sheet	August 23, 2004.
AvCraft Temporary Revision ALD–028 to the AvCraft 328JET Airworthiness Limitations Document	October 15, 2003.

(3) For service information identified in this AD, contact 328 Support Services GmbH, Global Support Center, P.O. Box 1252, D–82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax +49 8153 88111 6565; e-mail *gsc.op@328support.de;* Internet *http://www.328support.de.*

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

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

Issued in Renton, Washington, on October 26, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–26381 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2009–0018]

32 CFR Part 806b

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule with request for comments.

SUMMARY: The Department of Air Force is updating the Department of Air Force Privacy Act Program Rules, 32 CFR part 806b, by adding the (k)(1) thru (k)(7) exemptions to accurately describe the basis for exempting the records. The Privacy Act system of records notice, F051 AF JAA, entitled ''Freedom of Information Appeal Records'', was has already been published on December 12, 2008 (73 FR 75688).

DATES: The rule will be effective on January 5, 2010 unless comments are received that would result in a contrary determination. Comments will be accepted on or before January 5, 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: Mr. Ben Swilley at (703) 696–6648.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (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 this Executive order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been determined that Privacy Act rules for the Department of Defense do not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

List of Subjects in 32 CFR Part 806b

Privacy.

■ Accordingly, 32 CFR part 806b is amended as follows:

PART 806b—PRIVACY ACT PROGRAM

■ 1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Public Law 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Paragraph (e) of Appendix D to 32 CFR part 806b is amended by adding paragraph (26) to read as follows:

Appendix D to Part 806b—General and Specific Exemptions

* * * * *

(26) System identifier and name: F051 AF JAA, Freedom of Information Appeal Records.

(i) *Exemption:* During the processing of a Privacy Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

* * * * *

Dated: November 2, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26746 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0956]

RIN 1625–AA00

Safety Zone; SR 90 Bridge, Assawoman Bay, Isle of Wight and Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Assawoman Bay in the vicinity of the SR 90 Bridge (Ocean City Expressway) that connects Isle of Wight and Ocean City, MD. This action will protect mariners and public property on Assawoman Bay from the hazards associated with possible falling debris from the channel span superstructure and facilitates expeditious repairs to the

span by allowing the contracted company to maintain their position inside the main channel. Vessel traffic will be redirected to an alternative channel during the effective period.

DATES: This rule is effective from 12:01 a.m. October 22, 2009 through 11:59 p.m. December 31, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0956 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–0956 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 LT Tiffany Duffy, United States Coast Guard Sector Hampton Roads Waterways Management Division; telephone 757–668–5580, e-mail *Tiffany.A.Duffy@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 immediate action is needed to provide for the safety of life and property on navigable waters.

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**. Delaying the effective date would be contrary to the public interest because the dilapidated condition of the channel span superstructure could lead to severe injury, fatalities, and/or destruction of public property; therefore, immediate action is needed to ensure public safety.

Background and Purpose

Coast Guard Sector Hampton Roads has been notified by Maryland Department of Transportation State Highway Administration that immediate repairs are required on the channel span superstructure of the SR 90 Bridge over Assawoman Bay. During the period of repair, vessel traffic through the main channel will be restricted and redirected to transit under the bridge span immediately west of the main span. Due to the need to protect mariners and spectators from the hazards associated with repair operations, access to all waters of Assawoman Bay within the 900 foot radius of the main channel of the SR 90 Bridge will be closed to navigation. Hazards associated with repair operations include, but are not limited to, the presence of heavy machinery used to fix the main channel span and the potential for falling objects or debris caused by vehicular traffic travelling over the dilapidated portion of the main channel span.

Discussion of Rule

The Coast Guard is establishing a safety zone on the specified waters of Assawoman Bay in the vicinity of Isle of Wight and Ocean City, Maryland. This safety zone will encompass all navigable waters of Assawoman Bay within 900 foot radius of approximate position 38°23′19″ N, 075°5′22″ W (NAD 1983). All traffic will be redirected to navigable waters immediately adjacent to and west of the main channel span structure by private aids to navigation pre-positioned at approximate positions 38°23′17″ N, 075°5′34″ W; 38°23′17″ N, 075°5′33″ W; 38°23′24″ N, 075°5′33″ W; 38°23′23″ N, 075°5′32″ W; 38°23′17″ N, 075°5′33″ W; and 38°23′24″ N, 075°5′33″ W (NAD 1983) and by bridge navigation lights. The safety zone will be established in the interest of public safety during the repair of the SR 90 Bridge (Ocean City Expressway) channel span superstructure and will be enforced from 12:01 a.m. October 22, 2009 through 11:59 p.m. December 31, 2009. No person or vessel may enter or remain in the safety zone unless authorized by the Captain of the Port or his Representative. Vessels will be allowed to transit around the safety zone, under the bridge span immediately west of the main span. Notification of the safety zone will be provided to the public via marine information broadcasts.

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 proposed regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect during less-traveled times of the year; (ii) the zone is of limited size; (iii) there is an alternative channel for vessels to transit; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly. For those reasons, the Coast Guard does not anticipate any significant economic impact.

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: The owners or operators of vessels intending to transit or anchor Assawoman Bay in the vicinity of the SR 90 Bridge (Ocean City Expressway) from 12:01 a.m. October 22, 2009 until 11:59 p.m. December 31, 2009. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The safety zone will only be in place during less-traveled times of the year; (2) before the effective period, maritime advisories will be issued allowing mariners to adjust their plans accordingly; (3) although the safety zone will apply to

all navigable waters of Assawoman Bay within a 900 feet radius of approximate position 38°23′19″ N, 075°5′22″ W (NAD 1983), vessel traffic will be allowed to pass through the zone with the permission of the Captain of the Port or his Representative; and (4) there is an alternative channel for vessels to transit.

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 establishing a safety zone. This safety zone introduces no additional hazards to the environment while ensuring that life and property are protected during repair operations of the channel span superstructure. 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. Add § 165.T05–0956 to read as follows:

§ 165.T05–0956 Safety Zone; SR 90 Bridge, Assawoman Bay, Isle of Wight and Ocean City, MD.

(a) *Location.* The following area is a safety zone: Specified waters of Assawoman Bay within 900 foot radius of approximate position 38°23′19″ N, 075°5′22″ W (NAD 1983)., in the

vicinity of Isle of Wight and Ocean City, MD.

(b) *Definitions.* As used in this section, *designated representative* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone must:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone number (757) 638–6641.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement Period:* This regulation will be in effect from October 22, 2009 through December 31, 2009.

Dated: October 22, 2009.

M.S. Ogle,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. E9–26772 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R05–RCRA–2009–0747; SW–FRL–8972–9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste Final Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is granting a petition to exclude (or ''delist'') wastewater treatment plant sludges from conversion coating on aluminum generated at the Sterling Heights Assembly Plant (SHAP), Sterling Heights, Michigan from the list of hazardous wastes. SHAP is owned by Old Carco LLC (formerly Chrysler LLC, formerly DaimlerChrysler) and operated by Chrysler Group LLC.

This action conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in a lined Subtitle D landfill which is permitted, licensed, or registered by a State to manage industrial solid waste. The exclusion was proposed on March 7, 2002 as part of an expedited process to evaluate this waste under a pilot project developed with the Michigan Department of Environmental Quality (MDEQ). The rule also imposes testing conditions for waste generated in the future to ensure that this waste continues to qualify for delisting.

DATES: This rule is effective on November 6, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–RCRA–2009–0747. The electronic docket contains all relevant documents created after this action was proposed as well as a selection of pertinent documents from the original paper docket for the proposed rule, Docket ID No. R5–MIECOS–01. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. All documents in the electronic docket are listed on the *http://www.regulations.gov* Web site. Publicly available materials from Docket ID No. EPA–R05–RCRA–2009–0747 are available either electronically through *http://www.regulations.gov* or in hard copy. Materials from the original paper docket, Docket ID No. R5–MIECOS–01, are also available in hard copy. You can view and copy materials from both dockets at the Records Center, 7th floor, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. This facility is open from 8:30 am to 4:00 pm, Monday through Friday, excluding legal holidays. We recommend you telephone Todd Ramaly at (312) 353–9317 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Todd Ramaly, Land and Chemicals Division, (Mail Code: LR–8J), EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604; telephone number: (312) 353–9317; fax number: (312) 353–4788; e-mail address: *ramaly.todd@epa.gov*.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Background
A. What is a delisting petition?
B. What regulations allow a waste to be delisted?
C. What waste did SHAP petition to delist?
II. The Expedited Process for Delisting
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I. Background

A. What is a delisting petition?

A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which EPA listed the waste as set forth in Title 40 Code of Federal Regulations (40 CFR) 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. See 40 CFR 260.22, 42 United States Code (U.S.C.) 6921(f) and the background documents for a listed waste.

Generators remain obligated under RCRA to confirm that their waste remains nonhazardous based on the hazardous waste characteristics even if EPA has ''delisted'' the wastes and to ensure that future generated wastes meet the conditions set.

B. What regulations allow a waste to be delisted?

Under 40 CFR 260.20, 260.22, and 42 U.S.C. 6921(f), facilities may petition the EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts

260 through 266, 268, and 273 of 40 CFR. 40 CFR 260.22 provides a generator the opportunity to petition the Administrator to exclude a waste from the lists of hazardous wastes on a ''generator specific'' basis.

C. What waste did SHAP petition to delist?

SHAP petitioned to exclude wastewater treatment sludges resulting from a zinc phosphating conversion coating process on car and truck bodies, which have aluminum components. When treated, wastewater from conversion coating on aluminum results in a listed waste, F019. The wastewater from the phosphating process entering the wastewater treatment plant combines with wastewaters from other operations at the plant including cleaning and rinsing operations, electrocoating processes, vehicle leak testing, and floor scrubbing. Wastewaters include alkaline cleaners, surfactants, organic detergents, rinse conditioners from cleaning operations and overflows and rinse water from electrocoating. All sludge from the treatment of this wastewater is regulated as RCRA hazardous waste F019.

II. The Expedited Process for Delisting

A. Why was the expedited process developed for this waste?

Automobile manufacturers are adding aluminum components to automobile and light truck bodies. When aluminum is conversion coated in a zinc phosphating process, the resulting wastewater treatment sludge must be managed as EPA hazardous waste F019. F019 wastes generated at other auto assembly plants using the same zinc phosphating and wastewater treatment processes have been shown to be nonhazardous.

This similarity of manufacturing processes and the resultant wastes provides an opportunity for the automobile industry to be more efficient in submitting delisting petitions and for EPA to be more efficient in evaluating them. Efficiency may be gained and time saved by using a standardized approach for gathering, submitting and evaluating data. Therefore, EPA, in conjunction with MDEQ, developed a pilot project to expedite the delisting process. This approach to making delisting determinations for this group of facilities is efficient while still being consistent with current laws and regulations and protective of human health and the environment.

By removing regulatory controls under RCRA, EPA is facilitating the use of aluminum in cars. EPA believes that incorporating aluminum in cars will be advantageous to the environment since lighter cars are capable of achieving better fuel economy.

B. What is the expedited process to delist F019?

The expedited process to delist F019 is an approach developed through a Memorandum of Understanding (MOU) with MDEQ for gathering and evaluating data in support of multiple petitions from automobile assembly plants. The expedited delisting process is applicable to wastes generated by automobile and light truck assembly plants in the State of Michigan which use a similar manufacturing process and generate similar F019 waste.

Based on available historical data and other information, the expedited process identified 70 constituents which might be of concern in the waste and provides that the F019 sludge generated by automobile assembly plants may be delisted if the levels of the 70 constituents do not exceed the allowable levels established for each constituent in this rulemaking. The maximum annual quantity of waste generated by any single facility that may be covered by an expedited delisting is 3,000 cubic yards. Delisting concentrations were also proposed for smaller quantities of 1,000 and 2,000 cubic yards per year.

III. EPA's Evaluation of This Petition

A. What information was submitted in support of this petition?

SHAP submitted certification that its process was consistent with the process described in the MOU between Region 5 and MDEQ. See 67 FR 10341, March 7, 2002. One additional non-chromium sealer was identified by SHAP. Based on the provided Material Safety Data Sheet (MSDS), the additional sealer does not appear to add new hazardous constituents to the process. The facility also asserted that its waste does not meet the criteria for which F019 waste was listed and there are no other factors that might cause the waste to be hazardous.

To support its exclusion demonstration, SHAP collected six samples representing waste generated over six discreet one-week periods beginning March 7 and ending April 17, 2007. SHAP stored six 55-gallon drums of the sludge representative of each week the waste was generated and collected composite and grab samples from each of the drums on April 18, 2007. Each sample was analyzed for: (1) Total analyses of 69 constituents of concern; (2) Toxicity Characteristic Leaching Procedure (TCLP), SW–846 Method 1311, analyses of 69 constituents of concern; (3) oil and grease; and (4) leachable metals using the Extraction Procedure for Oily Wastes (OWEP), SW–846 Method 1330A, in lieu of Method 1311 if a sample contained more than 1% oil and grease. In addition, a determination was made that the waste was not ignitable, corrosive or reactive (see 40 CFR 261.21–261.23). Although the expedited delisting project originally required analysis of 70 constituents, analysis of acrylamide required extreme methods to achieve a detection level at the level of concern and no acrylamide was detected in any sample analyzed by the original facilities participating in the expedited delisting project. Thus, the Agency decided it would not be appropriate to require analysis for acrylamide. Also, SHAP analyzed for total sulfide and total cyanide which supported the narrative determination of non-reactivity required in 40 CFR 261.23. With the exception of the minor changes described above, all sampling and analyses were done in accordance with the sampling and analysis plan, which is an appendix to the MOU and is available in the docket for this rule.

The maximum concentrations of constituents detected in any sample of the waste (in milligrams per kilogram—mg/kg) and in a TCLP or OWEP analysis of that waste (in milligrams per liter—mg/L) are summarized in the following table. The data submitted included the appropriate quality assurance and quality control (QA/QC) information validated by a third party.

Constituent detected	Maximum observed concentration		Maximum allowable concentration		GW (µg/L)
	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP* (mg/L)	
Volatile Organic Compounds					
Acetone	2.7 J	0.38 J	NA	171	3,750

Constituent detected	Maximum observed concentration		Maximum allowable concentration		GW (µg/L)
	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP* (mg/L)	
Acetonitrile	<2.5	0.0012 J	NA	29.3	643
Benzene	0.14 J	0.0095	NA	[1] 0.057	2.5
Butanol	<25	0.15 J	NA	171	3,758
Chloroform	<0.5	0.002 J	5,080	0.0583	1.35
Ethylbenzene	0.3 J	0.0093	NA	31.9	700
Formaldehyde	37	1.8	535	63	1,380
methyl ethyl ketone	<2.5	0.021 J	NA	200	22,545
methyl isobutyl ketone	<2.5	0.023 J	NA	137	3,000
methylene chloride	0.56 J	0.0056	NA	0.216	5
Styrene	<0.5	0.0074	NA	4.56	100
Toluene	2.0	0.12	NA	45.6	1,000
Xylene	3.0	0.059	NA	456	10,000
Semivolatile Organic Compounds					
bis(2-ethylhexyl)phthalate	8.5 J	0.00072 J	NA	0.0671	1.47
butyl benzyl phthalate	<7.5	0.00023 J	NA	69.6	1,448
2,4-dinitrotoluene	<1.5	0.00002	NA	0.0049	0.107
di-n-octyl phthalate	3.3 J	<0.002	NA	0.0839	1.296
Hexachlorobenzene	<0.013	0.00002	1.12	0.0000724	0.00168
Hexachlorobutadiene	<1.5	0.00002	212	0.0072	0.167
Naphthalene	0.36 J	0.0041	NA	[2] 0.00822	245
2-methylphenol	<1.5	0.002	NA	85.5	1,870
4-methylphenol	<1.5	0.12 J	NA	8.55	187
Pentachlorophenol	<1.5	0.002	1,960	[3] 0.00607	0.071
Pyridine	<3.0	0.00098 J	NA	1.71	37.575
2,4,5-trichlorophenol	0.21 J	<0.001	NA	68.6	1,503
2,4,6-trichlorophenol	0.68 J	<0.001	NA	0.207	4.8
Metals					
Antimony	<20	0.0028 J	NA	0.494	6
Arsenic	<50	0.0051 J	7,740	0.00224	4.87
Barium	77	0.11 J	NA	100	2,000
Beryllium	0.074 J	0.0006 J	NA	0.998	40
Cadmium	1.6	0.0074 J	NA	0.36	5
Chromium	76	0.024 J	NA	3.71	100
Cobalt	3.5	0.0068 J	NA	54	2,248
Lead	5.1	<0.16	NA	5.0	15
Mercury	0.0091	<0.0009 J	6.34	0.2	2
Nickel	840	8.5	NA	67.8	750
Selenium	<20	0.0028 J	NA	1.0	50
Silver	2.5	<0.06	NA	5.0	187
Thallium	<20	0.0003 J	[4] 247	0.211	2
Tin	250 J	6.1	NA	540	22,476
Vanadium	1.8 J	<0.05	NA	50.6	263
Zinc	5,500	5.6	NA	673	11,220

* Or OWEP as applicable.
< Not detected at the specified concentration.
NA Not applicable.
J Estimated.
[1] Proposed maximum concentration (0.109 mg/L) adjusted for updated toxicity data.
[2] Proposed maximum concentration (11.2 mg/L) adjusted for inhalation carcinogenicity.
[3] Proposed maximum concentration (0.00307 mg/L) adjusted due to exposure time correction.
[4] Maximum total (247 mg/kg) replacing proposed "NA" due to bioaccumulation factor entry.

B. How did EPA evaluate the information submitted?

EPA compared the analytical results submitted by SHAP to the maximum allowable concentrations set forth in the proposed rule (67 FR 10341, March 7, 2002) or as updated below. The maximum allowable concentrations for constituents detected in the waste or a TCLP extract of the waste are summarized in the table above, along with the highest observed concentration. The table also includes the maximum allowable concentrations in groundwater at a potential receptor well (in micrograms per liter—µg/L), as evaluated by the Delisting Risk Assessment Software (DRAS). These concentrations are the more conservative of either the Safe Drinking Water Act Maximum Contaminant Level (MCL) or the health-based value calculated by DRAS based on the target cancer risk level of 10^{-6}. For arsenic, the target cancer risk was set at 10^{-4} in consideration of the MCL and the potential for natural occurrence. The maximum allowable groundwater concentration and delisting level for arsenic correspond to a drinking water concentration less than one-half the current MCL of 10 µg/L.

Some of the maximum allowable concentrations have been updated to reflect new toxicity data or in response

to a technical correction in the modeling. Specifically, the maximum allowable leachate concentration for benzene was adjusted from 0.109 mg/L to 0.057 mg/L because the cancer slope factor for oral exposure was increased from 0.029 kg·day/mg to 0.055 kg·day/mg. The maximum allowable leachate concentration for naphthalene was adjusted from 11.2 mg/L to 0.00822 mg/L due to adding an inhalation calculation for carcinogenicity. The maximum allowable leachate concentration for pentachlorophenol was adjusted from 0.00307 mg/L to 0.00607 to reflect a correction to exposure time in the dermal pathway for children. A maximum allowable total concentration of 247 mg/kg for thallium was added after the database was adjusted to include bioaccumulation and ingestion of thallium in fish.

EPA also used DRAS to estimate the aggregate cancer risk and hazard index for constituents detected in the waste. The aggregate cancer risk is the cumulative total of all individual constituent cancer risks. The hazard index is a similar cumulative total of non-cancer effects. The target aggregate cancer risk is $1x10^{-5}$ and the target hazard index is one. The wastewater treatment plant sludge at SHAP met both of these criteria based on maximum observed values using DRAS version 2, the version in use when the SHAP waste samples were collected. A new version of DRAS (version 3) has been released with current toxicity data and extensive modeling updates. Although EPA did not base the evaluation of SHAP waste on the new DRAS methodology, a screening of the maximum observed concentrations with the new DRAS version showed that the aggregate hazard index and cancer risks remain below target levels.

IV. Public Comments Received on the Proposed Exclusion

A. Who submitted comments on the proposed rule?

The EPA received public comments on the proposed rule published on March 7, 2002 from Alliance of Automobile Manufacturers, Honda of America Mfg., Inc., Alcoa Inc., and The Aluminum Association. All commenters were supportive of the proposal and suggested expanding the project and revising the listing.

B. Comments Received and Responses From EPA

(1) *Comment:* EPA should revise the F019 listing to specify that wastewater treatment sludges from zinc phosphating operations are not within the scope of the listing. Data gathered as a result of the Expedited Delisting Project, together with the available historical data, should provide enough data to fully characterize this waste and to justify a revision of the listing.

EPA Response: On June 4, 2008 (73 FR 31756), the Agency amended the F019 listing to exempt the wastewater treatment sludge generated from zinc phosphating, when zinc phosphating is used, in the automobile assembly process and provided the waste is disposed in a landfill unit subject to certain design criteria. The amendment has yet to be adopted by the State of Michigan. The SHAP facility will likely be able to comply with either the amended listing or the requirements of this delisting.

(2) *Comment:* EPA should issue an interpretive rule clarifying that zinc phosphating operations are outside the scope of the F019 listing.

EPA Response: See response to comment (1) above.

(3) *Comment:* Automobile assembly facilities outside of Michigan would like to take advantage of the precedent set by this expedited delisting project to delist F019 generated by similar operations in other states and regions.

EPA Response: The Agency believes that the expedited delisting procedures and requirements set forth in this proposal are appropriate for similar automotive assembly facilities outside the State of Michigan, subject to the discretion of the regulatory agency (state or region).

(4) *Comment:* Alternatives to landfilling like recycling should be allowed within the petition process.

EPA Response: The risk assessment model currently used by the Agency does not predict the risks from exposure to waste that are managed through recycling. EPA's conditional delisting policy is that in order to reduce the uncertainty caused by potential unrestricted use or management of delisted waste, delistings apply only to wastes managed in the type of unit (*e.g.,* ''a landfill'') modeled in the delisting risk assessment. The Agency has no documented information to indicate a market exists for recovering the metals in F019 waste from motor vehicle manufacturers. See 73 FR 31756, 31762 (June 4, 2008). The Agency notes that the exclusion is conditioned upon certain disposal, sampling, and volume requirements. While the conditional exclusion being promulgated today does not eliminate the possibility of legitimate reuse of the sludge, the final rule does not address such use.

(5) *Comment:* Analytical methods should be specified in the pre-approved common sampling plan instead of requiring each participant to submit a site-specific list of methods.

EPA Response: Allowing the petitioner to choose an analytical method which meets the data quality objectives specific to the delisting petition provides flexibility. Data quality objectives will vary depending on the allowable concentrations that are a function of the volume of petitioned waste. The Agency believes that the flexibility of performance-based methods results in better data.

(6) *Comment:* Detection limits should not be required prior to sampling since they cannot be adequately predicted without a way to estimate matrix effects.

EPA Response: Although matrix effects cannot be assessed in advance of laboratory analysis, a laboratory should be able to provide estimated detection levels and reporting levels which are lower than, or at least equal to, the allowable delisting concentration for each constituent.

(7) *Comment:* Since the process generating the sludge is extremely stable, verification sampling should be conducted on an annual, instead of quarterly, basis. The requirement that any process change is promptly reported and the exclusion suspended until EPA gives written approval that the delisting can continue is an adequate safeguard justifying the decrease in sample event frequency.

EPA Response: Verification data submitted in conjunction with past delistings of this waste have shown significant variation on a quarterly basis over longer periods of time. Annual sampling would not detect such variations. Once enough verification data are collected to support a statistical analysis, a change in the frequency of verification sampling and/or sampling parameters may be considered.

(8) *Comment:* The final **Federal Register** should make it clear that assembly plants that manufacture light trucks are also eligible for the project.

EPA Response: Today's final rule specifically defines eligible facilities as inclusive of manufacturers of light trucks.

(9) *Comment:* The table of maximum allowable levels in the March 7, 2002 proposed rule contains errors in the columns for vinyl chloride.

EPA Response: A missing space or tab in the table caused the error. The maximum allowable concentrations proposed for 2,000 cubic yards of waste should have been 115 mg/kg total and 0.00234 mg/L TCLP.

V. Final Rule Granting This Petition

A. What decision is EPA finalizing?

Today the EPA is finalizing an exclusion to conditionally delist an annual volume of 3,000 cubic yards of wastewater treatment plant sludges generated at SHAP from conversion coating on aluminum.

On March 7, 2002, EPA proposed to exclude or delist this wastewater treatment sludge from the list of hazardous wastes in 40 CFR 261.31 and accepted public comment on the proposed rule (67 FR 10341). EPA considered all comments received, and we believe that this waste should be excluded from hazardous waste control. After EPA proposed the exclusion for SHAP in 2002, the Agency promulgated the Methods Innovation Rule (MIR) (70 FR 34538, June 14, 2005). The MIR reformed RCRA-related testing and monitoring by restricting requirements to use the methods found in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' also known as ''SW–846,'' to those situations where the method is the only one capable of measuring the property (*i.e.,* it is used to measure a method-defined parameter). In addition, the MIR revised several conditional delistings to specifically mention method-defined parameters incorporated by reference at § 260.11 consistent with the Office of Federal Register's revised format for incorporation by reference. Therefore, EPA is including a specific reference to SW–846 Methods 1311, 1330A, and 9071B (method-defined parameters) for the generation of the leachate extract in the quarterly verification testing requirement for the SHAP delisting. SW–846 Method 1311 must be used for generation of the leachate extract used in the testing of the delisting levels if oil and grease comprise less than 1% of the waste. SW–846 Method 1330A must be used for generation of the leaching extract if oil and grease comprise 1% or more of the waste. SW–846 Method 9071B must be used for determination of oil and grease. SW–846 Methods 1311, 1330A, and 9071B are incorporated by reference in 40 CFR 260.11.

B. What are the terms of this exclusion?

SHAP must dispose of the waste in a lined Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial solid waste. SHAP must obtain and analyze on a quarterly basis a representative sample of the waste. SHAP must verify that the concentrations of the constituents of concern do not exceed the allowable concentrations set forth in this exclusion. The list of constituents for verification is a subset of those initially tested for and is based on the concentrations detected relative to the allowable concentrations. Two of the constituents selected for verification required extraordinary analytical methods in order to achieve detection limits at or below the delisting concentrations. Hexachlorobenzene and pentachlorophenol are not expected to be significant components of the petitioned waste, and standard analysis for verification will suffice.

This exclusion applies only to a maximum annual volume of 3,000 cubic yards and is effective only if all conditions contained in this rule are satisfied.

C. When is the delisting effective?

This rule is effective November 6, 2009. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This rule reduces rather than increases the existing requirements and, therefore, is effective immediately upon publication under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

D. How does this action affect the states?

Today's exclusion is being issued under the federal RCRA delisting program. Therefore, only states subject to federal RCRA delisting provisions would be affected. This exclusion is not effective in states that have received authorization to make their own delisting decisions. Also, the exclusion may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements. EPA allows states to impose their own regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both Federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the state regulatory authority to establish the status of their wastes under the state law. If a participating facility transports the petitioned waste to or manages the waste in any state with delisting authorization, it must obtain a delisting from that state before it can manage the waste as nonhazardous in the state.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, 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, ''Federalism'', (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule.

Similarly, because this rule will affect only a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used DRAS, which considers health and safety risks to children, to calculate the maximum allowable concentrations for this rule. 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)), because it is not a significant

regulatory action under Executive Order 12866. This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988, ''Civil Justice Reform'', (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: October 5, 2009.

Margaret M. Guerriero,

Director, Land and Chemicals Division.

■ For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

■ 2. In Table 1 of Appendix IX of part 261 the following wastestream is added in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Chrysler Group LLC at the Old Carco LLC Sterling Heights Assembly Plant.	Sterling Heights, Michigan.	Wastewater treatment sludges, F019, that are generated at Old Carco LLC's Sterling Heights Assembly Plant, (SHAP), Sterling Heights, Michigan by Chrysler Group LLC at a maximum annual rate of 3,000 cubic yards per year. The sludges must be disposed of in a lined landfill with leachate collection which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludges in accordance with 40 CFR part 258. The exclusion becomes effective as of November 6, 2009. 1. *Delisting Levels:* The concentrations in a leachate extract of the waste measured in any sample must not exceed the following levels (mg/L): arsenic—0.22; nickel—67.8; benzene—0.057; hexachlorobenzene—0.0000724; naphthalene—0.00822; and pentachlorophenol—0.00607. 2. *Quarterly Verification Testing:* To verify that the waste does not exceed the specified delisting levels, Chrysler Group LLC or Old Carco LLC must collect and analyze one representative sample of the waste on a quarterly basis. Sample collection and analyses, including quality control procedures, must be performed using appropriate methods. SW–846 Method 1311 must be used for generation of the leachate extract used in the testing of the delisting levels if oil and grease comprise less than 1% of the waste. SW–846 Method 1330A must be used for generation of the leaching extract if oil and grease comprise 1% or more of the waste. SW–846 Method 9071B must be used for determination of oil and grease. SW–846 Methods 1311, 1330A, and 9071B are incorporated by reference in 40 CFR 260.11. 3. *Changes in Operating Conditions:* Chrysler Group LLC or Old Carco LLC must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process change significantly. Chrysler Group LLC or Old Carco LLC must handle wastes generated after the process change as hazardous until it has demonstrated that the wastes continue to meet the delisting levels and that no new hazardous constituents listed in Appendix VIII of part 261 have been introduced and it has received written approval from EPA. 4. *Data Submittals:* Chrysler Group LLC or Old Carco LLC must submit the data obtained through verification testing or as required by other conditions of this rule to both U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604 and MDEQ, Waste and Hazardous Materials Division, Hazardous Waste Section, at P.O. Box 30241, Lansing, Michigan 48909. The quarterly verification data and certification of proper disposal must be submitted annually upon the anniversary of the effective date of this exclusion. Chrysler Group LLC or Old Carco LLC must compile, summarize and maintain on site for a minimum of five years records of operating conditions and analytical data. Chrysler Group LLC or Old Carco LLC must make these records available for inspection. A signed copy of the certification statement in 40 CFR 260.22(i)(12) must accompany all data. 5. *Reopener Language*—(a) If, anytime after disposal of the delisted waste Chrysler Group LLC or Old Carco LLC possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) relevant to the delisted waste indicating that any constituent is at a level in the leachate higher than the specified delisting level, or is in the groundwater at a concentration higher than the maximum allowable groundwater concentration in paragraph (e), then Chrysler Group LLC or Old Carco LLC must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data.

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will inform Chrysler Group LLC or Old Carco LLC in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing Chrysler Group LLC or Old Carco LLC with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. Chrysler Group LLC or Old Carco LLC shall have 30 days from the date of the Regional Administrator's notice to present the information. (d) If after 30 days Chrysler Group LLC or Old Carco LLC presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise. (e) Maximum Allowable Groundwater Concentrations (μg/L): arsenic—4.87; nickel—750; benzene—2.5; hexachlorobenzene—0.00168; naphthalene—245; and pentachlorophenol—0.071.

* * * * *

[FR Doc. E9–26837 Filed 11–5–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2008–0251; FRL–8438–5]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: In the **Federal Register** of November 5, 2008 (73 FR 65743) (FRL–8371–3), EPA issued direct final significant new use rules (SNURs) for 56 chemical substances which were the subject of premanufacture notices (PMNs). For the chemical substance identified as Oxetane, 3,3′-[oxybis(methylene)] bis[3-ethyl- (PMN P–03–471; CAS No. 18934–00–4), the citation at § 721.10095(a)(2)(ii) incorrectly identified one of the hazard communication program requirements. This action corrects the final regulation.

DATES: This final rule is effective November 6, 2009.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2008–0251. 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 OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Abeer Hashem, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–1117; e-mail address: *hashem.abeer@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

The Agency included in the direct final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What Does this Technical Amendment Do?

In the **Federal Register** of November 5, 2008 (73 FR 65743), EPA issued a direct final SNUR for the chemical substance identified as Oxetane, 3,3′-[oxybis(methylene)] bis[3-ethyl- (PMN P–03–471; CAS No. 18934–00–4) in accordance with the procedures at § 721.160(c)(3)(i). For this substance, the citation at § 721.10095(a)(2)(ii) incorrectly identified one of the hazard communication program requirements. This technical amendment corrects the hazard communication requirement under § 721.72 from (g)(1)(v) to (g)(1)(vi).

III. Why is this Technical Amendment Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable,

unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical amendment final without prior proposal and opportunity for comment, because this rule does not impose any new requirements. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

This rule does not impose any new requirements. As such, the Agency has determined that this rule will not have any adverse impacts, economic or otherwise.

The Office of Management and Budget (OMB) has exempted these types of regulatory actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This rule does not contain any information collections subject to approval under the Paperwork Reduction Act (PRA), (44 U.S.C. 3501 *et seq.*). The Agency certifies pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), that this rule will not have a significant economic impact on a substantial number of small entities.

For the same reasons, this action does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). This rule has neither Federalism implications, because it will not have substantial direct effects 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)., nor tribal implications, because it will not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000).

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined under Executive Order 12866, and it does not address environmental health or safety risks disproportionately affecting children. It 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), because this action is not expected to affect energy supply, distribution, or use. Because this action does not involve any technical standards, 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), does not apply to this action. This action does not involve special considerations of environmental justice related issues 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).

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 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 26, 2009.

Wendy C. Hamnett,

Acting Director, Office of Pollution Prevention and Toxics.

■ Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. In § 721.10095, by amending paragraph (a)(2)(ii) to read as follows:

§ 721.10095 Oxetane, 3.3′-[oxybis(methylene)] bis[3-ethyl-.

(a) * * *

(2) * * *

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e), (f), (g)(1)(iv), (g)(1)(vi), and (g)(2)(v).

* * * * *

[FR Doc. E9–26824 Filed 11–5–09; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 090324366–9371–01]

RIN 0648–XR27

Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #4, #5, #6, and #7

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

ACTION: Modification of fishing seasons, gear restrictions, and landing and possession limits; request for comments.

SUMMARY: NOAA Fisheries announces four inseason actions in the ocean salmon fisheries. Inseason actions #4, #6, and #7 modified the recreational fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon. Inseason action #5 modified the commercial fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon.

DATES: Inseason actions #4 and #5 were effective on August 1, 2009, and remain in effect until the closing date or attainment of the subarea quotas, whichever was first, as announced in the 2009 annual management measures or through additional inseason action. Inseason action #6 was effective on August 14, 2009, and remains in effect until the closing date or attainment of the subarea quotas, whichever was first, as announced in the 2009 annual management measures or through additional inseason action. Inseason action #7 was effective on August 21, 2009, and remains in effect until the closing date or attainment of the subarea quotas, whichever was first, as announced in the 2009 annual management measures or through additional inseason action. Comments will be accepted through November 23, 2009.

ADDRESSES: You may submit comments, identified by 0648–XR27, by any one of the following methods:

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

• Fax: 206–526–6736, Attn: Peggy Busby

• Mail: 7600 Sand Point Way NE, Building 1, Seattle, WA 98115

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

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Peggy Busby, by phone at 206–526–4323.

SUPPLEMENTARY INFORMATION: In the 2009 annual management measures for ocean salmon fisheries (74 FR 20610, May 5, 2009), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada Border to the U.S./Mexico Border, beginning May 1, 2009.

The Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife and Oregon Department of Fish and Wildlife on July 31, August 14, and August 20, 2009. The information considered related to catch to date and Chinook and coho catch rates compared to quotas and other management measures established preseason.

Inseason action #4 increased the recreational daily catch limit for Chinook salmon in the area from the U.S./Canada Border to Cape Falcon, Oregon from 1 to 2 Chinook salmon. This action was taken to provide greater access to Chinook salmon that were available for harvest within the guideline established preseason. On July 31, 2009, the states recommended this action and the RA concurred; inseason action #4 took effect on August 1, 2009, until it is modified by any subsequent inseason actions. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i) .

Inseason action #5 modified the commercial quota for Chinook salmon in the area from the U.S./Canada Border to Cape Falcon, Oregon by rolling over 2,500 in unharvested Chinook salmon quota from the May/June fishery and adding it to the guideline for the July/September fishery, raising the July/September guideline from 6,765 to 9,665 Chinook salmon. This action was taken to provide greater access to harvestable Chinook salmon. On July 31, 2009 the states recommended this action and the RA concurred; inseason action #5 took effect on August 1, 2009, until it is modified by any subsequent inseason actions. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b) (1) (i).

Inseason action #6 modified the recreational quota in the area from the U.S./Canada Border to Cape Falcon, Oregon by transferring quota among subareas; 2,500 coho were transferred from the quotas of each of the Neah Bay subarea (U.S./Canada Border to Cape Alava, Washington) and the Westport subarea (Queets River, Washington to Leadbetter Point, Washington) to the quota for the LaPush subarea (Cape Alava, Washington to Queets River, Washington). This action was taken to distribute remaining quota among the subareas to allow fishing to continue in the LaPush subarea. On August 13, the states recommended this action and the RA concurred; inseason action #6 took effect on August 14, 2009, until it is modified by any subsequent inseason actions. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b) (1) (i).

Inseason action #7 modified the recreational quota in the area from the U.S./Canada Border to Cape Falcon, Oregon by transferring quota between subareas; 8,750 coho were transferred from the quota of the Westport subarea (Queets River, Washington to Leadbetter Point, Washington); the Columbia River subarea (Leadbetter Point, Washington to Cape Falcon, Oregon) received an impact neutral quota increase of 8,300 coho. This action was taken to distribute remaining quota between subareas to allow fishing to continue in the Columbia River subarea. On August 20, 2009, the states recommended this action and the RA concurred; inseason action #7 took effect on August 21, 2009, until it is modified by any subsequent inseason actions. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

All other restrictions and regulations remain in effect as announced for the 2009 Ocean Salmon Fisheries and previous inseason actions.

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. These actions do not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (73 FR 23971, May 1, 2008; 74 FR 20610, May 5, 2009), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. The AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon Fishery Management Plan and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: November 3, 2009.

Emily H. Menashes,

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

[FR Doc. E9–26846 Filed 11–5–09; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 214
Friday, November 6, 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.

NATIONAL MEDIATION BOARD

29 CFR Parts 1202 and 1206

[Docket No. C–6964]

RIN 3140–ZA00

Representation Election Procedure

AGENCY: National Mediation Board.

ACTION: Proposed rule; notice of meeting.

SUMMARY: The National Mediation Board (NMB or Board) extends an invitation to interested parties to attend an open meeting with the Board and its staff on December 7, 2009. The Board meeting will be held from 9 a.m. until 4 p.m. The meeting will be held in the Margaret A. Browning Hearing Room (Room 11000), National Labor Relations Board, 1099 14th Street, NW., Washington, DC 20570. During the public meeting, the NMB invites interested persons to share their views on the proposed rule changes regarding representation election procedures.

DATES: The meeting will be held on Monday, December 7, 2009 from 9 a.m. to 4 p.m. A second day of meetings may be scheduled for Tuesday, December 8, 2009 if necessary. Due to time and seating considerations, individuals desiring to attend the meeting, or to make a presentation before the Board, must notify the NMB staff, no later than 4 p.m. on Friday, November 20, 2009.

ADDRESSES: The public meeting will be held in the Margaret A. Browning Hearing Room (Room 11000), National Labor Relations Board, 1099 14th Street, NW., Washington, DC 20570. Requests to attend the meeting must be addressed to Mary Johnson, General Counsel, National Mediation Board, 1301 K Street, NW., Suite 250-East, Washington, DC 20005. Written requests may also be made electronically to *legal@nmb.gov.* All communications must include Docket No. C–6964.

FOR FURTHER INFORMATION CONTACT: Mary Johnson, General Counsel, National Mediation Board, 202–692–5050, *infoline@nmb.gov.*

SUPPLEMENTARY INFORMATION: The National Mediation Board will hold an open public meeting on Monday, December 7, 2009, from 9 a.m. until 4 p.m. The purpose of the meeting will be to solicit views of interested persons concerning the proposed rule changes in representation election procedures.

On Tuesday, November 3, 2009, the NMB proposed a Notice of Proposed Rulemaking (NPRM) (74 FR 56750), proposing to amend its Railway Labor Act rules to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class representative. These rule changes are proposed to be codified at 29 CFR parts 1202 and 1206. In addition to the comment procedure outlined in the NPRM, the NMB is providing another opportunity for interested persons to provide their views to the Board on this important matter.

Individuals desiring to attend the meeting must notify the NMB staff, in writing, at the above listed physical or e-mail address by the deadline posted. If the individual desires to make a presentation to the Board at the meeting, he or she is required to submit a brief outline of the presentation when making the request. In addition, a full written statement must be submitted no later than 4 p.m. on Friday, November 20, 2009. In lieu of making an oral presentation, individuals may submit a written statement for the record.

To attend the meeting, all potential attendees must include in their request: (1) Their full name and (2) organizational affiliation (if any). Attendees are reminded to bring a photo identification card with them to the public meeting in order to gain admittance to the building. Due to the time and potential space limitations in the meeting room, the NMB will notify individuals of their attendance and/or speaking status (*i.e.,* preliminary time for their presentation) prior to the meeting. Time allocation for oral presentations will depend upon the number of individuals who desire to make presentations to the Board. Individuals should be prepared to summarize their written statements at the meeting.

Agenda: The meeting will be limited to issues related to the NMB's proposal regarding proposed rule changes in representation election procedures appearing in the **Federal Register** on November 3, 2009 at 74 FR 56750–56754. A copy of the NPRM may also be obtained from the NMB's Web site at: *http://www.nmb.gov/representation/proposed-rep-rulemaking.html.*

Dated: November 3, 2009.

Mary Johnson,

General Counsel, National Mediation Board.

[FR Doc. E9–26833 Filed 11–5–09; 8:45 am]

BILLING CODE 7550–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2009–0018]

32 CFR Part 806b

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Proposed rule with request for comments; withdrawal.

SUMMARY: The Department of Defense in withdrawing the proposed rule published on October 29, 2009 (74 FR 55796–55797), which proposed to update the Department of Air Force Privacy Act Program Rules, 32 CFR part 806b, by adding the (k)(1) thru (k)(7) exemptions for their Freedom of Information Appeal Records.

FOR FURTHER INFORMATION CONTACT: Patricia Toppings, 703–696–5284.

Dated: November 2, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26745 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0324]

RIN 1625–AA00

Safety Zone; Coast Guard Use of Force Training Exercises, San Pablo Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent safety zone in San

Pablo Bay for Coast Guard Use of Force Training exercises. This safety zone would be established to ensure the safety of the public and participating crews from potential hazards associated with fast-moving Coast Guard smallboats or helicopters taking part in the exercise. Unauthorized persons or vessels would be 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: Comments and related material must be received by the Coast Guard on or before January 5, 2010. Requests for public meetings must be received by the Coast Guard on or before November 27, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2009–0324 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Lieutenant Simone Mausz, U.S. Coast Guard Sector San Francisco; telephone 415–399–7443, e-mail *simone.mausz@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0324), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu, select ''Proposed Rule'' and insert ''USCG–2009–0324'' in the ''Keyword'' box. Click ''Search,'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2009–0324'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before November 27, 2009 using one of the four methods specified under **ADDRESSES.** Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

U.S. Coast Guard Maritime Safety and Security Team (MSST) San Francisco, U.S. Coast Guard Air Station San Francisco, and various Coast Guard smallboat stations will be conducting use of force training runs in the waters of San Pablo Bay. The exercises are designed to train and test Coast Guard personnel in the decision-making processes necessary to safely and effectively employ use of force from a smallboat or helicopter during Homeland Security incidents. The training will generally involve the use of several Coast Guard smallboats and/or a helicopter to intercept fast-moving, evasive target vessels on the water. The smallboat and helicopter crews will fire weapons at the target vessels using blank ammunition and catch bags to ensure that cartridges and other debris do not fall to the water. This safety zone is issued to establish a restricted area in San Pablo Bay around the training site.

Discussion of Proposed Rule

The Coast Guard is establishing a permanent safety zone in the navigable waters of San Pablo Bay. During training exercises, the safety zone applies to the navigable waters from the surface to the seafloor, defined by enclosing an area within lines connected by the following points: 38°05′11″ N, 122°22′10″ W; 38°03′44″ N, 122°20′12″ W; 38°00′41″ N, 122°25′28″ W; and 38°01′45″ N, 122°26′38″ W (NAD 83).

The effect of the permanent safety zone will be to restrict navigation in the vicinity of the exercise. Except for

persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are intended to keep the public a safe distance away from the participating smallboats and/or helicopters and to ensure the safety of transiting vessels.

Regulatory Analyses

We developed this proposed 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 proposed 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.

The proposed rule is not expected to have a significant effect on the economy. This safety zone would be activated and enforced for a small area where vessel traffic is low and any unrelated traffic is unlikely. Vessel traffic can pass safely around the safety zone. Before the activation of the zone, the Coast Guard would issue maritime advisories widely available to users of the affected waterways. Because of the potential dangers posed by these exercises, the safety zone is necessary to provide for the safety of other vessels transiting the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows:

(1) This proposed rule would affect owners and operators of pleasure craft engaged in recreational activities and sightseeing intending to transit San Pablo Bay;

(2) This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated and enforced for a small area where vessel traffic is low and any unrelated traffic is unlikely. Vessel traffic can pass safely around the safety zone. Before the activation of the zone, the Coast Guard would issue maritime advisories widely available to users of the affected waterways.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluation its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Simone Mausz, U.S. Coast Guard Sector San Francisco; telephone 415–399–7443, e-mail *simone.mausz@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 0023.1 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 made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES.** This rule is categorically excluded from certain documentation requirements under figure 2–1, paragraph (34)(g), of the Instruction because the rule involves establishment of a safety zone. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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 proposes to amend 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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T11–244 to read as follows:

§ 165.T11–244 Safety Zone; Coast Guard Use of Force Training Exercises, San Pablo Bay, CA.

(a) *Location.* The following area is a safety zone: All waters of San Pablo Bay from the surface to the seafloor, encompassed by lines connecting the following points: Beginning at 38°05′11″ N, 122°22′10″ W; thence to 38°03′44″ N, 122°20′12″ W; thence to 38°00′41″ N, 122°25′28″ W; thence to 38°01′45″ N, 122°26′38″ W; thence returning to 38°05′11″ N, 122°22′10″ W (NAD 83).

(b) *Effective period.* The Coast Guard will notify the public via a Broadcast to Mariners prior to the activation of this safety zone. The Coast Guard may activate the safety zone anytime from 9 a.m. through 11:59 p.m. every Tuesday, Thursday, and Friday, every week of every month. If the exercises conclude prior to the scheduled termination time, the Coast Guard will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners. Persons and vessels may also contact the Coast Guard to determine the status of the safety zone on VHF–16 or the 24-hour Command Center via telephone at (415) 399–3547.

(c) *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, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

(d) *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 designated representative.

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

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's 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 COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF–16 or the 24-hour Command Center via telephone at (415) 399–3547.

Dated: October 16, 2009.

P.M. Gugg,

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

[FR Doc. E9–26792 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2008–0252; FRL–8436–8]

RIN 2070–AB27

Proposed Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for two chemical substances which were the subject of premanufacture notices. The two substances are identified generically as multi-walled carbon nanotubes (P–08–177) and single-walled carbon nanotubes (P–08–328). These substances are subject to TSCA section 5(e) consent orders issued by EPA. The consent orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The proposed SNURs on these substances are based on and consistent with the provisions in the underlying consent orders. The proposed SNURs designate as a ''significant new use'' the absence of the protective measures required in the corresponding consent orders. This action would require persons who intend to manufacture, import, or process either of these two substances for an activity that is designated as a significant new use by this proposed rule to notify EPA at least 90 days before commencing that activity. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: Comments must be received on or before December 7, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2008–0252, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania

Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2008–0252. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2008–0252. 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, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Jim Alwood, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8974; e-mail address: *alwood.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this proposed rule. Potentially affected entities may include, but are not limited to:

• Manufacturers, importers, or processors of one or both subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28 (the corresponding EPA policy appears at 40 CFR part 707, subpart B). Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a final SNUR must certify their compliance with the SNUR requirements. In addition, any persons who export or intend to export a chemical substance that is the subject of this proposed rule on or after December 7, 2009 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

EPA is proposing significant new use rules (SNURs) under section 5(a)(2) of TSCA for two chemical substances which were the subject of premanufacture notices (PMNs). The two substances are identified generically as multi-walled carbon nanotubes (P–08–177) and single-walled carbon nanotubes (P–08–328). These substances are subject to TSCA section 5(e) consent orders issued by EPA, which require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The proposed SNURs on these substances are based on and consistent with the provisions in the underlying consent orders. The proposed SNURs designate as a ''significant new use'' the absence of the protective measures required in the corresponding consent orders. These SNURs would require persons who intend to manufacture, import, or process either of these two substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

In the **Federal Register** of June 24, 2009 (74 FR 29982) (FRL–8417–6), EPA issued direct final SNURs on these two substances in accordance with the procedures at § 721.160(c)(3)(i). EPA received a notice of intent to submit adverse comments on these SNURs. Therefore, as required by § 721.160(c)(3)(ii), in the **Federal Register** of August 21, 2009 (74 FR 42177) (FRL–8433–9), EPA withdrew the direct final SNURs and is now issuing this proposed rule on the two substances. The record for the direct final SNURs on these substances was established as docket EPA–HQ–OPPT–2008–0252. That record includes information considered by the Agency in developing the direct final rules and the notice of intent to submit adverse comments.

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

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. The mechanism for reporting under this requirement is established under § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Chemical importers are subject to the TSCA section 13 (15 U.S.C. 1612) import certification requirements promulgated at 19 CFR 12.118 through 12.127, and 19 CFR 127.28 (the corresponding EPA policy appears at 40 CFR part 707, subpart B). Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemical substances subject to a final SNUR must certify their compliance with the SNUR requirements. In addition, any persons who export or intend to export a chemical substance identified in a final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2612 (b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the two chemical substances that are the subject of these proposed SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the above four factors listed in TSCA section 5(a)(2).

IV. Substances Subject to this Proposed Rule

EPA is proposing to establish significant new use and recordkeeping requirements for two chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name if the specific name is claimed as CBI).
- CAS number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) consent order.
- Toxicity concerns.
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VII. for more information).
- CFR citation assigned in the regulatory text section of this proposed rule.

The regulatory text section of this proposed rule specifies the activities designated as significant new uses. Certain new uses, including production limits and other uses designated in this

proposed rule, may be claimed as CBI. Unit VIII. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

This proposed rule concerns two PMN substances that are subject to ''risk-based'' consent orders under TSCA section 5(e)(1)(A)(ii)(I) where EPA determined that activities associated with the PMN substances may present unreasonable risk to human health. Those consent orders require protective measures to limit exposure or otherwise mitigate the potential unreasonable risk. The so-called proposed ''5(e) SNURs'' on these PMN substances are issued pursuant to § 721.160, and are based on and consistent with the provisions in the underlying consent orders. The proposed 5(e) SNURs would designate as a ''significant new use'' the absence of the protective measures required in the corresponding consent orders.

PMN Number P–08–177

Chemical name: Multi-walled carbon nanotubes (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: September 1, 2009 (amended).

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance will be as a property modifier in electronic applications and as a property modifier in polymer composites. The order was issued under sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) of TSCA. Based on test data on analogous respirable, poorly soluble particulates and on other carbon nanotubes (CNTs), EPA believes that the PMN substance may cause lung effects. To protect against this risk, the consent order requires use of a National Institute for Occupational Safety and Health (NIOSH)-approved full-face respirator with N–100 cartridges. Based on physical properties of the PMN substance, EPA believes it may cause health effects via dermal exposure. To protect against this risk, the consent order requires that workers wear gloves and protective clothing impervious to the chemical substance. The consent order also prohibits any predictable or purposeful release of the PMN substance into the waters of the United States. The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Toxicity concern: There is a concern for lung health effects based on data for poorly soluble particulates and for other CNTs, and for lung irritation based on particle size.

Recommended testing: EPA has determined that the results of a 90–day inhalation toxicity study in rats (OPPTS Harmonized Test Guideline 870.3465 or Organisation for Economic Co-operation and Development (OECD) 413 test guideline) with a post exposure observation period of up to 3 months, including bronchoalveolar lavage fluid (BALF) analysis; and certain material characterization data would help characterize possible effects of the PMN substance. In the consent order, the PMN submitter has agreed not to exceed a specified production volume or production time limit (whichever comes first) without performing these tests.

CFR citation: 40 CFR 721.10155.

PMN Number P–08–328

Chemical name: Single-walled carbon nanotubes (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: September 1, 2009 (amended).

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance will be as a property modifier in electronic applications and as a property modifier in polymer composites. The order was issued under sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) of TSCA. Based on test data on analogous respirable, poorly soluble particulates and on other carbon nanotubes (CNTs), EPA believes that the PMN substance may cause health effects. To protect against this risk, the consent order requires use of a NIOSH-approved full-face respirator with N–100 cartridges. Based on physical properties of the PMN substance, EPA believes it may cause health effects via dermal exposure. To protect against this risk, the consent order requires that workers wear gloves and protective clothing impervious to the chemical substance. The consent order also prohibits any predictable or purposeful release of the PMN substance into the waters of the United States. The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Toxicity concern: There is a concern for health effects based on data for poorly soluble particulates and for other CNTs, and for lung irritation based on particle size.

Recommended testing: EPA has determined that the results of a 90–day inhalation toxicity study in rats (OPPTS Harmonized Test Guideline 870.3465 or OECD 413 test guideline) with a post exposure observation period of up to 3 months, including BALF analysis; and certain material characterization data would help characterize possible effects of the PMN substance. In the consent order, the PMN submitter has agreed not to exceed a specified production volume or production time limit (whichever comes first) without performing these tests.

CFR citation: 40 CFR 721.10156.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During review of the PMNs submitted for these two chemical substances, EPA concluded that regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the human health effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) consent orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. The proposed SNUR provisions for these chemical substances are consistent with the provisions of the TSCA section 5(e) consent orders including the recent modifications to the consent orders. These proposed SNURs are issued pursuant to § 721.160.

B. Objectives

EPA is proposing these SNURs for specific chemical substances that have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this proposed rule:

- EPA would receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.
- EPA would have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.
- EPA would be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.
- EPA would ensure that all manufacturers, importers, and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

Issuance of a SNUR for a chemical substance does not signify that the

chemical substance is listed on the TSCA Inventory. Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/newchems/pubs/invntory.htm*.

VI. Applicability of Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant ''new'' use, EPA must determine that the use is not ongoing. The chemical substances subject to this proposed rule have undergone premanufacture review and are subject to TSCA section 5(e) consent orders. The PMN submitters are prohibited by these TSCA section 5(e) consent orders from undertaking activities which EPA is proposing as significant new uses. EPA solicits comments on whether any of the uses proposed as significant new uses are ongoing.

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. If uses begun after publication of the proposed rule were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements because a person could defeat the SNUR by initiating the significant new use before the rule became final, and then argue that the use was ongoing before the effective date of the final rule. Thus, persons who begin commercial manufacture, import, or processing activities with the chemical substances that would be regulated as a ''significant new use'' through this proposed rule, must cease any such activity before the effective date of the rule if and when finalized. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this proposed SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered exempt from the requirements of the SNUR.

VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN, except where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)). Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In cases where EPA issued a TSCA section 5(e) consent order that requires or recommends certain testing, Unit IV. lists those tests. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Many OPPTS Harmonized Test Guidelines are now available on the Internet. Please go to *http://www.epa.gov/oppts* and select ''Test Methods and Guidelines'' on the left-side navigation menu. The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org*.

In the TSCA section 5(e) consent orders for the two chemical substances regulated under this proposed rule, EPA has established production volume limits in view of the lack of data on the potential health risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. Under recent TSCA section 5(e) consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier TSCA section 5(e) consent orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the TSCA section 5(e) consent orders are included in Unit IV. The SNURs contain the same production volume limits as the TSCA section 5(e) consent orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture, import, or processing.

The recommended tests may not be the only means of addressing the potential risks of the chemical substance. However, SNUNs submitted for significant new uses without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VIII. Procedural Determinations

By this action, EPA is proposing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This rule cross-references § 721.1725(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the chemical substance subject to a SNUR is CBI. This procedure is cross-referenced in each SNUR that includes specific significant new uses that are CBI.

Under these procedures a manufacturer, importer, or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer, importer, or processor must show that it has a *bona fide* intent to manufacture, import, or process the chemical substance and must identify the specific use for which it intends to manufacture, import, or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture, import, or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers, importers, and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission

would not be a significant new use, i.e., the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture, import, or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

IX. SNUN Submissions

As stated in Unit II.C., according to § 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be mailed to the Environmental Protection Agency, OPPT Document Control Office (7407M), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Information must be submitted in the form and manner set forth in EPA Form No. 7710–25. This form is available from the Environmental Assistance Division (7408M), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001 (see § § 721.25 and 720.40). Forms and information are also available electronically at *http://www.epa.gov/opptintr/newchems/pubs/pmnforms.htm*.

X. Economic Analysis

EPA evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substances during the development of the direct final rule. The Agency's complete economic analysis is available in the public docket.

XI. Statutory and Executive Order Reviews

A. Executive Order 12866

This proposed rule would establish SNURs for several new chemical substances that were the subject of PMNs and TSCA section 5(e) consent orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. 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 in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA would amend the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this proposed rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action would not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of these SNURs would not have a significant adverse economic impact on a substantial number of small entities. The rationale supporting this conclusion is discussed in this unit. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of over 1,000 SNURs, the Agency receives on average only 5 notices per year. Of those SNUNs submitted from 2006–2008, only one appears to be from a small entity. In addition, the estimated reporting cost for submission of a SNUN (see Unit IX.) is minimal regardless of the size of the firm. Therefore, the potential economic impacts of complying with these SNURs are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government would be impacted by this proposed rule. As such, EPA has determined that this proposed rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

E. Executive Order 13132

This action would 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).

F. Executive Order 13175

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly or uniquely affect the communities of Indian Tribal governments, nor would it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this proposed rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This proposed 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), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, since this action does not involve any technical standards, 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), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 26, 2009.

Wendy C. Hamnett,

Acting Director, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.10155 to subpart E to read as follows:

§ 721.10155 Multi-walled carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as multi-walled carbon nanotubes (PMN P–08–177) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), (a)(5) (National Institute for Occupational Safety and Health (NIOSH)-approved air-purifying, tight-fitting full-face respirator equipped with N100 filters), (a)(6)(i), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (k) and (q).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

3. By adding new § 721.10156 to subpart E to read as follows:

§ 721.10156 Single-walled carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as single-walled carbon nanotubes (PMN P–08–328) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), (a)(5) (National Institute for Occupational Safety and Health (NIOSH)-approved air-purifying, tight-fitting full-face respirator equipped with N100 filters), (a)(6)(i), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (k) and (q).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

[FR Doc. E9–26818 Filed 11–5–09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 0812291651–91321–02]

RIN 0648–XM05

Endangered and Threatened Wildlife and Plants; Endangered Species Act Listing Determination for Atlantic Wolffish

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

ACTION: Notification of a listing determination and availability of a status review document.

SUMMARY: After we, NMFS, received a petition to list Atlantic wolffish

(*Anarhichas lupus*) as threatened or endangered under the Endangered Species Act (ESA), we established a biological review team (BRT) to conduct a status review. We (NMFS) have reviewed the BRT's status review report and other available scientific and commercial information and have determined that listing Atlantic wolffish as threatened or endangered under the ESA is not warranted at this time. We also announce the availability of the status review document.

DATES: This finding is effective on November 6, 2009.

ADDRESSES: The Atlantic wolffish status review report and list of references are available by submitting a request to the Assistant Regional Administrator, Protected Resources Division, Northeast Region, NMFS, 55 Great Republic Way, Gloucester, MA 01930. The status review report and other reference materials regarding this determination can also be obtained via the Internet at: *http://www.nero.noaa.gov/prot_res/CandidateSpeciesProgram/eas.htm*.

FOR FURTHER INFORMATION CONTACT: Kim Damon-Randall, NMFS Northeast Regional Office, (978) 282–8485; or Marta Nammack, NMFS, Office of Protected Resources (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2008, we received a petition from the Conservation Law Foundation, Dr. Erica Fuller, and Dr. Les Watling (hereafter, the Petitioners), requesting that we list the U.S. distinct population segment (DPS) of Atlantic wolffish, consisting of one or more subpopulations in U.S. waters, or the entire species of Atlantic wolffish as endangered or threatened under the ESA and designate critical habitat for the species. The petition contains information about the species, including the taxonomy; historic and current distribution; physical and biological characteristics of its habitat and ecosystem relationships; population status and trends; and factors contributing to the species' decline. The Petitioners also included information regarding possible DPSs of Atlantic wolffish. The petition addresses the five factors identified in section 4(a)(1) of the ESA as they pertain to Atlantic wolffish: (A) current or threatened habitat destruction or modification or curtailment of habitat or range; (B) overutilization for commercial purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; and (E) other natural or man-made factors affecting the species' continued existence.

On January 5, 2009, we determined that the petitioned action may be warranted and published a positive 90–day finding in the **Federal Register** (74 FR 249). Following our positive 90–day finding, we convened an Atlantic wolffish BRT to review the status of the species.

The BRT completed the status review in July 2009. As part of the full evaluation of the status of Atlantic wolffish under the ESA, we requested that four individuals review the status review report and provide written summaries of their comments to ensure that the content of the document is factually supported and based on the best available data and the methodology and conclusions are scientifically valid. Prior to finalizing the status review report, the BRT considered and incorporated, as appropriate, the peer reviewers' comments. The final status review report was submitted to NMFS on September 30, 2009.

The Northeast Fisheries Science Center (NEFSC) has also submitted to NMFS a quantitative analysis using the Statistical Catch At Length (SCALE) model, which is a modeling program presently implemented by NMFS. In this model, projections of stock status are generally used to determine acceptable biological catch limits that would either maintain status quo conditions for stocks or increase the probability of rebuilding depleted stocks. This model can also be used to address the concern of a stock falling below some threshold that might threaten persistence. In particular, the stochastic projection model can be used to evaluate changes in population trajectories based on alterations in rates of future fishing mortality and life-history parameters.

In collaboration with the Northeast Regional Office of NMFS, the NEFSC convened a meeting in Woods Hole to address the merits of applying such fisheries assessment models to address extinction risk in Atlantic wolffish. Two outside experts, Drs. Jean-Jacques Maguire and Grant Thompson, were invited to participate in the review and provide independent comments. The Workshop participants at this meeting met to provide additional information for our listing determination.

Range

Atlantic wolffish can be found in northern latitudes of the eastern and western North Atlantic Ocean. In the Eastern North Atlantic, they range from eastern Greenland to Iceland, along northern Europe and the Scandinavian coast extending north and west to the Barents and White Seas and to the south in northern France and Ireland. In the Western North Atlantic, they are found from Davis Straits off western Greenland, along Newfoundland and Labrador coasts to Grand Bank and southward through the Canadian Maritime Provinces to Cape Cod, United States. Atlantic wolffish are found infrequently from southern New England to New Jersey (Collete and Klein-MacPhee, 2002). NEFSC's Bottom Trawl surveys have only encountered one fish southwest of Martha's Vineyard, Massachusetts, since 1963.

Habitat

Temperature ranges where Atlantic wolffish occur deviate slightly with geographic region. Historically, in the Gulf of Maine (GOM), wolffish have been associated with temperatures ranging from 0° - 11.1° C (Collete and Klein-MacPhee, 2002). Bottom temperatures collected from NEFSC bottom trawl surveys where wolffish were encountered ranged from 0.0 to 10.0° C in spring and from 0 to 14.3° C in fall. In Newfoundland, water temperatures where wolffish were found ranged from -1.9 to 11.0° C, in Norway from -1.3 to 11.0° C, and in Iceland and Northern Europe from -1.3 to 10.2° C (Collete and Klein-MacPhee, 2002; Falk-Petersen and Hansen, 1991; Jonsson, 1982). Laboratory studies indicate wolffish can survive a wide span of temperatures ranging from -1.7 to 17.0° C and that feeding is negatively correlated with the higher temperature extremes (Hagen and Mann, 1992; King *et al.*, 1989).

In the spring, adult wolffish in U.S. waters are primarily associated with depths between 27 and 173 m, while juveniles prefer a more narrow range of depths (70–184 m) in the spring (Nelson and Ross, 1992). Depth preferences are similar for juveniles and adults in the fall. According to summer trawl survey data, Atlantic wolffish (juveniles and adults) on the Scotian Shelf prefer a depth range of 73–126 m (Scott, 1982a). No data were available from the Gulf of St. Lawrence.

In the spring, wolffish in U.S. waters are primarily associated with bottom temperatures below 5.3° C (adults) and 6° C (juveniles) (Keith and Nitschke, 2008). Temperature preferences are similar for adult (<9.7° C) and juveniles (<9.6° C) in the fall (Keith and Nitschke, 2008). Summer trawl survey data from the Scotian Shelf indicate that Atlantic wolffish prefer a bottom temperature range of 3 - 6° C (Scott, 1982a). No data were available from the Gulf of St. Lawrence.

There is very little information available on salinity as it relates to

wolffish presence. Kulka *et al.* (2004) summarized observations made by divers at various shallow-water locations on the east and west coasts of Newfoundland and reported that wolffish were not observed in major estuarine haloclines, but in deeper environments, indicating that the species may not be tolerant of low salinity.

Substrate associations for adult Atlantic wolffish are well documented during the time of year that they use nearshore rocky habitats for reproduction. Based on the depth distribution information from the NEFSC trawl surveys in the GOM region, the adults move into slightly shallower water in the spring (mean depth 82.5 m versus 105 m in the fall) where they have been observed with and without egg masses inhabiting shelters in deep boulder reefs in depths between 50 and 100 meters. Similar observations of adults inhabiting shelters in shallow (<30 m), rocky habitats prior to and after spawning have been made in the Gulf of St. Lawrence and Newfoundland. Few, if any, adult wolffish have been observed in other habitats in any of these surveys. There is clearly a strong preference for nearshore, rocky spawning habitat and for bottom temperatures <10° C. Rocky, nearshore habitats are plentiful in the GOM and appear to provide critical spawning habitat for Atlantic wolffish.

However, juvenile wolffish are found in a much wider variety of bottom habitats than adults. Also, once the adults have finished guarding the eggs and resume feeding, they move into deeper water where researchers have collected them over a variety of bottom types (including sand and gravel, but not mud). In fact, the collection of ''aggregations'' of Atlantic wolffish eggs in bottom trawls fishing in 130 meters of water on LeHave Bank (Scotian Shelf) in March 1966 (Powles, 1967; Templeman, 1986) indicates that spawning is not restricted to nearshore habitats, and may not be restricted to rocky habitats. Attempts to relate catches of Atlantic wolffish in bottom trawl surveys to substrate types are of limited value and somewhat contradictory (bottom substrates are characterized using a variety of sampling techniques, ranging from acoustic surveys of large areas of the seafloor to point samples of finer sediments for grain size analysis. They are also classified using different categorization schemes and descriptive terminology. To add to the problem, there are a number of ways to spatially interpolate discrete sampling data to create substrate ''polygons'' in a GIS format, all of which are subject to problems that complicate the interpretation of the resulting ''maps.''), but they do indicate that the juveniles do not have strong habitat preferences, and that adults are more widely distributed over a variety of bottom types once they leave their nearshore, rocky spawning habitats.

Consideration as a Species Under the ESA

According to Section 3 of the ESA, the term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature.'' Congress included the term ''distinct population segment'' in the 1978 amendments to the ESA. On February 7, 1996, the U.S. Fish and Wildlife Service and NMFS adopted a policy to clarify their interpretation of the phrase ''distinct population segment'' for the purpose of listing, delisting, and reclassifying species (61 FR 4721). The policy described two criteria a population segment must meet in order to be considered a DPS (61 FR 4721):

1. It must be discrete in relation to the remainder of the species to which it belongs; and

2. It must be significant to the species to which it belongs.

Determining if a population is discrete requires either one of the following conditions:

1. It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation; or

2. It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA.

If a population is deemed discrete, then the population segment is evaluated in terms of significance, which may include, but is not limited to, the following:

1. Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon.

2. Evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon.

3. Evidence that the DPS represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; or

4. Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

If a population segment is deemed discrete and significant, then it qualifies as a DPS.

Discreteness

As described earlier in this document, Atlantic wolffish occur over a large range in the North Atlantic Ocean. With such a large range, Atlantic wolffish have been reported to spawn at different times of the year in different geographical regions. This may have contributed to the segmentation of Atlantic wolffish by contributing to regional reproductive isolation. Researchers have also speculated that reproductive isolation has played a role in the genetic structuring of other species such as capelin (Dodson *et al.*, 2007) and bluemouth (Aboim *et al.*, 2005), another demersal fish. Investigators have suggested that varying ocean depths and the large geographic distances spanned by ocean basins may represent hydrographic barriers to effective migrations of demersal species (McCusker *et al.*, unpublished; Knutsen *et al.*, unpublished; Shaw *et al.*, 1999). Physical and behavioral barriers to dispersal, along with the heterogeneity of spawning habitats and/or gyral retention of larvae, may inhibit gene flow and drive population differentiation at both large and local geographical scales (Imsland *et al.*, 2008; O'Leary *et al.*, 2007).

In the GOM, there is an indication of a seasonal migration. Adult wolffish travel from shallow to deep waters in autumn and then from deep to shallow waters in spring (Nelson and Ross, 1992). These migrations have been related to reproduction and are size dependent (Nelson and Ross, 1992). Tagging data have shown that wolffish migrations are usually short with occasionally longer ones (Jonsson, 1982; Templeman, 1984; Riget and Messtorff, 1988). Researchers reported the majority of recaptured wolffish migrated only 15 nautical miles (nm)(28 km); however, a small percentage of tagged fish migrated distances in excess of 100 nm (185 km).

It has been suggested that currents in the Atlantic Ocean form retention zones for different life stages of many fish species that may lead to population discontinuity (Rosques *et al.*, 2002; Sinclair and Ilse, 1985). Researchers suggest that the northwest and northeast-central Atlantic groups of capelin have been isolated by the Labrador Current, which has influenced the phylogeographic pattern of the

species (Dodson *et al.*, 2007). The North Atlantic current and the European continental shelf could also function as barriers for eastern populations in several marine species (Roques *et al.*, 2002). Modeling of blue whiting larvae revealed that the retention of tracers was influenced by currents along the shelf edge in Europe and in the Rockall Trough (Bartsch and Coombs, 1997).

Isolation and recolonization driven by glacial events have also been suggested to influence genetic population differentiation (Nesbo *et al.*, 2000; O'Leary *et al.*, 2007). Dodson *et al.* (2007) reported that the four genetic groups observed within capelin populations evolved through several glacial and climatic oscillations. Glaciation may also have strongly influenced other marine species in the North Atlantic/Mediterranean (Abiom *et al.*, 2005). These events may have affected food chains in deep sea environments, preventing pelagic larval dispersal (Aboim *et al.*, 2005) and, hence, inhibiting gene flow.

Molecular tools have been used to differentiate species of wolffish (Johnstone *et al.* 2007; McCusker *et al.*, 2008) and assess the population genetic structure of specific species of wolffish throughout their range (Imsland *et al.*, 2008). McCusker and colleagues (unpublished) have recently researched genetic variation in Atlantic wolffish, Anarhichas lupus, across the North Atlantic using 14 microsatellite loci. Their results indicate that there are four genetically distinct populations of Atlantic wolffish. These four populations are referred to as: (1) North Atlantic, (2) Eastern Grand Banks, (3) Rockall Bank, and (4) Western Atlantic Canada. Comparable phylogeographical regions have been observed for a related species, *Anarhicas minor*, the spotted wolffish. Population genetic structure of this species revealed similar patterns between the western Atlantic, middle and eastern Atlantic, and Barents Sea populations (Imsland *et al.*, 2008). Phylogeographical partitioning in these regions was also observed for Atlantic mackerel (*Scomber scombrus*) (Nesbo *et al.*, 2000), deepwater red fish (*Sebastes mentella*), and the blackbelly rosefish (*Helicolenus dactylopterus*) (Aboim, 2005).

As noted, the genetic information that is available for wolffish from Canada and Europe indicates that there are four Atlantic wolffish populations which are significantly different from one another. Fish from Western Atlantic Canada are genetically distinct from all other areas within Canada and in Europe (McCusker, unpublished data). Atlantic wolffish from Western Atlantic Canada are geographically the closest population to Atlantic wolffish residing in the United States. While genetic information is not available for U.S. fish, because of the geographic proximity, lack of barriers, the ability to migrate hundreds of kilometers, and spatial overlap of U.S. fish with the Western Atlantic Canada population, we conclude it is probable that they are closely related. Although it is possible that U.S. samples are genetically distinct from western Atlantic Canadian samples, we have no reason to believe they are. If the two populations are different, it would likely be due to genetic drift related to small population size, rather than to historically significant isolation of this region from the rest of the range. Thus, based on the available genetic data and the other information presented above, the BRT concluded that the Atlantic wolffish from Western Atlantic Canada/United States are discrete from other Atlantic wolffish populations. We concur with the BRT's conclusion.

Significance

If a population is deemed discrete, then the population segment is evaluated in terms of significance. As noted earlier, McCusker and colleagues have assessed the genetic composition of Atlantic wolffish samples from Canada using 14 microsatellite loci and documented that there are four genetically distinct populations. Although some significant differences occurred within groups, the four main groups they identified were characterized by consistent significant differences from each of the other main groups ($p<0.003$). An analysis of molecular variance (AMOVA) supported the four main group configuration (compared to two or three main groups), indicating that this configuration had the highest among-group variation and lowest within-group variation (McCusker *et al.*, unpublished data).

The mitochondrial DNA (mtDNA) was also assessed to detect any genetic variation across the range of Atlantic wolffish in order to determine phylogeographic structure. Phylogeographic analyses supported the single refuge hypothesis during the last glaciation, with the most likely location of the refuge being in the eastern Atlantic. Therefore, post-glacial colonization of the range of wolffish most likely occurred from the eastern Atlantic to the western Atlantic. This resulted in the significant genetic differences observed between Atlantic wolffish populations.

Western Atlantic Canadian samples, in particular, were characterized by low diversity, possibly suggesting relatively recent (<20,000 years ago) colonization of this part of the range (McCusker *et al.*, unpublished data). Other studies performed on mtDNA have implicated Pleistocene glaciations as a major contributing factor to phylogeographic patterns within and among closely related species (Avise *et al.*,1998; Dodson *et al.*, 2007).

The North Atlantic, Eastern Grand Banks, and Rockall Bank (White Sea) populations constitute both the northernmost and easternmost reproducing populations of Atlantic wolffish, while fish from the Western Atlantic Canada/United States represent the southernmost reproducing population. Genetic research detected greater genetic diversity in the North Atlantic and Eastern Atlantic populations when heterozygosity and allelic richness were plotted and compared to Western Atlantic Canada samples. Loss of any one of these four populations would result in significant gaps in the range of this taxon and decreased genetic diversity; thus, all four genetically distinct populations are significant to the taxon as a whole.

Based on the available information, the BRT concluded that Atlantic wolffish observed in Western Atlantic Canada and the United States form one DPS. The DPS consists of the following oceanic areas: (1) Canada's Scotian Shelf; (2) southern Gulf of St. Lawrence; (3) northern Gulf of St. Lawrence; (4) southern Newfoundland; and (5) United States. We agree with the BRT's DPS delineation and refer to this DPS as the Western Atlantic Canada/U.S. DPS of Atlantic wolffish. The available information also indicates that there are three additional DPSs spanning the remainder of the range of Atlantic wolffish outside of the United States and Western Atlantic Canada. Information on these remaining DPSs indicates that these populations are either stable or increasing. The information presented in the remainder of this finding, therefore, pertains to the status of the Western Atlantic Canada/U.S. DPS.

Abundance and Status of the Western Atlantic Canada/U.S. DPS

The status of wolffish in the Gulf of Saint Lawrence and Scotian Shelf was summarized in a Canadian Department of Fisheries and Oceans (DFO) science stock status report (DFO, 2000). According to the report, which summarizes data from summer (Northern Gulf of St. Lawrence, 1990–2000, and Scotian Shelf, 1970–2000) and fall (Southern Gulf of St. Lawrence, 1970–2000) research surveys, wolffish

are distributed throughout the Scotian Shelf, with numbers decreasing in the late 1990s in the mid-shelf and increasing in the northern shelf. Mean number per tow was 0.5 in 1970, peaked in 1989 to 1.5, and remained above the 1970–2000 average throughout the Scotian Shelf since then; mean weight per tow, however, was near record lows from 1990 to 2000 (ranging from 0.4 to 1.1 kg). Atlantic wolffish were distributed throughout the Northern Gulf of Saint Lawrence, with the primary concentration off the west coast of Newfoundland. Mean number per tow increased from 0.2 in 1990 to 0.6 in 2000 in this area, and weight per tow increased in this area from 0.10 kg in 1990 to 0.18 kg in 2000. In the Southern Gulf of Saint Lawrence, wolffish were distributed along the slope of the Laurentian Channel. Mean number and mean weight per tow in this area increased from 0.01 and 0.15 kg, respectively, to above average after 1987 (as high as 0.20 and 0.26 kg per tow, respectively), but declined to low levels in the 1990s (0.02 and 0.03 kg, respectively, in 1999).

Length frequency data (1970 2000) from the Scotian Shelf indicate that the increased abundance since 1986 was based on small fish, with the mature fish (≥55cm) survey abundance index near record lows. The number of immature fish in the Southern Gulf of St. Lawrence also increased, but mature fish were also more prevalent, contributing to the increased abundance after 1987; however, the number of mature fish declined to low levels in the late 1990s. Mature fish have seldom been caught in the Northern Gulf of St. Lawrence. Resource survey trends in parts of the Canadian portion of the DPS show improved recruitment at low biomass levels and stable or even increasing trends of abundance.

The area occupied index (percent occurrence of wolffish in survey tows) on the Scotian Shelf declined during the 1980s and remained low during the 1990s. In the Southern Gulf of Saint Lawrence the index increased in the early 1980s and remained at slightly higher values since then. An area occupied index was not produced for the Northern Gulf of Saint Lawrence.

In the United States, Atlantic wolffish are at relatively low biomass, with various model estimates ranging between 475 and 998 mt of spawning stock biomass in 2007, according to findings presented at the NEFSC Data Poor Assessment Working Group meeting. Current abundance levels (estimated by SCALE model for 2007) are also low, ranging from 89,000 384,000 adult fish for SCALE model runs 1 and 2. The SCALE model was applied to data from 1968–2007. The SCALE model estimates for 1970 abundance using the same assumptions range from 557,000 to 1,222,000, with the estimate peaking in 1982 (379,152 to 1,909,600) before declining to 2007 levels. While estimated population numbers from U.S. waters are low, they are not believed to have reached levels where they are at risk of extinction now or in the foreseeable future.

SCALE Model Projections

Stock assessment models focus on estimation, and often use a wider range and longer time series of data than most standard models used in biological conservation. This distinction can be attributed to the underlying problem species under consideration for threatened or endangered status often have limited data. Therefore, we asked the NEFSC's Northeast Data Poor Stocks Working Group to assess the status of Atlantic wolffish, and the Working Group used the SCALE model mentioned above to do this. The SCALE model was used to assess only the U.S. portion of the Western Atlantic Canada/U.S. DPS because of: (1) inconsistencies between U.S. and Canadian fishery independent surveys; (2) differences in how commercial catch is reported in the two countries; and (3) the fact that, in Canada, Atlantic wolffish landings are grouped with other species of wolffishes, rather than separated by species. Despite the limited amount of data available, wolffish have been monitored by NEFSC bottom surveys for over 40 years, and a wide range of size frequency data is available from commercial landings and discard monitoring. While it is not possible to develop age-based measures of abundance, it is possible to use the existing length-based data in the SCALE model to develop projections of population trends in the future.

Workshop participants agreed that quantitative stock projections were an appropriate basis for evaluating the risk of extinction. The Working Group could not agree on generating a unique measure of extinction risk for the U.S. portion of the Western Atlantic Canada/U.S. DPS of Atlantic wolffish, but agreed to use previous values associated with relevant literature (e.g., Musick *et al.*, 2000; the Atlantic White Marlin Status Review, 2007). The literature suggests a carrying capacity (K) threshold value of 0.05 be associated with a species considered vulnerable or at possible risk of becoming threatened or endangered (Musick *et al.*, 2000). Workshop participants assumed that a population size below 0.05K, where K is 2 times biomass at maximum sustainable yield (BMSY), was a useful proxy for the extinction threshold for the U.S. portion of the Western Atlantic/United States DPS of Atlantic wolffish. Different values of fishing mortality (F) were also examined: a status quo F of 0.158, a near three-fold increase in F to 0.5, and an order of magnitude increase in F to 1.16. Results suggest that a value of F of 1.16 would cause the population to fall below 0.05K. However, the near order of magnitude increase in F above the current best estimate seems highly unlikely. Maintaining F at its recent level and progressively reducing average recruitment revealed that recruitment would have to drop below 1/5 of its current level to induce the population to decline to the assumed extinction threshold value of 0.05K. Hence, Workshop participants concluded that the risk of the population falling below 0.05K was very low. They further commented that the range of projection scenarios evaluated was sufficient to bound the risk. Finally, they noted that none of the scenarios considered the effects of habitat loss or possible unforeseen catastrophic events, but acknowledged that there is no explicit way of assessing this other than through some hypothesis about changes in productivity. Sufficient data were not available to perform a productivity analysis.

Significant Portion of its Range and Foreseeable Future

The ESA defines an ''endangered species'' as ''any species which is in danger of extinction throughout all or a significant portion of its range,'' while a ''threatened species'' is defined as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The phrase ''throughout all or a significant portion of its range'' is neither defined nor explained in the ESA, and a final policy on how to interpret this language has not been developed by NMFS.

According to the NEFSC, Massachusetts, Maine/New Hampshire, and Cooperative Industry Based surveys, the general distribution of Atlantic wolffish in the United States is limited to the GOM, Georges Bank (GB), and the Great South Channel (GSC). Wolffish are scattered throughout these regions, but within the range of the Western Atlantic Canada/U.S. DPS, major concentrations appear in Jeffreys Ledge, Cashes Ledge, Stellwagen Bank, and Platts Bank. In western Canadian waters associated with the DPS, Atlantic wolffish are distributed from southern Newfoundland to Nova Scotia. Major

concentrations of Atlantic wolffish have been observed in the Bay of Fundy through the Scotian Shelf; the Southern Gulf of St. Lawrence; the Northern Gulf of St. Lawrence; and west and south coasts of Newfoundland.

We concur with the BRT's assessment that major concentrations of wolffish reside within the U.S. portion of the GOM and the western Atlantic waters of Canada during certain times of the year, but these concentrations do not represent significant portions of the range of the Western Atlantic Canada/U.S. DPS of Atlantic wolffish. These aggregations are in response to the habitat specificity associated with the species' spawning behavior. After this brief reproductive assemblage, wolffish once again become habitat generalists in order to maintain their solitary lifestyle. With the drifting pelagic larval stage of wolffish and the ability of adults to migrate, Atlantic wolffish have been observed throughout the range of Western Atlantic Canada/U.S. DPS; thus, the entire geographic range of the DPS is important, and threats assessed in any one spawning area of the entire range do not reflect the threats that the DPS faces throughout its range.

The BRT considered various methodologies for defining the foreseeable future for Atlantic wolffish. It is appropriate to interpret ''foreseeable future'' in the statutory context as the timeframe over which identified threats are likely to impact the biological status of the species. The appropriate period of time corresponding to the foreseeable future depends on the particular kinds of threats, the life history characteristics, and the specific habitat requirements for the species under consideration. The aspects of the Atlantic wolffish life history that make the species vulnerable are slow growth rate, relatively late age of maturity, low fecundity, and the fact that the species is relatively long lived (maximum age 22 years). The BRT considered the fact that some threats are localized events and/or long term. This would include such threats as localized habitat degradation, incidental catch, overutilization, contamination, direct impacts on boulder reef habitats, and the possible rise in surface temperature and its potential effect on larval survival.

The BRT also considered the information that is available regarding the causes of the significant decline of wolffish that occurred during an approximately 20–year time period. The best scientific and commercial data available indicate that Atlantic wolffish have a mean generation time of 5 to 6 years. As further support for the 20–year timeframe for the foreseeable future, the BRT also used the 3–generation forecast period used by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and International Union for the Conservation of Nature (IUCN). After considering all relevant threats, life history characteristics, and population declines, the BRT concluded that the foreseeable future for the species is 20 years. We concur with this time period for the foreseeable future.

Qualitative Threats Assessment

As discussed in the section above, there are several threats to Atlantic wolffish that the BRT considered. Qualitative threats assessments are often performed to help evaluate the significance of the threats to the species and their impact on the persistence of the species. There are no standard methods or protocols employed to estimate the risk to the long-term persistence of species. Consequently, the BRT adopted a qualitative ranking system that is adapted from similar types of qualitative analyses for ESA listing used on the West Coast (e.g., Pacific salmon, Pacific herring, Pacific hake, rockfish) and for other species assessed on the East Coast (e.g., Atlantic and shortnose sturgeon).

In the qualitative threats assessment, the BRT identified the following five demographic variables which individually and collectively are considered to be strong indicators of potential risk to the long-term persistence of the species: abundance, population age/size structure, population growth rate/productivity, spatial structure/connectivity, and genetic diversity. The BRT discussed what is known about each of these criteria and also any uncertainties associated with each criterion. Following this discussion, the BRT ranked each criterion for its effect on the long-term persistence of wolffish. The following rankings and the associated definitions were used: very low risk = highly unlikely that this criterion alone or in combination with other criteria contributes significantly to risk to the long-term persistence of the species; low risk = unlikely that this criterion contributes significantly to risk to the long-term persistence of the species by itself, but some concern that it may in combination with other factors; moderate risk = this criterion contributes significantly to risk to the long-term persistence of the species, but does not in itself constitute a risk to the persistence of the species in the near future; high risk = this criterion contributes significantly to risk to the long-term persistence of the species and is likely to contribute to the short-term risk to the persistence of the species in the foreseeable future; very high risk = this criterion by itself indicates a danger to the persistence of the species in the near future.

The BRT ranked all of the criteria low, meaning that it is unlikely that the particular criterion contributes significantly to risk of the long-term persistence of the species by itself, but there is some concern that it may in combination with other factors. The following is a summary of the discussion regarding the available information for each criterion as well as any associated uncertainties and the final ranking.

Abundance

For the abundance criterion, the BRT noted that commercial fishing effort is not likely to increase significantly in the foreseeable future and that, if Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP) is implemented as proposed (e.g., includes the ban on possession of wolffish), commercial fishing will have less of an effect on abundance in the near future. The NEFMC will determine in December 2009 if Amendment 16's ban on possession of wolffish will be implemented and become effective in May 2010.

There are indications that wolffish may be increasing in some areas in Canada, which is a positive sign in relation to abundance of the DPS. Also, the data from Canada indicate an increase in the number of small wolffish, which suggests that the DPS is capable of producing recruits even at low biomass. Consequently, the BRT determined it is unlikely that the long-term persistence of the species is at risk due to abundance.

Population Size/Age Structure

The BRT discussed population size/age structure for the DPS. They noted that there has been a period of low recruitment for the past 2 to 3 years, and it is not known if this will persist, but the population has experienced similar trends in the past with both high and low adult biomass estimates. As stated above, the SCALE model scenarios indicate that recruitment would have to drop below 1/5 of its current level to induce the population to decline to the assumed extinction threshold. The NEFSC trawl survey data indicate that the size structure of the DPS has been consistent over time and that large fish are still being caught in the survey. The risk from changes to this size structure was determined by the BRT to be low.

The BRT concluded that it is unlikely that the long-term persistence of the wolffish is at risk due to changes in population size/age structure.

Growth Rate/Productivity

During the discussion regarding the population growth rate/productivity criterion, the BRT noted that a large decline in Atlantic wolffish occurred from the mid 1980s through mid 1990s (see Abundance and Status, above). However, since then, the population biomass appears to have stabilized at the lowest levels of the time series. Atlantic wolffish are a K selected species (e.g., a species which invests more in producing fewer offspring which have a relatively high probability of surviving to adulthood). Consequently, while they do not produce a large number of offspring, the survival of the early life stages may be higher than other species. Additionally, there is evidence from Canada that good year class production can be achieved even at low biomass, as mentioned above. The BRT concluded that it is unlikely that the long-term persistence of the wolffish is at risk due to changes in population growth rate/productivity within the DPS.

Spatial Structure/Connectivity

The BRT determined that populations do not appear to be spatially segregated, and there are no apparent barriers between wolffish within the DPS to prevent mixing. The larval pelagic stage most likely increases potential for connectivity within the DPS. Also, while it appears that most wolffish do not migrate long distances, limited tagging data are available, indicating that they are capable of long distance migrations. Thus, the risk from impacts to spatial structure/connectivity to the DPS is low. The BRT concluded that it is unlikely that the long-term persistence of the wolffish is at risk due to changes to spatial structure/connectivity.

Genetic Diversity

Atlantic wolffish is a widely dispersed species. In the areas throughout the range of the taxon from which genetic samples have been taken and analyzed, there are four genetically discrete populations. There were no significant genetic differences observed between areas within Western Atlantic Canada, leading to the conclusion that they are capable of mixing and that there are no barriers within this range which may lead to significant genetic differentiation. Genetic information is lacking for fish from the United States; however, given there are no significant barriers to mixing between the U.S. and the Western Atlantic Canada populations and that fish have been observed along the border between Canada and the United States, it is probable they are genetically similar. Given the broad range of the DPS and the lack of barriers to mixing within it, the risk from decreased genetic diversity is low.

The BRT has considered abundance, population age/size structure, population growth rate/productivity, spatial structure/connectivity, and genetic diversity and has concluded that potential changes in the five demographic variables are unlikely to pose a risk to the long-term persistence of the Western Atlantic Canada/U.S. DPS of wolffish. We concur with the BRT that each of the demographic criteria described above represent low risk to the DPS now and in the foreseeable future.

Summary of the Factors Affecting the Western Atlantic Canada/U.S. DPS

As described above, section 4(a)(1) of the ESA and NMFS implementing regulations (50 CFR 424) state that we must determine whether a species is endangered or threatened because of any one or a combination of the following factors: (A) current or threatened habitat destruction or modification or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; and (E) other natural or man-made factors affecting the species' continued existence. This section briefly summarizes the findings regarding these factors. More details can be found in the status review report.

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Coastal boulder reef spawning habitats used by Atlantic wolffish in western Canada and the GOM are highly vulnerable to physical damage that would result from the use of mobile, bottom-tending fishing gear (bottom trawls and scallop dredges). However, these gears are not normally used in such environments because they are severely damaged or lost if they come in contact with piled boulders. Other sandy and hard bottom pebble-cobble habitats used by juvenile and adult wolffish are less vulnerable to modification from fishing, but are exposed to fishing gear effects over a wide expanse of the continental shelf. The general effects of bottom trawls and dredges include reduction in habitat complexity, changes in benthic community composition, and reduced benthic productivity, especially in deeper-water environments that are not disturbed by bottom currents and wave action.

Fishing could reduce the survival of juvenile Atlantic wolffish by reducing the amount of shelter available (to hide from predators), but if this is the case, the effect is most likely localized and is not expected to be a significant risk to the entire DPS. In all cases, the potential adverse impacts of non-fishing human activities on boulder reef spawning habitat in coastal waters would be restricted to localized environments and are not expected to pose a significant risk to the entire DPS. Many of them could be avoided by siting project activities so that they avoid sensitive wolffish spawning habitats. Potential adverse impacts to offshore (depths >100 meters) benthic wolffish habitats from activities such as oil and gas exploration and production, mineral mining, alternative energy development, dredge spoil disposal, and pipeline and cable installation would be localized and therefore, do not pose a significant risk to the entire DPS. The previously mentioned impacts are considered local events because of the broad range of the DPS, the habitat generalist nature of the species, and the ability of all life stages to migrate within the entire range of the DPS. These characteristics would allow for the continued persistence of the species within the range of the DPS in the event of localized impacts.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Because wolffish are widely dispersed across the DPS, they are inevitably captured during recreational and commercial fishing activities. Slow growing species with low fecundity are considered more vulnerable, but Atlantic wolffish also employ valuable life history strategies, such as internal fertilization, large eggs, and nest guarding (Musick, 1999; Keats *et al.*, 1985; Pavlov and Novikov, 1993) to improve productivity and survivability.

Commercial landings from the region south of the Grand Banks are composed primarily of Atlantic wolffish. This region encompasses a large part of the western Atlantic Canada/U.S. DPS, including the Gulf of St. Lawrence, Scotian Shelf, Bay of Fundy, and the Gulf of Maine. The combined landings from these regions were approximately 1,000–1,500 mt in the 1960s, 2,000 mt from 1968–1979, peaking in 1983 at approximately 4,000 mt, dropping steadily in the 1990s to approximately

1,000 mt, and then averaging 625 mt in the early 2000s (Kulka *et al.*, 2007). The incidental catches of wolffish in southern Newfoundland during the 1995–2002 period were approximately 114 mt (Kulka *et al.*, 2007). In the United States, Atlantic wolffish have been taken primarily as incidental catch in the otter trawl fishery. Landings from this fishery increased until peaking in 1983 at 1,100 mt and then declined steadily until 2007, the latest complete year for which data are available, when landings were 63 mt.

Management action in Canada has likely benefited Atlantic wolffish, including effort controls in groundfish fisheries, which have reduced the amount of wolffish landed, and listing under Canada's Species at Risk Act (SARA) as a Species of Special Concern (Kulka *et al.*, 2007). Similarly, U.S. fishery management effort controls and permanent and seasonal area closures within the GOM for other groundfish species have reduced both fishing mortality over time and habitat disturbance in these areas, thereby, providing an indirect benefit to wolffish. Proposed action by the New England Fishery Management Council (NEFMC) under Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP), if implemented, will prohibit possession of Atlantic wolffish by May 2010 and will likely succeed in further reducing fishing mortality and improving resource health. Although Atlantic wolffish discard mortality rates are not specifically known in the GOM, a study from the yellowtail fishery in Canadian waters indicates that discard survival rates may be as high as 100 percent (Grant *et al.*, 2005).

The threats to Atlantic wolffish from recreational fishing impose a low risk to the wolffish DPS. While recreational landings of Atlantic wolffish have occurred and have become more significant in terms of overall catch in the United States, due to reduced commercial landings, they are still relatively low over the range of the entire DPS. Stewardship programs for all three wolffish species in eastern Canada have likely reduced incidental catch mortality and are building support for conservation and recovery of the resource (Pers Comm K. Blanchard, 2009). As discussed above, proposed action by the NEFMC, if implemented, will prohibit possession of Atlantic wolffish by recreational fishers in the United States as well.

Atlantic wolffish are used in various scientific research projects and for educational purposes, but neither of these poses a significant risk to the long-term persistence of this species as the numbers taken for these purposes are low.

C. Predation and Disease

Rountree (2002, in Collette and Klein-MacPhee, 2002) indicated that Atlantic wolffish have been reported in the stomachs of Greenland sharks (Barsuov, 1959), Atlantic cod (Saemundsson, 1949; Basukov, 1959), haddock (Orlova *et al.*, 1989) and gray seals (Pierce *et al.*, 1990). Spotted wolffish are believed to prey upon Atlantic wolffish eggs (Jonsson, 1982, in Collette and Klein-MacPhee, 2002). The NEFSC reports that Atlantic wolffish have been documented in the stomachs of the following species: goosefish, sea raven, longhorn sculpin, winter skate, thorny skate, cod, spiny dogfish, pollock, haddock, and red hake (pers. comm. Jason Link, NEFSC, 2009; Link and Almeida, 2000). Information on predation of Atlantic wolffish from the NEFSC's Fish Habitat Database (FHDBS), an ongoing study that began in 1973, indicates that occurrences of wolffish are limited and the quantity of wolffish in stomach contents is low; thus, predation is not likely to be having a significant effect at the population level (pers. comm. Jason Link, NEFSC, 2009). The BRT was not able to find information that demonstrates a link between gray seal population increases and Atlantic wolffish declines.

Rountree (2002, in Collette and Klein-MacPhee, 2002) reports that a sporozoan parasite has been documented to infect Atlantic wolffish muscle tissue resulting in a condition known as ''hairy catfish.'' This condition may affect the marketability of the fish (Jonsson, 1982, in Collette and Klein-MacPhee, 2002). Rountree (2002, in Collette and Klein-MacPhee, 2002) also reports that other studies have indicated that parasites have been found in Atlantic wolffish, and, most often, these parasites are associated with benthic organisms (Zubchenko, 1980, in Collette and Klein-MacPhee, 2002). One parasitic fungoid microorganism (Mycelites ossifragus) has been found to burrow into wolffish teeth, and this may play a role in the destruction of their teeth (Barsukov, 1959, in Collette and Klein-MacPhee, 2002). The BRT concludes that neither disease nor predation is significantly affecting the long-term persistence of Atlantic wolffish, and we concur with this determination.

D. Inadequacy of Existing Regulatory Mechanisms

Current regulatory mechanisms in some fisheries provide both direct and indirect protections to Atlantic wolffish within the Western Atlantic Canada/U.S. DPS. Other regulatory mechanisms such as the Coastal Zone Management Act, National Environmental Policy Act, Lacey Act, Marine Protection, Research, and Sanctuaries Act of 1972, and various state laws and regulations (discussed in more detail in the status review report) provide some indirect benefits to wolffish; however, those related to the conservation and management of fisheries most likely provide the greatest benefit.

Within Canadian waters, landings are controlled under an annual quota, and fishermen are encouraged to release Atlantic wolffish as part of the live-release program, in place since 2004, for spotted and Northern wolffish.

In the United States, Atlantic wolffish are not currently managed under a FMP. However, several management measures approved by the NEFMC under the NE Multispecies FMP with the intention of protecting habitat or controlling effort in the groundfish fishery have provided some protection to wolffish populations throughout the GOM and GB. Several year-round closure areas have been implemented that prohibit commercial fishing with gear capable of catching groundfish, though recreational fishing is still permitted in these areas. The Western GOM Closed Area, in particular, covers an area of historically high wolffish abundance. Amendment 13 to the NE Multispecies FMP established seven year-round habitat closures in the GOM/GB region that prohibit the use of mobile, bottom-tending fishing gear (NEFMC, 2003). Most of the areas overlapped the existing groundfish closed areas, but some were in new areas. A series of rolling closures were created in the GOM in part to protect spawning groundfish aggregations, but which also provide protection to wolffish during limited times of the year. Within the GOM/GB Inshore Restricted Roller Gear Area, an inshore area of the western GOM that includes areas of historically higher wolffish abundance, no part of a trawl footrope, including discs, rollers, or rockhoppers may exceed 12 inches (0.30 m) in diameter. A separate action has prohibited the harvest of groundfish using brush-sweep, also known as ''street sweeper,'' trawl gear. These two provisions limit the ability of trawl gear to be used in rocky habitat areas considered preferred habitat for wolffish. The minimum mesh size of trawl and gillnet gear used in the GOM and GB has increased a number of times over the years, improving the probable escapement of wolffish. In addition, several rounds of reductions in days at sea have been implemented since 1994

with the intention of reducing effort in the groundfish fishery. A more detailed chronology of effort controls in the NE multispecies fishery is provided in the status review report. All of these measures have provided indirect protection to wolffish populations.

Amendment 16 to the NE Multispecies FMP, as adopted by the NEFMC in June 2009, adds the Atlantic wolffish to the list of species managed under the FMP (NEFMC, 2009). As part of this inclusion, Amendment 16 identifies Essential Fish Habitat (EFH) for the species. The amendment requires establishment of management measures to address the determination that the Atlantic wolffish stock is ''overfished.'' Amendment 16 prohibits the retention of wolffish in both the commercial and recreational fisheries, and requires that any wolffish caught be released alive. If approved by the NMFS, regulations implementing this prohibition would become effective in May 2010.

The lack of regulatory mechanisms in place that directly protect Atlantic wolffish has been and is continuing to have some effect on the species, as evidenced by the decreases in abundance. The BRT concluded that the lack of direct regulatory mechanisms in the United States poses a moderate risk the species. However, if Amendment 16 is implemented successfully, this will be reduced to a low risk. We concur with the BRT's evaluation of existing regulatory mechanisms in the United States. The BRT also evaluated the regulatory mechanisms for Atlantic wolffish in Canada. Because there is a live release program for the two other species of wolffish in Canada, many Atlantic wolffish from the DPS are released alive. Thus, the BRT concluded that the risk from the inadequacy of existing international regulatory mechanisms in Canada is low. While the risk to the DPS from the inadequacy of existing regulatory mechanisms in the United States is currently moderate, this is not driving the DPS toward imminent risk of extinction or endangerment in the foreseeable future because of the wide range occupied by this species and the protections afforded indirectly in both the United States and Canada.

E. Other Natural or Manmade Factors Affecting the Continued Existence of the Species

The BRT examined other natural or manmade factors affecting the continued existence of Atlantic wolffish. Climate change models predict that bottom water temperatures could increase enough during the next 100 years to cause the loss of spawning habitat south of Cape Cod, but not in the GOM where the species is more common. Sea surface waters could warm to the point that the survival of pelagic larvae in November and December is compromised. Atlantic wolffish eggs incubate for 3 to 9 months, allowing them to hatch over several months. This incubation/hatching period can last as late as May or June. Consequently, given that incubation and hatching are spread over a relatively large time period, impacts to sea surface water temperatures during only a portion of the incubation/hatching period are not expected to pose a significant threat to the DPS.

The BRT considered the impacts to Atlantic wolffish from increased competition and/or decreased availability of prey. Evidence supports the existence of a classic predator/prey response between wolffish and green sea urchins within certain portions of its range (Keats *et al.*, 1886; Bernstein *et al.*, 1981; Hagen and Mann, 1992). The sea urchin population declined in the late 1980s because of an intense fishery and a disease outbreak in Nova Scotia. The decline in wolffish abundance in recent years can not be attributed to a reduction in the numbers of sea urchins in the GOM since other prey species are readily available, or to competition from other species of fish. The BRT also considered the impacts to Atlantic wolffish from aquaculture operations. Currently, there is an aquaculture research program in Canada. However, this program does not pose a threat to the DPS since there are no immediate plans to harvest wild brood stock.

Ranking of Stressors/Factors

The BRT identified the anthropogenic stressors and natural limiting factors that are associated with the five ESA factors (discussed in more detail in section 7 of the status review report and in the section above) and evaluated each stressor/factor in terms of its effect to the long-term persistence of the species. The same ranking system and associated definitions discussed above in the demographic risk analysis were used to rank each stressor/factor (e.g., from very low to very high).

Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Two anthropogenic stressors were associated with this factor (i.e., present or threatened destruction, modification, or curtailment of its habitat or range) loss or degradation of habitat from fishing related activities and from other anthropogenic activities (e.g., dredging, aggregate extraction, offshore energy development). The available information indicates that for most of the year, wolffish are habitat generalists occurring over many different bottom types; however, for part of the year, they have an affinity for boulder reefs which provide shelter for them and their young. Consequently, impacts to this habitat could be significant. Most of the commercial fishermen with bottom tending gear avoid boulder reef habitats in order to prevent damage to their gear. It is possible that fishing gear could be developed that is capable of fishing in boulder reef areas, which could lead to impacts to this habitat. However, the likelihood of this is uncertain. Because fishing effort is currently low in the boulder reef areas, it is unlikely that significant destruction to these habitats from fishing gear is occurring. Currently, there are several areas that are closed to bottom tending gear, and these closures may result in some habitat protection for the DPS. It is not known if these areas will continue to be closed in the future. If Amendment 16 to the Multi-species FMP is implemented as proposed, it will include EFH designations that will also provide protection to important habitats for the DPS. It is also possible that other anthropogenic activities such as dredging, aggregate extraction, and offshore energy development could have localized impacts to these boulder reef habitats. Given the wide range of the DPS, if there are impacts to habitat from fishing gear or other anthropogenic activities, they are likely to be localized and not affect a significant portion of the DPS. Thus, the BRT considered the risk to the DPS associated with these two anthropogenic factors to be low.

Overutilization for Commercial and Recreational Purposes

The BRT evaluated the risk to the DPS from overutilization for commercial and recreational purposes (Factor B). The BRT agreed that the available information for recreational harvest may not be an accurate reflection of the catch; however, the reported recreational catch does represent 20 percent of the reported commercial catch. Recreational fishermen also have the ability to fish in the boulder reef areas that commercial fishermen do not typically fish in and may encounter wolffish more frequently in these areas.

After a period of high fishing mortality rates, reported commercial utilization rates for wolffish have declined in response to regulatory measures implemented for other groundfish stocks. The BRT expects that the commercial fishing rate associated with groundfish fisheries will continue to decline, but given the potential for

changes in management measures in the future, this is uncertain. As stated previously, if Amendment 16 is approved as proposed (e.g., includes a ban on possession for commercial and recreational catch), then this would most likely reduce wolffish mortality from both commercial and recreational fishing. This ban on possession would lead to a live release program for both commercial fishers participating in the multi-species groundfish fishery and recreational fishers. The success of a live release program is unknown, but given expected high post-release survival rates for wolffish, it is expected to be good. There has been a mandatory live release program for northern and spotted wolffish in Canada since 2004, and many fishers are applying this practice to Atlantic wolffish. However, since Atlantic wolffish are a species of special concern, it is not known whether this program will continue to result in indirect benefits to the species into the future. Limited data are available regarding the amount of wolffish taken in lobster gear, but incidental catch has been reported and thus, this could represent a source of incidental catch that has not been addressed.

The BRT evaluated the risk to the DPS from both commercial and recreational overutilization (Factor B). The BRT determined that the risk from recreational fisheries is low. The BRT also determined that currently, there is a moderate risk to the DPS from commercial fisheries. However, if the ban on possession in Amendment 16 is implemented and effective, then overutilization from commercial fisheries would represent a low risk to the DPS.

Disease and Predation

The BRT evaluated the risk to the DPS from disease and predation (Factor C). According to the NEFSC, there are some predators of Atlantic wolffish, but they are limited, and the quantity of wolffish that has been observed in these predators' stomachs is small. There is uncertainty regarding potential changes in predator population abundances, and it is possible that increases in various predators could lead to higher predation rates; thereby, having a more significant impact to the DPS. The likelihood of this happening, however, is unknown. Thus, the BRT ranked the threat from predation as low. There are limited data available on diseases that affect wolffish, but there is nothing to suggest that any particular disease is impacting the DPS at this time. As such, the BRT ranked the threat from disease as very low risk.

Inadequacy of Existing Regulatory Mechanisms

Currently, there are no direct regulatory mechanisms for wolffish in the United States; however, there are regulations for other species (e.g., groundfish) which provide indirect benefits through mechanisms such as reduced fishing effort and closed areas. The lack of direct regulatory mechanisms for the DPS may change in the foreseeable future. As stated previously, if Amendment 16 is approved as proposed (e.g., includes a ban on possession for commercial and recreational catch), then this would directly reduce wolffish mortality. Thus, in evaluating the risk posed by the inadequacy of existing regulatory mechanisms (Factor D), the BRT determined that there is a moderate risk at this time.

As indicated above, there is a mandatory live release program for northern and spotted wolffish in Canada that began in 2004. This program provides some protection to Atlantic wolffish from the DPS. However, since Atlantic wolffish are a species of special concern, it is not known if this program will continue into the future.

Consequently, the BRT ranked the risk from the inadequacy of existing regulatory mechanisms outside of the United States as low. While the risk to the DPS from the inadequacy of existing regulatory mechanisms in the United States is currently moderate, this is not driving the DPS toward imminent risk of extinction or endangerment in the foreseeable future due to the wide range occupied by this species and the protections afforded indirectly in both the United States and Canada.

Other Natural or Manmade Factors

Finally, the BRT considered all other natural or manmade factors that may affect the DPS (Factor E), which included competition/prey availability, climate change impacts, ocean acidification, and aquaculture/enhancement. When evaluating the risk posed by competition, the BRT noted that there may be some competition for shelters during reproduction; however, adult wolffish have been observed in the same crevices with other species, and the available information indicates that they are capable of sharing the available space rather than competing for it. Therefore, this most likely is not a significant impact to the species. Also, wolffish consume a wide variety of prey. Thus, while declines in green urchin populations, a significant prey species for wolffish, may pose a localized risk to the DPS, it is not significant throughout the entire DPS.

Wolffish have specific thermal tolerances (e.g., they do not prefer temperatures above 10° C), so it is possible that rising water temperatures could impact the DPS. However, it is not known whether bottom temperatures in the area occupied by the DPS will increase and how this might affect the range of the species (e.g., potential for range contraction). If a spawning cue is related to temperature, changes in ocean temperatures could impact the DPS, but this is also not known. The BRT, therefore, concluded that effects from climate change are highly uncertain and there is not much known upon which to base decisions.

The impacts from potential ocean acidification are also unknown, but impacts to the DPS are not expected within the foreseeable future. Currently, there are no aquaculture operations for wolffish in the United States, but there are limited aquaculture activities for wolffish in Canada. The Canadian researchers are experimenting with hybridization with spotted wolffish; however, hybridization between these two species occurs in the wild, and therefore, impacts of hybridization on the DPS are not known. The BRT ranked the threat to the DPS from these other natural and manmade factors as very low. There are potential enhancement activities proposed by Canadian researchers in Canada using wolffish from the Canadian portion of the DPS. Again, the impacts of potential enhancement on the DPS are not known, but could raise the risk from very low to low. We concur with the BRT's ranking of threats/stressors.

We agree with the BRT's assessment that there is low risk currently associated with Factor A (the present or threatened destruction, modification, or curtailment of its habitat or range), Factor B (the overutilization for commercial, recreational, scientific, or educational purposes, and Factor C (predation and disease) as they pertain to the long-term persistence of the species. When evaluating Factor D (the inadequacy of existing regulatory mechanisms), we believe that wolffish in the United States are not afforded any direct protection and a ranking of moderate risk is appropriate at the present time. However, we do not believe that the moderate risk posed by the inadequacy of existing regulatory mechanisms in the United States is driving the species toward imminent risk of extinction or toward becoming endangered in the foreseeable future. While biomass has been reduced, the

DPS occupies a wide variety of habitats in sufficient numbers throughout a large range to persist into the foreseeable future. The DPS also receives indirect benefits from regulatory mechanisms for other groundfish species in the United States and from the live release program for wolffish in Canada. We also support a very low ranking for Factor E when considering other natural or manmade factors affecting the continued existence of the species.

Current and Future Protective Efforts

As previously mentioned, landings within Canadian waters are controlled under an annual quota, and fishers are encouraged to release Atlantic wolffish as part of the live-release program for spotted and northern wolffish, in place since 2004. Within the U.S. EEZ, wolffish have benefited from management measures designed to protect depleted groundfish stocks. If Amendment 16 to the NE Multispecies FMP is approved as adopted by the NEFMC, a live-release program for both commercial and recreational fisheries would be implemented in U.S. waters in May 2010, thereby, providing direct protections for the species. This would reduce the risk to Atlantic wolffish from both commercial and recreational fishing.

Listing Determination

As mentioned above, the ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, that are being made to protect such species.

As stated previously, the BRT concluded that Atlantic wolffish in Western Atlantic Canada and the United States are discrete and significant from other populations of Atlantic wolffish. We have identified a Western Atlantic Canada/U.S. DPS consisting of the populations in the following oceanic areas: (1) Canada's Scotian Shelf; (2) southern Gulf of St. Lawrence; (3) northern Gulf of St. Lawrence; (4) southern Newfoundland; and (5) United States. We have considered abundance, population age/size structure, population growth rate/productivity, spatial structure/connectivity, and genetic diversity and have concluded that these five demographic variables represent low risk to the DPS now and in the foreseeable future. We also do not believe that the DPS is at risk now or in the foreseeable future based on ranking of the anthropogenic stressors and natural limiting factors that are associated with the factors listed in section 4(a)(1) of the ESA. The NEFSC's Working Group has concluded that the chances of the population falling below the threatened/endangered threshold was very low, based on SCALE projections and scenarios. This conclusion supports the qualitative threats assessment conducted and summarized by the BRT.

After assessing the BRT's status review, the Working Group's review, and the best available scientific and commercial information for the Western Atlantic Canada/U.S. DPS, we have determined that the species does not warrant listing as threatened or endangered throughout all or a significant portion of its range. Given that the protective measures specified in Amendment 16 will not be implemented until May 2010 and the effectiveness of these measures has not been demonstrated, we have, however, concluded that Atlantic wolffish should remain on the species of concern list.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: October 28, 2009.

Samuel D. Rauch III,

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

[FR Doc. E9–26573 Filed 11–5–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 74, No. 214

Friday, November 6, 2009

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 3, 2009.

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

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

Animal and Plant Health Inspection Service

Title: Catfish 2010 Study.

OMB Control Number: 0579–NEW.

Summary of Collection: Collection and dissemination of animal and poultry health data and information is mandated by 7 U.S.C. 391, the Animal Industry Act of 1884, which established the precursor of the Animal and Plant Health Inspection Service (APHIS), Veterinary Services, the Bureau of Animal Industry. Collection, analysis, and dissemination of animal and poultry health information on a national basis are consistent with the APHIS mission of protecting and improving American agriculture's productivity and competitiveness. APHIS' National Animal Health Monitoring System (NAHMS) is collecting information that is not available from any other source on the prevalence and economic importance of livestock and poultry health/disease. The NAHMS Catfish 2010 study will continue to build on two previous Catfish studies through addressing the priority issues of the U.S. catfish industry. APHIS will collect the information using NAHMS–230 and NAHMS–231.

Need and Use of the Information: APHIS will use the information collected to (1) address emerging issues, (2) determine the economic consequences of disease, (3) and develop trade strategies and support trade decisions. APHIS will also collect information on the aspects of the catfish growers operation ranging from breeding to harvesting with an emphasis on disease management practices.

Description of Respondents: Business or other for-profit.

Number of Respondents: 700.

Frequency of Responses: Reporting: Other (Once).

Total Burden Hours: 517.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–26857 Filed 11–5–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Notice of Proposed New Routine Use

AGENCY: United States Department of Agriculture (USDA).

ACTION: Notice to revise existing Privacy Act System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, USDA gives notice that it is revising the current routine uses by deleting two routine uses; and by adding a new routine use to the Privacy Act System of Records OCFO–3, entitled ''Administrative Billings and Collections System''.

DATES: Comments must be received by the contact person listed below on or before December 7, 2009. This notice will be adopted without further publication in the **Federal Register** on January 5, 2010.

FOR FURTHER INFORMATION CONTACT: Darlene Irving, Privacy Act Coordinator, National Finance Center, Office of the Chief Financial Officer, USDA, P.O. Box 60000, New Orleans, Louisiana 70160–001, (504) 426–0168.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is revising the Administrative Billings and Collections System to amend its current list of routine uses (62 FR 47622) to delete obsolete routine uses number six and number eight, renumber the remaining routine uses, and to add a new routine use nine to its system of records allowing for the disclosure of information in the course of responding to a breach of Federal data. The Office of Management and Budget (OMB) requires all Federal agencies to be able to quickly and efficiently respond in the event of a breach of personally identifiable information and has directed agencies to publish a routine use that will allow disclosure of Privacy Act information to persons and entities in a position to assist with notifying affected individuals or playing a role in preventing, minimizing, or remedying any harm from a breach.

A ''Report on New System,'' required by 5 U.S.C. 552a (r) as implemented by OMB Circular A–130, was sent to the Chairman, Committee on Homeland Security and Governmental Affairs, United States Senate; the Chairman,

Committee on Oversight and Government Reform, United States House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, OMB.

Dated: October 19, 2009.

Thomas J. Vilsack,

Secretary.

USDA/OCFO–3

SYSTEM NAME:

Administrative Billings and Collections System, USDA/OCFO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Finance Center (NFC), Office of the Chief Financial Officer (OCFO), United States Department of Agriculture (USDA), New Orleans, Louisiana 70160.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are indebted to the Federal Government and whose debts are serviced by NFC.

CATEGORIES OF RECORDS IN THE SYSTEM:

This automated system consists of a master file containing the debtor's name, address, Social Security number or assigned vendor number, amount of indebtedness, amount of current collection, and amount of total billing. Eventually, these records are transferred to a history file for inquiry use. Information regarding debts subject to the Treasury Offset Program (TOP) and Cross Servicing Program (CS) are kept separate from the administrative billings and collections database in an automated and manually updated claims database.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3711 through 3719.

AGENCY OFFICIAL RESPONSIBLE FOR SYSTEM OF RECORD:

John White, Designated Accreditation Authority, NFC, OCFO, USDA, P.O. Box 60000, New Orleans, Louisiana 70160.

PURPOSE(S):

The records in this system are used to issue bills and collect funds due to the Government in compliance with the Debt Collection Act of 1982, Public Law 97–365, 96 Stat. 1749, as amended by Public Law 98–167, 97 Stat. 1104, and the Debt Collection Improvements Act of 1996, Public Law 104–134, 110 Stat. 1321.

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

(1) Referral to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing a statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto.

(2) Referral to the Department of Justice when (a) The agency, or any component, thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to the litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation, providing, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information that is compatible with the purpose for which the records were collected.

(3) Disclosure in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when (a) The agency, or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to the litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation, providing, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information that is compatible with the purpose for which the records were collected.

(4) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made on behalf of the individual.

(5) Information will be forwarded to another Federal agency when a Federal employee accepts employment with another Federal agency or when NFC no longer provides payroll or debt collection services to the employee's employing Federal agency.

(6) Information contained in this system of records may be disclosed to a debt collection agency when USDA determines such referral is appropriate for collecting the debtor's account as provided for in U.S. Government contracts with collection agencies executed pursuant to 31 U.S.C. 3718.

(7) Information contained in this system of records may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

(8) Information contained in this system of records, related to non-tax debts or claims that are delinquent for 180 days, will be sent to the Secretary of the Treasury or to other Federal agencies designated by the Secretary of the Treasury for the purpose of offsetting Federal payments to collect delinquent debts, owed to the Federal Government. Records will be matched by taxpayer identification number (TIN) and name. For an individual, the TIN is the Social Security number. For a business, the TIN is the Employer Identification Number. The release of this information is in accordance with 31 U.S.C. 3716, 31 U.S.C. 3720A, and 4 CFR part 102.

(9) Disclosure of information to appropriate agencies, entities, and persons when (1) NFC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA 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 USDA 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 USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES REGARDING STORAGE, RETRIEVABILITY, ACCESS CONTROLS, RETENTION, AND DISPOSAL OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape files, disk files, and in folders at NFC.

RETRIEVABILITY:

Records in the administrative billings and collections database are retrieved by

Social Security number and by name of individual or equivalent identifying number. Records in the claims database are retrieved by the claim number, by Social Security number and name of individual, or by equivalent identifying number.

SAFEGUARDS:

Magnetic tape files and disk files are kept in a locked computer room and tape library which can be accessed by authorized personnel only. File folders are maintained in secure areas with access by authorized personnel only. Disk files are password protected to limit access to authorized personnel only. Online access by NFC and other agency personnel is password protected.

RETENTION AND DISPOSAL OF RECORDS:

Master history magnetic tapes are retained in accordance with a tape library management schedule. Manual records are transferred to the Federal Records Center for storage and disposition in accordance with General Services Administration regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NFC, OCFO, USDA, P. O. Box 60000, New Orleans, Louisiana 70160.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records or information as to whether the system contains records pertaining to him/her from the System Manager. A request for information pertaining to an individual should be in writing and should contain: Name, address, Social Security number, and particulars involved (*i.e.,* dates of claims, copies of correspondence, *etc.*).

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to the System Manager.

CONTESTING RECORD PROCEDURES:

Any individual may obtain information as to the procedures for contesting a record in the system which pertains to him/her by submitting a written request to the System Manager.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from USDA employees, former USDA employees, non-USDA employees, agency claimants, and USDA or other investigative personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–26794 Filed 11–5–09; 8:45 am]

BILLING CODE 3410–KS–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Chairman's Perspective, (5) Elect Vice Chairmen, (6) Discuss funding for Guzzlers & Paynes Crk Projects, (7) Next Agenda.

DATES: The meeting will be held on November 19, 2009 from 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Pine Room, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Randy Jero, Committee Coordinator, 825 N. Humboldt Ave., Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT: Randy Jero, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, 825 N. Humboldt Ave., Willows, CA 95988. (530) 934–1269; E-mail *rjero@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by November 16, 2009 will have the opportunity to address the committee at those sessions.

Dated: October 29, 2009.

Eduardo Olmedo,

Designated Federal Official.

[FR Doc. E9–26677 Filed 11–5–09; 8:45 am]

BILLING CODE M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meetings

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meetings.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) plans to hold its regular committee and Board meetings in Washington, DC, Wednesday through Friday, November 18–20, 2009, at the times and location noted below.

DATES: The schedule of events is as follows:

Wednesday, November 18, 2009

1:30–3 p.m.—Budget Committee;
3 p.m.–4 p.m.—Technical Programs Committee.

Thursday, November 19, 2009

10 a.m.–11:30 a.m.—U.S. Postal Service Presentation on Accessibility Program;
1:30 p.m.–3 p.m.—Ad Hoc Committee Meetings (Closed to Public);
3 p.m.–4:30 p.m.—Planning and Evaluation Committee (Closed to Public).

Friday, November 20, 2009

1:30 p.m.–3 p.m.—Board Meeting.

ADDRESSES: All meetings will be held at the Embassy Suites DC Convention Center Hotel, 900 10th Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact David Capozzi, Executive Director, (202) 272–0010 (voice) and (202) 272–0082 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting scheduled on Friday, September 11, the Access Board will consider the following agenda items:

- Approval of the draft September 11, 2009 Draft Meeting Minutes;
- Budget Committee Report;
- Technical Programs Committee Report;
- Planning and Evaluation Committee Report;
- Ad Hoc Committee Reports;
- Executive Director's Report;
- ADA and ABA Guidelines; Federal Agency Updates.

All meetings are accessible to persons with disabilities. An assistive listening system, computer assisted real-time transcription (CART), and sign language interpreters will be available at the Board meeting. Persons attending Board meetings are requested to refrain from

using perfume, cologne, and other fragrances for the comfort of other participants.

David M. Capozzi,

Executive Director.

[FR Doc. E9–26763 Filed 11–5–09; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–002]

Chloropicrin From the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order

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

SUMMARY: On July 1, 2009, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on chloropicrin from the People's Republic of China (''PRC'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (''Sunset'') Review,* 74 FR 31412 (July 1, 2009); *see also Antidumping Duty Order; Chloropicrin from the People's Republic of China,* 49 FR 10691 (March 22, 1984) (''Order''). Based on the notice of intent to participate and adequate response filed by the domestic interested parties, and the lack of response from any respondent interested party, the Department conducted an expedited sunset review of the Order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of this sunset review, the Department finds that revocation of the Order would likely lead to continuation or recurrence of dumping, at the levels indicated in the ''Final Results of Sunset Review'' section of this notice, *infra.*

DATES: *Effective Date:* November 6, 2009.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5047.

SUPPLEMENTARY INFORMATION: On July 1, 2009, the Department initiated a sunset review of the order on chloropicrin pursuant to section 751(c) of the Act. *See Sunset Initiation,* 74 FR 31412. On July 13, 2009, the Department received a timely notice of intent to participate in the sunset review from Ashta Chemicals, Inc. (''Ashta''), Niklor Chemical Company, Inc. (''Niklor''), and Trinity Manufacturing, Inc. (''Trinity''), domestic interested parties, pursuant to 19 CFR 351.218(d)(1)(i). On July 31, 2009, Ashta, Niklor, and Trinity filed a timely substantive response within 30 days after the date of publication of the *Sunset Initiation.* The Department did not receive a substantive response from any respondent interested party in the sunset review. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited sunset review of the *Order.*

Scope of the Order

The merchandise subject to this antidumping duty order is chloropicrin, also known as trichloronitromethane. A major use of the product is as a pre-plant soil fumigant (pesticide). Such merchandise is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 2904.90.50.05.[1] The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review is addressed in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice. *See* ''Issues and Decision Memorandum for the Final Results in the Expedited Sunset Review of the Antidumping Duty Order on Chloropicrin from the People's Republic of China,'' from John M. Andersen, Acting Deputy Assistant Secretary, to Ronald Lorentzen, Assistant Secretary for Import Administration, dated concurrent with this notice (''I&D Memo''). The issues discussed in the accompanying I&D Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margin likely to prevail if the *Order* was revoked. Parties can obtain a public copy of the I&D Memo on file in the Central Records Unit, room 1117, of the main Commerce building. In addition, a complete public version of the I&D Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the I&D Memo are identical in content.

Final Results of Review

The Department determines that revocation of the Order on chloropicrin would likely lead to continuation or recurrence of dumping at the rates listed below:

Manufacturers/exporters/producers	Weighted-average margin (percent)
China National Chemicals Import and Export Corp. (SINOCHEM)	58.0
PRC-Wide Entity	58.0

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 29, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–26859 Filed 11–5–09; 8:45 am]

BILLING CODE 3510–DS–P

[1] In 2004, a new HTS category was developed and identified specifically for imports of chloropicrin i.e., 2904.90.50.05. Previously, the HTS category that included chloropicrin was 2904.90.50.

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–PTO–C–2009–0050]

National Medal of Technology and Innovation Nomination Evaluation Committee Meeting

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of closed meeting.

SUMMARY: The National Medal of Technology and Innovation (NMTI) Nomination Evaluation Committee will meet in closed session on Tuesday, November 24, 2009. The primary purpose of the meeting is the discussion of relative merits of persons and companies nominated for the NMTI award.

DATES: The meeting will convene Tuesday, November 24, 2009, at 9 a.m., and adjourn at 2 p.m.

ADDRESSES: The meeting will be held at the United States Patent and Trademark

Office, 600 Dulany Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Richard Maulsby, Program Manager, National Medal of Technology and Innovation Program, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, telephone (571) 272–8333, or by electronic mail: *nmti@uspto.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the NMTI Nomination Evaluation Committee, United States Patent and Trademark Office, will meet at the United States Patent and Trademark Office campus in Alexandria, Virginia.

The NMTI Nomination Evaluation Committee was established in accordance with the provisions of the NMTI Nomination Evaluation Committee's charter and the Federal Advisory Committee Act. The NMTI Nomination Evaluation Committee meeting will be closed to the public in accordance with Section 552b(c)(4), (6) and (9)(B) of Title 5, United States Code, because it will involve discussion of relative merits of persons and companies nominated for the NMTI. Public disclosure of this information would likely frustrate implementation of the NMTI program because premature publicity about candidates under consideration for the NMTI award, who may or may not ultimately receive the award, would be likely to discourage nominations for the award.

The Secretary of Commerce is responsible for recommending to the President prospective NMTI recipients. The NMTI Nomination Evaluation Committee makes its recommendations for the NMTI candidates to the Secretary of Commerce, who in turn makes recommendations to the President for final selection. NMTI Nomination Evaluation Committee members are drawn from both the public and private sectors and are appointed by the Secretary for three-year terms, with eligibility for one reappointment. The NMTI Nomination Evaluation Committee members are composed of distinguished experts in the fields of science, technology, business and patent law.

The General Counsel formally determined on October 8, 2009, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the meeting may be closed because Committee members are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4), (6) and (9)(B). Due to closure of the meeting, copies of the minutes of the meeting will not be available. A copy of the determination is available for public inspection at the United States Patent and Trademark Office.

Dated: November 2, 2009.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E9–26814 Filed 11–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Tutorial Workshop on ISO/IEC 24727—Identification Cards—Integrated Circuit Card Programming Interfaces

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public workshop.

SUMMARY: The National Institute of Standards and Technology (NIST) will hold a public workshop on December 1–3, 2009, at the National Transportation Safety Board (NTSB) Board Room/Conference Center. The workshop is open to the public but registration is required. The registration fee will be $90.00. The purpose of the 3-day workshop is to provide a high-level tutorial of the six part standard, ISO/IEC 24727—*Identification cards—Integrated circuit card programming interfaces*, a multi-part standard for interoperable identification, authentication, and signature services for credentials and applications. The workshop will also provide sessions on the use of ISO/IEC 24727 to include an overview of NIST IR 7611, *Use of ISO/IEC 24727—Service Access Layer Interface for Identity (SALII): Support for Development and use of Interoperable Identity Credentials*, which describes ISO/IEC 24727 from the perspective of the Federal Information Processing Standard (FIPS) 201—*Personal Identity Verification (PIV) of Federal Employees and Contractors*.

DATES: The meeting will be held on December 1–3, 2009.

ADDRESS: The three day workshop will be held at the National Transportation Safety Board (NTSB) Board Room/Conference Center, located at 429 L'Enfant Plaza, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ms. Annie Sokol, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, Maryland 20899–8930, Telephone: (301) 975–2006, E-mail: *annie.sokol@nist.gov*.

SUPPLEMENTARY INFORMATION:

Agenda:

Day 1: ISO/IEC 24727 concepts and technical parts.

Day 2: ISO/IEC 24727 technical parts.

Day 3: ISO/IEC 24727 technical parts, NISTIR 7611.

Abstract

The National Institute of Standards and Technology, in conjunction with national and international standards bodies, is an active participant in the development of the multi-part international standard entitled, ISO/IEC 24727—*Identification cards—Integrated circuit card programming interfaces*. The standard consists of six parts:

ISO/IEC 24727—*Identification cards—Integrated circuit card programming interfaces—Part 1: Architecture*

ISO/IEC 24727—*Identification cards—Integrated circuit card programming interfaces—Part 2: Generic card interface*

ISO/IEC 24727—*Identification cards—Integrated circuit card programming interfaces—Part 3: Application interface*

ISO/IEC 24727—*Identification cards—Integrated circuit card programming interfaces—Part 4: API Administration*

ISO/IEC 24727—*Identification cards—Integrated circuit card programming interfaces—Part 5: Testing*

ISO/IEC 24727—*Identification cards—Integrated circuit card programming interfaces—Part 6: Registration authority procedures for the authentication protocols for interoperability*

The National Institute of Standards and Technology (NIST) will hold a tutorial on December 1–3, 2009, at the NTSB Board Room/Conference Center. The tutorial is open to the public but requires registration. The goal of the 3-day workshop is to provide a high-level tutorial of the six part standard, ISO/IEC 24727—*Identification cards—Integrated circuit card programming interfaces*, a multi-part standard for interoperable identification, authentication, and signature services for credentials and applications.

This workshop is open to the public but all attendees must pre-register in advance. There is a registration fee of $90.00. Please register online at *http://www.nist.gov/public_affairs/confpage/conflist.htm*. The registration deadline is November 20, 2009. A forthcoming URL

with agenda and materials will be linked from the registration site.

Dated: November 3, 2009.

Patrick Gallagher,

Deputy Director.

[FR Doc. E9–26832 Filed 11–5–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Technology Innovation Program (TIP) Seeks Comments on White Papers

AGENCY: National Institute of Standards and Technology (NIST), Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology's (NIST) Technology Innovation Program (TIP) announces that it is seeking comments on white papers prepared by TIP staff from any interested party, including academia; Federal, state, and local governments; industry; national laboratories; and professional organizations/societies. The white papers are posted on TIP's Web site (URL). Comments will assist in the further refinement of areas of critical national need and the associated technical challenges that could be addressed in future TIP competitions.

DATES: The suggested dates for submission of comments on white papers are: November 9, 2009 through September 30, 2010.

ADDRESSES: Comments on white papers must be submitted to TIP using the comment button found on the first and last page of each white paper.

FOR FURTHER INFORMATION CONTACT: Thomas Wiggins at 301–975–5416 or by e-mail at *thomas.wiggins@nist.gov.*

SUPPLEMENTARY INFORMATION:

Background Information: The Technology Innovation Program (TIP) at the National Institute of Standards and Technology (NIST) was established for the purpose of assisting U.S. businesses and institutions of higher education or other organizations, such as national laboratories and nonprofit research institutions, to support, promote, and accelerate innovation in the United States through high-risk, high-reward research in areas of critical national need. The TIP statutory authority is Section 3012 of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Act, Public Law 110–69 (August 9, 2007), 15 U.S.C. 278n. The TIP implementing regulations are published at 15 CFR part 296. TIP holds competitions for funding based on addressing areas of critical national need. TIP identifies and selects topics for areas of critical national need based on input from within NIST, the TIP Advisory Board, the science and technology communities, and from the public. TIP is interested in receiving input on the identification and definition of problems that are sufficiently large in magnitude that they have the potential to inhibit the growth and well-being of our nation today.

This announcement explains the process for submitting comments on TIP white papers. Comments on white papers from experts in other Federal agencies are valued and welcome, and will enable TIP to complement the efforts of other mission agencies and avoid duplication of their efforts, thereby leveraging resources to benefit the nation. The key concepts, enumerated below, are the foundation of TIP and should assist all commenters in providing input that will help TIP develop and refine an effective white paper:

a. An area of *critical national need* means an area that justifies government attention because the magnitude of the problem is large and the associated societal challenges that need to be overcome are not being addressed, but could be addressed through high-risk, high-reward research.

b. A *societal challenge* is a problem or issue confronted by society that when not addressed could negatively affect the overall function and quality of life of the nation, and as such, justifies government attention. A societal challenge is associated with barriers preventing the successful development of solutions to the area of critical national need. TIP's purpose is to provide funding that will enable U.S. businesses and institutions of higher education or other organizations, such as national laboratories and nonprofit research institutions, to tackle technical issues that can be addressed through high-risk, high-reward research. The results of the high-risk, high-reward research should have the potential for transformational results.

c. A *transformational result* is a potential project outcome that enables disruptive changes over and above current methods and strategies. Transformational results have the potential to radically improve our understanding of systems and technologies, challenging the status quo of research approaches and applications.

For an understanding of how these white papers were developed, and for detailed instructions on how to prepare and submit your own white papers to TIP, refer to *A Guide for Preparing and Submitting White Papers on Areas of Critical National Need.* The *Guide* is available on the TIP Web site at *http://www.nist.gov/tip/guide_for_white_papers.pdf.*

In this call for comments on white papers, TIP is seeking information to further develop and refine the areas of critical national need as defined in the 2009 competition on *Civil Infrastructure,* and the 2009 competition on *Manufacturing,* as well as information to assist TIP in further defining other topic areas under development. TIP may use comments received to further develop the definition and scope of the critical national needs suggested by these topic areas, and to additionally identify and explain specific societal challenges that require a technical solution within these critical national need areas. Do not include ideas for specific proposals in your comments on the white paper (*i.e.,* do not discuss your specific solution to the problem). This solicitation for comments on white papers is neither a Request for Proposals (RFP) nor should it be viewed as a request for pre-proposals. Rather, it is a way to include ideas from the public to identify problems that justify government support and can be addressed by technological innovations that are not currently being sufficiently supported to meet the challenge.

Comments on white papers must not contain proprietary information. Submission of comments on a white paper means that the author(s) agrees that all the information in the comments on the white paper can be made available to the public. Information contained in these comments on white papers will be considered and combined with information from other resources—including the vision of the Administration, NIST, other government agencies, technical communities, the TIP Advisory Board, and other stakeholders—to develop the scope of future competitions and to shape TIP's collaborative outreach. Comments on white papers are a valuable resource that adds to TIP's understanding of the significance and scope of critical national needs and associated societal challenges. The comments on the white papers submitted could be shared with the Administration, NIST, other government agencies, technical communities, the TIP Advisory Board, other stakeholders and the public as

part of the selection process for future competitions.

This current call for comments on white papers pertains to the four areas of critical national need shown below. However, TIP intends to post additional white papers for comments over the coming months.

Civil Infrastructure: Civil infrastructure constitutes the basic fabric of the world in which we live and work. It is the combination of fundamental systems that support a community, region, or country. The civil infrastructure includes systems for transportation (airport facilities, roads, bridges, rail, waterway locks) and systems for water distribution and flood control (water distribution systems, storm and waste water collection, dams, and levees). New construction approaches and materials to improve the infrastructure and for mitigating the expense of repairing or replacing existing infrastructure appear to be areas with the potential for specific societal challenges within this area of critical national need.

The 2009 *Civil Infrastructure* competition, based on the white paper *Advanced Sensing Technologies and Advanced Repair Materials for Infrastructure: Water Systems, Dams, Levees, Bridges, Roads, and Highways*, dated March 2009, emphasizes technologies to detect corrosion, cracking, delamination and other structural damage in water resources systems such as water and wastewater pipelines, dams, levees and waterway locks, as well as bridges and roadways. The white paper for the 2009 *Civil Infrastructure* competition can be found at *http://www.nist.gov/tip/wp_cmts/index.html*.

Manufacturing: R&D projects in manufacturing could enable better, more cost-effective use of advanced materials in innovative products. New and improved materials underlie many new product innovations. High-strength alloys, aluminum and magnesium are used to build stronger, lighter and safer vehicles; superalloys are used to make higher efficiency gas turbines; composites make larger, more efficient wind turbine blades and higher performance aircraft; and nanomaterials are finding their way into better performing batteries, energy storage devices, high voltage transmission lines and healthcare applications.

The 2009 *Manufacturing* competition, based on the white paper *Accelerating the Incorporation of Materials Advances into Manufacturing Processes*, dated March 2009, addresses improved technologies to produce these new materials and to rapidly integrate them into products while maintaining the material's unique properties. The white paper for the 2009 *Manufacturing* competition can be found at *http://www.nist.gov/tip/wp_cmts/index.html*.

Energy (proposed topic area): The proposed topic area within the critical national need area of energy is based on the draft white paper *Technologies to Enable a Smart Grid*, which outlines the technologies that will be required to enable a reliable smart grid approach to electric power distribution, demand, and response control, grid connectivity, and the integration of renewable energy sources into the grid. The proposed topic aims to address research in energy storage systems and the integration of stored energy into the grid system, advanced sensors and their energy sources to be deployed along the grid, and communication and control technologies (high voltage power electronics). The draft white paper for the proposed topic of Energy can be found at *http://www.nist.gov/tip/wp_cmts/index.html*.

Healthcare (proposed topic area): The proposed topic area with the critical national need of Healthcare is based on the draft white paper *Advanced Technologies for Proteomics, Data Integration and Analysis and Biomanufacturing for Personalized Medicine*, which outlines the platform technologies that will be needed to enable a personalized approach to safer and more cost-effective healthcare. The proposed topic specifically aims to address research needs for: Non-invasively analyzing proteins in real time in live tissues, animal models and humans; linking genomic, proteomic and other disparate datasets with patient-specific data to understand disease susceptibility and response to treatment; and cost-effective high-throughput biopharmaceutical manufacturing. The draft white paper for the proposed topic of *Healthcare* can be found at *http://www.nist.gov/tip/wp_cmts/index.html*.

Dated: November 3, 2009.

Patrick Gallagher,

Deputy Director.

[FR Doc. E9–26835 Filed 11–5–09; 8:45 am]

BILLING CODE 3510–13–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by the nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products and services previously furnished by such agencies.

Comments Must be Received on or Before: December 7, 2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for the services will be required to provide the services listed below from the nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the services to the Government.

2. If approved, the action will result in authorizing small entities to provide the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in

connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to Procurement List to be performed by the nonprofit agencies listed:

Services

Service Type/Location: Janitorial Services, Jamestown Service Center, 8430 Country Club Street, Jamestown, ND.
NPA: Alpha Opportunities, Inc., Jamestown, ND.
Contracting Activity: Department Of Energy, Headquarters Procurement Services, Washington, DC.

Service Type/Location: Parts Machining Service, 515 N. 51st Ave #130, Phoenix, AZ.
NPA: Arizona Industries for the Blind, Phoenix, AZ.
Contracting Activity: Defense Logistics Agency, Defense Supply Center Philadelphia, Philadelphia, PA.

Service Type/Location: Parts Machining Service, 5316 West State Street, Milwaukee, WI.
NPA: Wiscraft Inc.—Wisconsin Enterprises for the Blind, Milwaukee, WI.
Contracting Activity: Defense Logistics Agency, Defense Supply Center Philadelphia, Philadelphia, PA.

Service Type/Location: Parts Machining Service, 2601 South Plum, Seattle, WA.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: Defense Logistics Agency, Defense Supply Center Philadelphia, Philadelphia, PA.

Service Type/Location: Custodial Services, Forest Service Santa Lucia Ranger District, 1616 Carlotti Drive, Santa Maria, CA.
NPA: VTC Enterprises, Santa Maria, CA.
Contracting Activity: Department Of Agriculture, Forest Service, Angeles National Forest, Arcadia, CA.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. If approved, the action may result in authorizing small entities to furnish products and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for deletion from the Procurement List.

End of Certification

The following products and services are proposed for deletion from the Procurement List:

Products

Candle, Illuminating
NSN: 6260–00–161–4296.
NPA: Concho Resource Center, San Angelo, TX.
Contracting Activity: GSA/FAS Southwest Supply Center (QSDAC), Fort Worth, TX.

Line, Tent, Manila
NSN: 8340–00–252–2269.
NPA: ASPIRO, Inc., Green Bay, WI.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center: OMS, RD 8 Box 282 A, Kittanning, PA.
NPA: Rehabilitation Center and Workshop, Inc., Greensburg, PA.
Contracting Activity: Dept of the Army, XR W6BA ACA Army Reserve CONT CTR, FT Dix, NJ.

Service Type/Location: Janitorial/Custodial, Internal Revenue Service, 11631 Caroline Road, Philadelphia, PA.
NPA: A.C.E. Industries, Inc., Exton, PA.
Contracting Activity: Dept of Treas, Internal Revenue Service, Ofc of Procurement Operations, Oxon Hill, MD.

Service Type/Location: Janitorial/Custodial, Willow Grove Naval Air Station, Willow Grove, PA.
NPA: A.C.E. Industries, Inc., Exton, PA.
Contracting Activity: Dept of the Navy, U.S. Fleet Forces Command, Norfolk, VA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. E9–26757 Filed 11–5–09; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Global Markets Advisory Committee Meeting

The Commission's Global Markets Advisory Committee will conduct a public meeting on December 9, 2009. The meeting will take place in the first floor hearing room of the Commission's Washington, DC headquarters, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 from 1 p.m. to 5 p.m. There will also be a live broadcast of the meeting via Webcast. To view the live Webcast from a desktop PC with Internet access go to *http://www.cftc.gov.*

The purpose of the meeting is to discuss global markets issues related to the Commission's regulatory responsibilities. The meeting will be chaired by Commissioner Jill Sommers who is Chairman of the Global Markets Advisory Committee.

The agenda will consist of the following:

- Opening Remarks from Commissioners/Introduction of GMAC Members.
- Update on IOSCO Issues.
- Bankruptcy Issues—CFTC/Lehman Brothers.
- Overview of Proposals to Regulate OTC Derivatives.
- Discussion of Clearing Proposals for OTC Derivatives.
- Other Business.

The meeting is open to the public. Any member of the public who wishes to file a written statement with the committee should mail a copy of the statement to the attention of: Global Markets Advisory Committee, c/o Commissioner Jill Sommers, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, before the meeting.

For further information concerning this meeting, please contact Andrew Morton at 202–418–5030.

Issued by the Commission in Washington, DC on November 2, 2009.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E9–26785 Filed 11–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–HA–0027]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 7, 2009.

Title and OMB Number: Federal Agency Retail Pharmacy Program; OMB Number 0720–0032.

Type of Request: Reinstatement.

Number of Respondents: 250.

Responses per Respondent: 4.

Annual Responses: 1,000.

Average Burden per Response: 8 hours.

Annual Burden Hours: 8,000 hours.

Needs and Uses: Pursuant to the terms of a contract awarded by DoD, a commercial pharmacy benefits manager (PBM) will provide a retail pharmacy network for the DoD TRICARE Management Activity. The PBM will issue payment with Government funds for prescriptions dispensed by retail network pharmacies to TRICARE beneficiaries. DoD will provide manufacturers with itemized data on covered drugs purchased through TRICARE retail network pharmacies in order to obtain appropriate refunds on covered drugs delivered to TRICARE beneficiaries. The drug manufacturers will validate the refund. The manufacturers currently use information technology to download and decrypt their data and going forward will utilize the web-based system to obtain their data and submit their disputes.

Affected Public: Business or other-for-profit.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26711 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–DARS–0167]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 7, 2009.

Title, Associated Forms and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) part 232, Contract Financing, and the clause at 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions; OMB Control Number 0704–0321.

Type of Request: Extension.

Number of Respondents: 295.

Responses per Respondent: 12.

Annual Responses: 3,540.

Average Burden per Response: 0.75 hours each (reporting and recordkeeping).

Annual Burden Hours: 5,310 hours.

Needs and Uses: Section 22 of the Arms Export Control Act (22 U.S.C. 2762) requires the U.S. Government to use foreign funds, rather than U.S. appropriated funds, to purchase military equipment for foreign governments. To comply with this requirement, the Government needs to know how much to charge each country. The clause at 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions, requires each contractor whose contract includes foreign military sales requirements to submit a separate progress payment request for each progress payment rate, and to submit a supporting schedule that clearly distinguishes the contract's FMS requirements from U.S. requirements. The Government uses this information to determine how much of each country's funds to disburse to the contractor.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26712 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–DARS–0168]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 7, 2009.

Title, Associated Forms and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 243, Contract Modifications, and related clause at DFARS 252.243–7002; OMB Control Number 0704–0397.

Type of Request: Extension.

Number of Respondents: 440.

Responses per Respondent: 1.

Annual Responses: 440.

Average Burden per Response: 4.81 hours.

Annual Burden Hours: 2,120 hours.

Needs and Uses: The information collection required by the clause at DFARS 252.243–7002, Requests for Equitable Adjustment, implements 10 U.S.C. 2410(a). DoD contracting officers and auditors use this information to evaluate contractor requests for equitable adjustment to contract terms.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26715 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–OS–0109]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 7, 2009.

Title and OMB Number: Interactive Customer Evaluation (ICE) System; OMB Control Number 0704–0420.

Type of Request: Extension.

Number of Respondents: 812,540.

Responses per Respondent: 1.

Annual Responses: 812,540.

Average Burden per Response: 0.05 hours.

Annual Burden Hours: 40,627 hours.

Needs And Uses: The Interactive Customer Evaluation System automates and minimizes the use of the current manual paper comment cards and other customer satisfaction collection medium, which exist at various customer service locations throughout the Department of Defense. Members of the public have the opportunity to give automated feedback to the service provider on the quality of their experience and their satisfaction level. This is a management tool for improving customer services.

Affected Public: Individuals or households; business or other-for-profit.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26716 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–DARS–0166]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 7, 2009.

Title, Associated Forms and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 245, Government Property; DFARS 211.274, Item Identification and Valuation Requirements; DD Form 1149, Requisition and Invoice/Shipping Document; DD Form 1342, Property Record; DD Form 1637, Notice of Acceptance of Inventory Schedules; DD Form 1639, Scrap Warranty; and DD Form 1640, Request for Plant Clearance; OMB Control Number 0704–0246.

Type of Request: Revision.

Number of Respondents: 14,282.

Responses per Respondent: Approximately 2.9.

Annual Responses: 41,917.

Average Burden per Response: 1.18 hours.

Annual Burden Hours: 49,580.

Needs and Uses: DoD needs this information to keep an account of Government property in the possession of contractors. Property administrators, contracting officers, and contractors use this information to maintain property records and material inspection, shipping, and receiving reports.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26713 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents

AGENCY: Office of the Assistant Secretary of Defense (Homeland Defense and Americas' Security Affairs), DoD.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities after Certain Incidents (hereinafter referred to as the Advisory Panel) will meet on November 23 and 24, 2009. The November 23 meeting is closed to the public. Subject to the availability of space, the November 24 meeting is open to the public.

DATES: The closed meeting will be held on Monday, November 23, 2009, from 1 p.m. to 5 p.m. Mountain Standard Time (hereinafter referred to as MST).

The open meeting will be held on Tuesday, November 24, 2009, from 8:30 a.m. to 12:30 p.m. MST.

ADDRESSES:

• *November 23 Session:* Headquarters, U.S. Northern Command, Peterson Air Force Base, Colorado (**Note:** This session of the meeting is *closed* to the public. See **SUPPLEMENTARY INFORMATION** for more information.)

• *November 24 Session:* Doolittle Hall—Association of Graduates Building, 3116 Academy Drive, U.S. Air Force Academy, CO 80840–4475, Phone: (719) 472–0300. For additional information on the meeting facility, contact Major Joseph M. Howard, Phone: (719) 333–4163. (**Note:** This session of the meeting is open to the public. Members of the public who plan to attend should arrive at the Air Force Academy in sufficient time to present photo identification to security personnel at the gate. Vehicles may also be subject to search. See **SUPPLEMENTARY INFORMATION** for more information.)

FOR FURTHER INFORMATION CONTACT: Michael Wermuth, Co-Principal Investigator, RAND Corporation, 1200 South Hayes Street, Arlington, Virginia 22202, phone (703) 413–1100, x5414; *Wermuth@rand.org.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

• *November 23 Session:* The purpose of this session of the meeting is to obtain classified briefings on and engage in discussion about the activities of U.S. Northern Command that relate to the panel's congressionally mandated tasks.

• *November 24 Session:* The purpose of this session is to obtain information on the role of the Defense Coordinating Officer (DCO); and on the mission and activities of the U.S. Marine Corps Chemical-Biological Incident Response Force (CBIRF), the National Guard Chemical, Biological, Radiological, Nuclear, and Conventional High-Explosives Enhanced Force Package (CERFP), and National Guard Civil Support Team (CST). The panel will also discuss research topics and future meetings.

Agenda

November 23 Session

Classified briefings and discussion with U.S. Northern Command leadership and staff.

November 24 Session

Briefing and Discussion on DCO.

Briefing by the Subpanel on Plans and Programs for Training and Equipping on CBIRF, CERFP, and CST.

Briefings by other Subpanels on activities (if any) since the September 2009 full panel meeting.

Status of Research Topics.

Discussion of Future Meetings (including witnesses).

Public Statements (if any).

Public's Accessibility to the Meeting

• *November 23 Session:* Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the November 23 session of the meeting shall be closed to the public. Per delegated authority by the Under Secretary of Defense (Policy), the Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs, Dr. Paul Stockton, in consultation with his legal advisor, has determined in writing that the public interest requires that the November 23 session of this meeting be closed to the public because it will be concerned with matters listed in section 552b(c)(1) of title 5, U.S.C.

• *November 24 Session:* Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, the November 24 session of the meeting is open to the public. Seating is on a first-come basis.

Advisory Panel's Designated Federal Officer

Catherine Polmateer, telephone: 703–697–6370, OASD(HD&ASA), Resources Integration, 2600 Defense Pentagon, Washington, DC 20301–2600, e-mail: *Catherine.Polmateer@osd.mil.*

Advisory Panel's Points of Contact at the Federally Funded Research and Development Center (FFRDC)

Michael Wermuth, Co-Principal Investigator, telephone 703–413–1100, x5414, e-mail: *Wermuth@rand.org*; or Gary Cecchine, Co-Principal Investigator, telephone 703–413–1100, x5319, e-mail: *Cecchine@rand.org;* The RAND Corporation, 1200 South Hayes Street, Arlington, Virginia 22202.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972 (FACA), the public or interested organizations may submit written statements to the Advisory Panel about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the Advisory Panel.

All written statements shall be submitted to the Designated Federal Officer for the Advisory Panel, and this individual will ensure that the written

statements are provided to the membership for their consideration. Contact information for the Designated Federal Officer is provided in this notice (*see* Advisory Panel's Designated Federal Officer) or can be obtained from the GSA's FACA Database: *https://www.fido.gov/facadatabase/public.asp.*

Written statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer no later than 10 a.m., Eastern Standard Time (EST), Wednesday, November 18, 2009. Written statements received after this date may not be provided to or considered by the Advisory Panel until its next meeting.

The Designated Federal Officer will review all timely submissions with the Advisory Panel Chairperson and ensure they are provided to all members of the Advisory Panel before the meeting that is the subject of this notice.

All written statements received by the Designated Federal Officer will be retained as part of the committee's official records. In addition, statements timely submitted in response to a stated agenda of a planned meeting and provided to committee members in preparation for a meeting will be made available to the public during the meeting and posted to the GSA's FACA Database.

Oral Statements

In addition to written statements, and time permitting, the Chairperson of the Advisory Panel may allow Oral Statements by the public to the Members of the Advisory Panel. Any person seeking to address orally the Advisory Panel must submit a request to the Designated Federal Officer no later than 10 a.m., EST, Wednesday, November 18, 2009. Oral statements will be limited to five minutes (or less depending on time available). The Designated Federal Officer will provide timekeeping for oral statements and will notify the Chairperson when a presenter has reached allotted time.

Dated: November 3, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26810 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Performance Review Board

AGENCY: Defense Information Systems Agency, DoD.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) of the Defense Information Systems Agency (DISA). The publication of PRB membership is required by 5 U.S.C. 4314(C)(4). The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance scores to the Director, DISA.

DATES: Effective November 12, 2009.

FOR FURTHER INFORMATION CONTACT: Rebecca Polansky, DISA SES Program Manager, Defense Information Systems Agency, Arlington, Virginia (703) 607–4411.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(C)(4), the following executives are appointed to the Defense Finance and Accounting Service PRB: Rear Admiral, E. A. Hight, USN, John J. Penkoske, John J. Garing, David M. Mihelcic.

Executives listed will serve a one-year renewable term, effective November 12, 2009.

Dated: November 3, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26808 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2009–0023]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 7, 2009.

Title, Form, and OMB Number: Offered Candidate Procedures, USMA Forms 5–490, 2–66, 847, 5–489, 5–519, 8–2, 5–599, 480–1; OMB Control Number 0702–0062.

Type of Request: Extension.

Number of Respondents: 18.550.

Responses per Respondent: 1.

Annual Responses: 18.550.

Average Burden per Response: 0.08 hour.

Annual Burden Hours: 1,552 hours.

Needs and Uses: West Point candidates provide personal background information that allows the West Point Admissions Committee to make subjective judgments on non-academic experiences. Data are also used by West Point's Office of Institutional Research for correlation with success in graduation and military careers. The purpose of this activity is to obtain a group of applicants who eventually may be evaluated for admission to the U.S. Military Academy.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26710 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2009–0022]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 7, 2009.

Title, Form, and OMB Number: Candidate Procedures, USMA Forms 21–16, 21–23, 21–25, 21–26, 5–520, 5–518, 5–497, 481, 546, 5–2, 5–26, 5–515, 480–1, 520, 261, 21–14, 21–8; OMB Control Number 0702–0061.

Type of Request: Extension.

Number of Respondents: 85,825.

Responses per Respondent: 1.

Annual Responses: 85,825.

Average Burden per Response: 0.21 hour.

Annual Burden Hours: 18,699 hours.

Needs and Uses: West Point candidates provide personal background information that allows the West Point Admissions Committee to make subjective judgments on non-academic experiences. Data are also used by West Point's Office of Institutional Research for correlation with success in graduation and military careers.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26708 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2009–0021]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 7, 2009.

Title, Form, and OMB Number: Pre-Candidate Procedures, USMA–375, USMA–723, USMA–450, USMA–21–12, USMA–21–27, USMA–381; OMB Control Number 0702–0060.

Type of Request: Extension.

Number of Respondents: 31,100.

Responses per Respondent: 1.

Annual Responses: 31,100.

Average Burden per Response: 0.89 hour.

Annual Burden Hours: 27,717 hours.

Needs and Uses: West Point candidates provide personal background information which allows the West Point Admissions Committee to make subjective judgments on non-academic experiences. Data are also used by West Point's Office of Institutional Research for correlation with success in graduation and military careers.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26707 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2009–0051]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 7, 2009.

Title, Form, and OMB Number: United States Air Force Academy Writing Sample; United States Air Force Academy Form 0–878; OMB Control Number 0701–0147.

Type of Request: Extension.

Number of Respondents: 4,100.

Responses per Respondent: 1.

Annual Responses: 4,100.

Average Burden per Response: 1 hour.

Annual Burden Hours: 4,100.

Needs and Uses: The information collection requirement is necessary to obtain data on candidate's background and aptitude in determining eligibility and selection to the Air Force Academy.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26706 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Provisional Patent Application Concerning Enhanced Substrates for the Protease Activity of Serotype a Botulinum Neurotoxin

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/252,675 entitled ''Enhanced Substrates for the Protease Activity of Serotype a Botulinum Neurotoxin,'' filed October 18, 2009. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The invention relates to the use of enhanced substrates for the protease activity of serotype A botulinum neurotoxin.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E9–26787 Filed 11–5–09; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Provisional Patent Application Concerning Methods and Composition for Live Bubonic Plague Vaccine Based on Yersinia Pestis * * * Gene Deletion

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/242,113 entitled ''Methods and Composition for Live Bubonic Plague Vaccine Based On Yersinia Pestis * * * Gene Deletion,'' filed September 14, 2009. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The invention relates to the creation of live vaccines by removing a specific gene, which is essential for virulence (the ability of a pathogen to make sick or kill a human or an animal) from a pathogen.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E9–26790 Filed 11–5–09; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Inland Waterways Users Board

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the forthcoming meeting.

Name of Committee: Inland Waterways Users Board (Board).

Dates: December 15, 2009.

Location: The Westin New Orleans Canal Place, 100 Rue Iberville, New Orleans, Louisiana 70130 (504–566–7006 or 1–888–627–8180).

Time: Registration will begin at 8 a.m. and the meeting is scheduled to adjourn at approximately 1 p.m.

Agenda: The Board will hear the results of the Inland Marine Transportation System (IMTS) Investment Strategy Team activities, as well as the status of the funding for inland navigation projects and studies and the status of the Inland Waterways Trust Fund.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, Headquarters, U.S. Army Corps of Engineers, CECW–ID, 441 G Street, NW., Washington, DC 20314–1000; Ph: 202–761–4691.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E9–26786 Filed 11–5–09; 8:45 am]

BILLING CODE 3720–58–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 2009–2]

Los Alamos National Laboratory Plutonium Facility Seismic Safety

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice, recommendation; correction.

SUMMARY: The Defense Nuclear Facilities Safety Board published a document in the **Federal Register** of November 2, 2009, concerning recommendation 2009–2 to the Secretary of Energy pursuant to 42 U.S.C. 2286a(a)(5) which identifies the need to execute both immediate and long-term actions that can reduce the risk posed by a seismic event at the Plutonium Facility at Los Alamos National Laboratory. The previous notice omitted the recommendation. The notice now includes the recommendation.

DATES: Comments, data, views, or arguments concerning the recommendation are due on or before December 7, 2009.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Faculties Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2001.

FOR FURTHER INFORMATION CONTACT: Brian Grosner or Andrew L. Thibadeau at the address above or telephone number (202–694–7000).

Correction

In the **Federal Register** of November 2, 2009, in FR Doc. E9–26304, on page 56595, immediately following the signature block, the recommendation should read as follows:

Dated: November 2, 2009.

John E. Mansfield,

Vice Chairman.

Recommendation 2009–2 to the Secretary of Energy

Los Alamos National Laboratory Plutonium Facility Seismic Safety

Pursuant to 42 U.S.C. 2286a(a)(5) Atomic Energy Act of 1954, as Amended

Dated: October 26, 2009.

Background

The Defense Nuclear Facilities Safety Board (Board) is concerned about the potential consequences of seismic events at Los Alamos National Laboratory's (LANL) Plutonium Facility and the adequacy of the safety strategy currently being pursued to address these events. In particular, the mitigated offsite consequences predicated on a seismically induced large fire at this operating nuclear facility exceed the Department of Energy's (DOE) Evaluation Guideline by more than two orders of magnitude. The Board believes this situation warrants immediate attention and action.

The Plutonium Facility has operated for more than a decade with a 1996 Final Safety Analysis Report as its safety basis. DOE issued Title 10, Code of Federal Regulations, Part 830, *Nuclear Safety Management,* in January 2001, requiring contractors for all its existing facilities to submit a Documented Safety Analysis (DSA). Ultimately, a DSA for the Plutonium Facility was submitted by LANL and approved by the National Nuclear Security Administration's (NNSA) Los Alamos Site Office (LASO) through a Safety Evaluation Report (SER) in December 2008. The DSA identifies an array of planned future upgrades to improve the safety posture of the facility. However, both the DSA and SER rely inappropriately on planned seismic upgrades to safety systems that (1) will not be implemented for many years and (2) are not sufficient to address adequately the bounding seismic accident scenarios. The only safety feature that can be credited for these accident scenarios is the passive confinement provided by the facility structure. Additionally, appropriate compensatory measures to protect public and worker health and safety have not been identified. As a result, a major deficiency in the facility's safety basis exists.

The safety strategy approved by LASO is based on the assumption that future upgrades to reinforce the support stands for a limited set of ''high-risk'' gloveboxes (including those containing ignition sources, such as furnaces) will prevent a large fire from occurring after a seismic event. While planned seismic upgrades to high-risk gloveboxes will provide some safety benefit in the future, the Board believes the critical NNSA assumption that these upgrades are adequate is flawed and, as a result, the current safety strategy is not defensible for the following reasons. Not all ignition sources inside high-risk gloveboxes are seismically secured to the glovebox shell; therefore, fires could still result from ignition sources toppling inside gloveboxes during a seismic event, even if the gloveboxes themselves do not topple. Additionally, ignition sources that could initiate post-seismic fires exist outside of gloveboxes targeted for seismic upgrades. DOE must take steps to develop a defensible seismic safety strategy for the Plutonium Facility.

Near-term actions and compensatory measures to reduce significantly the consequences of seismically induced events will likely involve operating the facility with restrictions on material-at-risk, removing inventory from susceptible locations or storing material in robust containers, and reducing the likelihood of a fire following a seismic event by identifying and implementing appropriate safety measures. Consistent with the Board's Recommendation 2004–2, Active Confinement Systems, one long-term strategy that could provide effective mitigation for seismic events involves upgrading the facility's confinement ventilation system to meet seismic performance category 3 criteria. This strategy would allow the confinement ventilation system to reduce reliably the consequences of a seismically induced event by many orders of magnitude to acceptably low values.

In a letter to the Board dated June 16, 2009, the NNSA Administrator rejected the implementation of some upgrades identified to address performance gaps uncovered during execution of the Implementation Plan for Recommendation 2004–2 for the Plutonium Facility's confinement ventilation system on the grounds that these upgrades were not required under the current DSA/SER strategy. LASO's present position is that upgrades to ensure post-seismic operability for active confinement ventilation may be desirable, but LASO does not expect to develop the information necessary to make a decision (e.g., cost, scope, and mitigation benefits) until mid-fiscal year 2011. The Board believes that NNSA's current safety strategy is flawed and does not obviate the need for a seismically qualified safety class active confinement ventilation system at its Plutonium Facility.

Given the magnitude of the potential consequences to the public, the Board believes DOE must develop expeditiously a defensible safety strategy for seismically induced events at the Plutonium Facility and a credible plan for implementing this strategy. DOE's response must include definite, measurable, and immediate means to substantially reduce the potential consequences at the site boundary. Implementation of a sound safety strategy must be pursued on an urgent basis.

Recommendation

In this context, and in recognition of the fact that LANL's Plutonium Facility has been designated as the center for

plutonium operations in the complex, which includes the manufacture of pits for weapon assemblies, the Board recommends that DOE:

1. Implement near-term actions and compensatory measures to reduce significantly the consequences of seismically induced events, including clear identification of consequence reduction targets/goals, schedule, and implementation methods. In planning for and completing these actions and compensatory measures, DOE should be guided by the need for immediate actions and mindful of the provisions of 42 U.S.C. 2286d(f)(1) regarding implementation timelines.

2. Develop and implement an acceptable safety strategy for seismically induced events that includes the following elements:

a. A technically justifiable decision logic and criteria for evaluating and selecting safety-class structures, systems, and components that can effectively prevent or mitigate the consequences of seismic events to acceptably low values.

b. The seismic analysis approach for structures, systems, and components required to implement the seismic safety strategy.

c. A prioritized plan and schedule, including quarterly briefs to the Board for the next 12 months, for seismic analyses, necessary upgrades, and other actions to implement the seismic safety strategy.

The severity of the problems that are the subject of this Recommendation and the urgency to remediate them argue forcefully for the Secretary to avail himself of the authority under the Atomic Energy Act (U.S.C. 2286d(e)) to ''implement any such recommendation (or part of any such recommendation) before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.''

John E. Mansfield, Ph.D.,

Vice Chairman.

[FR Doc. E9–26774 Filed 11–5–09; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12462–020]

Indian River Power Supply, LLC; Notice of Application for Amendment of Exemption, Soliciting Comments, Motions To Intervene, and Protests, and Mandatory Terms and Conditions

October 30, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of exemption.

b. *Project No.:* 12462–020.

c. *Date Filed:* August 5, 2009.

d. *Applicant:* Indian River Power Supply, LLC.

e. *Name of Project:* Indian River.

f. *Location:* Westfield River, in the Town of Russell, Hampden County, Massachusetts

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Peter B. Clark, Manager, P.O. Box 149, 823 Bay Road, Hamilton, Massachusetts, (978) 468–3999.

i. *FERC Contact:* Jeremy Jessup, *Jeremy.Jessup@ferc.gov*, (202) 502–6779.

j. *Deadline for filing comments, motions to intervene and protest:* November 30, 2009.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an 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. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Indian River Power Supply, LLC, proposes to rehabilitate the project's existing generating Unit 1. The rehabilitated unit would have an installed capacity of 800 kW and a hydraulic capacity of 428 cfs. The rehabilitation would result in a total installed capacity of 1,600 kW and a total hydraulic capacity of 856 cfs for the Indian River Project.

l. *Location of the Application:* The filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426 or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docsfiling/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filing must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', ''MOTION TO INTERVENE'', or ''MANDATORY TERMS AND CONDITIONS'' as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(I)(iii) and the instructions on the Commission's Web

site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26740 Filed 11–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status; Elizabethtown Energy, LLC, et al.

October 30, 2009.

	Docket Nos.
Elizabethtown Energy, LLC	EG09–69–000
Lumberton Energy, LLC	EG09–70–000
Milford Wind Corridor Phase I, LLC	EG09–71–000
Prairie Breeze Wind Energy LLC	EG09–72–000
Dominion Nuclear Connecticut, Inc	EG09–73–000
Fox Islands Wind, LLC	EG09–74–000
Rolling Thunder I Power Partners, LLC	EG09–75–000
Black Bear Hydro Partners, LLC	EG09–77–000
Tilton Energy LLC	EG09–78–000
Langford Wind Power, LLC	EG09–79–000

Take notice that during the month of September, 2009, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations 18 CFR 366.7(a).

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26742 Filed 11–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13600–000]

Alaska Power & Telephone Company; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

October 30, 2009.

On October 5, 2009, Alaska Power & Telephone Company filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Yukon River Hydrokinetic Water Power Project, located on the Yukon River, in the Southeast Fairbanks Census Area, near Eagle, Alaska. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) A 41.5-foot-long fabricated aluminum pontoon barge used to deploy and support the turbines; (2) a 25-kilowatt (kW) turbine generator unit attached to the pontoon barge; (3) a V-shaped floating debris boom tethered to the pontoon; (4) a power conversion station (PCS) building, located on the river bank adjacent to the moored pontoon barge; (5) a 750-foot-long, 600-volt power and control cable linking the turbine generator unit with the PCS building; (6) a 150-foot-long, 7.2-kilovolt (kV) transmission line connecting the PCS building to an existing 7.2-kV utility transmission line; and (7) appurtenant facilities. The project is projected to operate from May 15th to October 15th annually. The pontoon barge, turbine/generator unit, debris boom, and power and control cable will be removed from the river each October and redeployed the following May to prevent damage to the project facilities from winter ice in the Yukon River. The proposed Yukon River Hydrokinetic Water Power Project would have an average annual generation of 55–60 megawatt-hours.

Applicant Contact: Mr. Robert S. Grimm, CEO/President, Alaska Power & Telephone Company, P.O. Box 3222, Port Townsend, WA 98368; phone: (360) 385–1733.

*FERC Contac*t: Jennifer Harper, 202–502–6136.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*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.

More information about this project, including a copy of the application, 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–13600) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26739 Filed 11–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13525–000]

Green Hydropower Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

October 30, 2009.

On June 23, 2009, and supplemented on October 15, 2009, Green Hydropower Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA)[1] to study the feasibility of the proposed Green Hydropower Chief Joseph Project. The project would be located in Douglas and Okanogan Counties, Washington. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Green Hydropower Chief Joseph Project is an in-river development that would be located approximately 1 mile downstream of the U.S. Army Corps of Engineers' Chief Joseph Dam on the Columbia River. The project would consist of: (1) Multiple 10-foot-diameter to 40-foot diameter sea anchors (pieces of high-strength synthetic material that inflate to roughly the shape of a parachute in the presence of an underwater current); (2) up to 1.25-mile long synthetic rope; (3) an electric driven traction winch or an electric-driven capstan; (4) a 1 to 2-megawatt generator attached to the winch or capstan; (5) a floating vessel, such as a boat; (6) a new approximately 480-volt, 1,500-foot-long transmission line; and (7) appurtenant facilities. The sea anchors would be attached to a rope that is connected to the winch or capstan. The winch or capstan would be mounted on shore or on a floating vessel. The sea anchors would be pulled downstream by the existing current, pulling the rope through a winch or capstan, which will turn the generator. The project would have an estimated annual generation of between 8,750 megawatt-hours (MWh) and 17,500 MWh per year.

Applicant Contact: Mr. Joseph Allan Francis, Owner, Green Hydropower Inc., 5316 North Shirley Street, Ruston, WA 98407; phone: (253) 732–6532.

FERC Contact: Jennifer Harper, 202–502–6136.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: Sixty days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, 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–13525) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–26741 Filed 11–5–09; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 797(f). Three years is the maximum term for a preliminary permit. *See* FPA Section 5, 16 U.S.C. 798.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0041; FRL–8975–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; RadNet (Previously Known as ERAMS); EPA ICR No. 0877.10, OMB Control No. 2060–0015

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on May 31, 2010. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before January 5, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0041, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* EPA Docket Center, Air and Radiation Docket, Mail Code 2822, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0041. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Charles M. Petko, Office of Radiation and Indoor Air (ORIA), National Air and Radiation Environmental (NAREL), 540 South Morris Avenue, Montgomery, Alabama 36115–2601. TEL: 334–270–3411; FAX: 334–270–3454; E–MAIL: *petko.charles@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0041, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Office of Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Office of Air and Radiation Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under DATES.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are sample collectors.

Title: RadNet.

ICR numbers: EPA ICR No. 0877.10, OMB Control No. 2060–0015.

ICR status: This ICR is currently scheduled to expire on May 31, 2010. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: RadNet is a national network of stations collecting sampling media that include air, precipitation, drinking water, and milk. Samples are sent to EPA National Air and Radiation Environmental Laboratory (NAREL) in Montgomery, Alabama, where they are analyzed for radioactivity. RadNet provides emergency response/homeland security and ambient monitoring information on levels of environmental radiation across the nation. All stations, usually operated by state and local personnel, participate in RadNet voluntarily. Station operators complete information forms that accompany the samples. The forms request descriptive information pertaining to sample location, e.g., sample type, sample location, length of sampling period, and volume represented.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.3 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 249.

Frequency of response: from twice weekly to four times annually, depending upon type of medium being sampled.

Estimated total average number of responses for each respondent: 34.

Estimated total annual burden hours: 8363 hours.

Estimated total annual costs: $254,890. This cost refers to respondent burden. The costs of capital investment, maintenance and operational costs are assumed by the Agency.

Are There Changes in the Estimates From the Last Approval?

There will be an increase in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's decision to upgrade and expand the air monitoring network of RadNet. Over the years covered by this ICR renewal the air network will expand from existing 64 monitors to

approximately 130 monitors, which will result in the addition of 66 respondents.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another Federal Register notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: October 5, 2009.

Ronald Fraass,

Director, National Air and Radiation Environmental Laboratory (NAREL).

[FR Doc. E9–26836 Filed 11–5–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8799–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7146 or *http://www.epa.gov/compliance/nepa/*.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated July 17, 2009, (74 FR 34754).

Draft EISs

EIS No. 20090192, ERP No. D–FHW–L40238–ID, Idaho 16, I–84 to Idaho 44 Environmental Study, Proposed Action is to Increase the Transportation Capacity, Funding, Ada and Canyon Counties, ID.

Summary: EPA expressed environmental concerns about impacts to air quality, wetlands, floodplains, groundwater and riparian habitat complexes and requested information on public transit, designated non-motorized infrastructure, and demand management to reduce greenhouse gases. Rating EC2.

EIS No. 20090231, ERP No. D–BIA–K60042–CA, Point Molate Mixed-Use Tribal Destination Resort and Casino, Proposed Project is to Strengthen the Tribal Government and Improve the Social Economic Status, Guidiville Band of Pomo Indian of the Guidiville Rancheria (Tribe), City of Richmond, Contra Costa County, CA.

Summary: EPA expressed environmental concerns about the cleanup of onsite contamination and requested additional information regarding enforcement of cleanup orders after the land is taken into Tribal trust. Rating EC2.

EIS No. 20090244, ERP No. D–BLM–K65375–CA, Santa Ana River Wash Land Use Plan Amendment and Land Exchange Project, Proposes to Exchange Land Located within Upper Santa Ana River Wash, for District-Owned Lands in San Bernardino County, CA.

Summary: EPA expressed environmental concerns about potential adverse impacts to wetlands and endangered species. Rating EC2.

EIS No. 20090298, ERP No. D–COE–K39121–CA, Natomas Levee Improvement Program Phase 4a Landside Improvement Project, Issuing of 408 Permission and 404 Permit, California Department of Water Resources (DWR) and the California Central Valley Flood Protection Board, Sutter and Sacramento Counties, CA.

Summary: EPA expressed environmental concerns about air quality conformity and requested that residual flood risk be incorporated into land use planning. Rating EC2.

EIS No. 20090318, ERP No. D–USA–L15000–WA, Fort Lewis Army Growth and Force Structures Realignment, Implementation, Fort Lewis and Yakima Training Center, Kittitas, Pierce, Thurston and Yakima Counties, WA.

Summary: EPA expressed environmental concerns about water quality, biological resources, noise and human health impacts. Rating EC2.

EIS No. 20090308, ERP No. DS–USN–E65055–FL, Renewal of Authorization to Use Pinecastle Range, New Information that was not Available in the 2002 FEIS, Continued Use of the Range for a 20 Year Period, Special Use Permit Issuance, Ocala National Forest, Marion and Lake Counties, FL.

Summary: Based on full implementation of the existing and proposed mitigation measures, EPA has no objection to the proposed action. Rating LO.

EIS No. 20090310, ERP No. DS–AFS–L65455–ID, Small-Scale Suction Dredging in Lolo Creek and Moose Creek Project, Updated Information to Analysis Three Alternatives, Clearwater National Forest, North Fork Ranger District, Clearwater and Idaho Counties, ID.

Summary: EPA expressed environmental concerns about water quality and cumulative impacts, and requested information about the data collected and level of uncertainty regarding conclusions related to water quality. EPA also requested a cumulative effects analysis that considers a temporal scale consistent with the life of this approval and continual dredging over time in the stream channel. Rating EC2.

Final EISs

EIS No. 20090328, ERP No. F–FRC–E03019–00, Phase VIII Expansion Project, Proposed to Construct, Own, Operate, and Maintain New Interstate National Gas Pipeline, Compressor, and Ancillary Facilities in Alabama and Florida.

Summary: EPA expressed environmental concerns about noise aquatic habitat, water resource, and wetland impacts, and requested mitigation for these impacts.

Dated: November 3, 2009.

Ken Mittelholtz,

Deputy Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–26825 Filed 11–5–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8598–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly Receipt of Environmental Impact Statements

Filed 10/26/2009 Through 10/30/2009

Pursuant to 40 CFR 1506.9.

EIS No. 20090371, Draft EIS, NPS, KY, Cumberland Gap National Historical Park, General Management Plan, Implementation, Middlesboro, KY, Comment Period Ends: 01/04/2010, Contact: David Libman, 404–507–5701.

EIS No. 20090372, Draft EIS, FRBSF, WA, Federal Reserve Bank of San Francisco, Propose to sell the Property at 1015 Second Avenue that is

Eligible for Listing on the National Register of Historic Places, located in Seattle, WA, Comment Period Ends: 12/21/2009, Contact: Robert Kellar, 415–974–2655.

EIS No. 20090373, Draft Supplement, BLM, NV, On Line Project, (Previously Known as Ely Energy Center) Proposed 236-mile long 500 kV Electric Transmission Line from a new substation near Ely, Nevada approximately 236 miles south to the existing Harry Allen substation near Las Vegas, Clark, Lincoln, Nye and White Pine Counties, NV, Comment Period Ends: 12/21/2009, Contact: Michael Dwyer, 702–821–7102.

EIS No. 20090374, Draft EIS, DOE, MS, Kemper County Integrated Gasification Combined-Cycle (IGCC) Project, Construction and Operation of Advanced Power Generation Plant, U.S. Army COE Section 404 Permit, Kemper County, MS, Comment Period Ends: 12/21/2009, Contact: Richard A. Hargis, Jr., 412–386–6065.

EIS No. 20090375, Final EIS, AFS, OR, Deadlog Vegetation Management Project, To Implement Treatments that would Reduce the Risk of High Intensity, Stand Replacement Wildlife and the Risk of Heavy Tree Mortality from Insects and Disease, Deschutes National Forest Lands, Deschutes County, OR, Wait Period Ends: 12/07/2009, Contact: Beth Peer, 541–383–4769.

EIS No. 20090376, Draft EIS, AFS, CA, Piute Fire Restoration Project, Proposes to Salvage Dead and Dying Trees, Treat Excess Fuels, and Plant Trees, Kern River Ranger District, Sequoia National Forest, Kern County, CA, Comment Period Ends: 12/21/2009, Contact: Barbara Johnston, 559–784–1500 Ext 1220.

EIS No. 20090377, Draft EIS, BOP, 00, Criminal Alien Requirement 9 Project, Proposal to Contract with one or more Private Contractors to House up to 2,500 Federal, Low-Security, Adult Male, Non-U.S. Citizen, Criminal Aliens at Contractor Owned and Operated Correctional Facilities, Located in Baldwin, MI and/or Lake City, FL, Comment Period Ends: 12/21/2009, Contact: Issac Gaston, 202–514–6470.

EIS No. 20090378, Draft EIS, COE, MN, NorthMet Project, Proposes to Construct and Operate an Open Pit Mine and Processing Facility, Located in Hoyt Lakes—Babbitt Area of St. Louis County, MN, Comment Period Ends: 02/02/2010, Contact: Jon K. Ahlness, 651–290–5381.

Dated: November 3, 2009.

Ken Mittelholtz,

Deputy Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–26826 Filed 11–5–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8978–3]

Good Neighbor Environmental Board; Request for Nominations to the Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The Environmental Protection Agency (EPA) is inviting nominations of qualified candidates to be considered for appointment to fill vacancies on the Good Neighbor Environmental Board. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups. Vacancies are expected to be filled by early spring 2010. Additional sources may be utilized in the solicitation of nominees.

SUPPLEMENTARY INFORMATION: The Good Neighbor Environmental Board was created by the Enterprise for the Americas Initiative Act of 1992. Under Executive Order 12916, implementation authority is delegated to the Administrator of the EPA. The Board is responsible for providing advice to the President and Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico. The statute calls for the Board to have representatives from U.S. government agencies; the States of Arizona, California, New Mexico and Texas; local government; Tribes; and a variety of non-governmental officials including the private sector; academic officials; environmental group representatives; health groups; ranching and grazing interests; and other relevant sectors. U.S. government agency representatives are nominated by the heads of their agencies. Non-Federal members are appointed by the Administrator of the EPA. The Board meets three times annually, twice at various locations along the U.S.-Mexico Border and once in Washington, DC. The average workload for members is approximately 10 to 15 hours per month. Members serve on the Board in a voluntary capacity. However, EPA provides reimbursement for travel expenses associated with official government business. The following criteria will be used to evaluate nominees:

- Resident of a U.S.-Mexico border State, ideally within the border region itself.
- Representative of a sector or group that helps to shape border-region environmental policy or representatives of a group affected by border region environmental policy.
- Extensive professional knowledge of the unique environmental and infrastructure issues that are found in the region, including the bi-national dimension of these issues.
- Senior-level experience that fills a current need on the Board.
- Demonstrated ability to work in a consensus building process with diverse constituencies.
- Ability to volunteer approximately 10 to 15 hours per month to the Board's activities, including participation on meeting planning committees and preparation of text for annual reports and Comment Letters.

Nominations must include a résumé describing the professional and educational qualifications of the nominee, as well as the nominee's current business address, e-mail address, and daytime telephone number. Interested candidates may self-nominate.

ADDRESSES: Submit nominations to: Dolores Wesson, Designated Federal Officer, Office of Cooperative Environmental Management, U.S. Environmental Protection Agency (1601–M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Dolores Wesson, Designated Federal Officer, U.S. Environmental Protection Agency (1601–M), Washington, DC 20460; telephone (202) 564–1351; fax (202) 564–8129; e-mail *wesson.dolores@epa.gov*.

Dated: October 23, 2009.

Dolores Wesson,

Designated Federal Officer.

[FR Doc. E9–26839 Filed 11–5–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0802; FRL–8798–4]

Notice of Receipt of a Pesticide Petition Filed for Residues of a Pesticide Chemical in or on Various Commodities; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; reopening of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of October 21, 2009, announcing the Agency's receipt of an initial filing of a pesticide petition proposing the establishment/modification of regulations for residues of the biochemical pesticide 2,6-diisopropylnaphthalene (2,6-DIPN) in or on various food commodities. This document reopens the comment period until November 16, 2009.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0802, must be received on or before November 16, 2009.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of October 21, 2009.

FOR FURTHER INFORMATION CONTACT: Leonard Cole, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5412; e-mail address: *cole.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION: This document reopens the public comment period established in the **Federal Register** of October 21, 2009 (74 FR 54043) (FRL–8795–7). EPA is hereby reopening the comment period, which was originally scheduled to end on November 2, 2009, to November 16, 2009.

To submit comments, or access the docket, please follow the detailed instructions as provided under **ADDRESSES** in the October 21, 2009 **Federal Register** document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 2, 2009.

Keith A. Matthews,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–26842 Filed 11–5–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8978–4]

Request for Nominations to the Farm, Ranch, and Rural Communities Committee (FRRCC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations to the Farm, Ranch, and Rural Communities Committee (FRRCC).

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a diverse range of qualified candidates to be considered for appointment to the Farm, Ranch, and Rural Communities Federal Advisory Committee (FRRCC). The FRRCC is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92463. The FRRCC was established in 2008 and provides independent advice to the EPA Administrator on a broad range of environmental issues and policies that are of importance to agriculture and rural communities. Members serve as representatives from academia, industry (*e.g.*, farm groups and allied industries), non-governmental organizations, and state, local, and tribal governments.

Members are appointed by the EPA Administrator for two-year terms with the possibility of reappointment. The FRRCC generally meets two (2) times annually, or as needed and approved by the Designated Federal Officer (DFO). Meetings will generally be held in Washington, DC. Members serve on the Committee in a voluntary capacity. However, EPA may provide reimbursement for travel expenses associated with official government business. EPA is seeking nominations from all sectors, including academia, industry (*e.g.*, farm groups and allied industries), non-governmental organizations, and state, local, and tribal governments. Members who are actively engaged in farming or ranching are encouraged to apply. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

In selecting Committee members, EPA will seek candidates who possess: extensive professional knowledge of agricultural issues and environmental policy; a demonstrated ability to examine and analyze complicated environmental issues with objectivity and integrity; excellent interpersonal as well as oral and written communication skills; and an ability and willingness to participate in a deliberative and collaborative process. In addition, well-qualified applicants must be prepared to process a substantial amount of complex and technical information, and have the ability to volunteer approximately 10 to 15 hours per month to the Committee's activities, including participation in teleconference meetings and preparation of text for Committee reports.

Submissions Procedure: All nominations must be identified by name, occupation, organization, position, current business address, e-mail address, and daytime telephone number, and must include: (1) A resume detailing relevant experience and professional and educational qualifications of the nominee; and (2) a brief statement (one page or less) describing the nominee's interest in serving on the Committee. Interested candidates may self-nominate.

DATES: Applicants are encouraged to submit all nominations materials by December 31, 2009 in order to ensure fullest consideration. It is anticipated that vacancies will be filled by spring 2010.

ADDRESSES: Submit all nominations to: Alicia Kaiser, Designated Federal Officer, Office of the Administrator, U.S. Environmental Protection Agency (MC 1101A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You may also e-mail nominations to: *Kaiser.Alicia@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Alicia Kaiser, Designated Federal Officer, U.S. Environmental Protection Agency; E-mail: *Kaiser.Alicia@epa.gov*; Telephone: (202) 564–7273.

Dated: November 2, 2009.

Alicia Kaiser,

Designated Federal Officer.

[FR Doc. E9–26820 Filed 11–5–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1375]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has approved the private sector adjustment factor (PSAF) for 2010 of $50.2 million and the 2010 fee schedules for Federal Reserve priced services and electronic access. These actions were taken in

accordance with the requirements of the Monetary Control Act of 1980, which requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF. The Board has also approved maintaining the current earnings credit rate on clearing balances.

DATES: The new fee schedules and earnings credit rate become effective January 4, 2010.

FOR FURTHER INFORMATION CONTACT: For questions regarding the fee schedules: Jeffrey C. Marquardt, Deputy Director, (202/452–2360); Jeffrey S.H. Yeganeh, Manager, Retail Payments, (202/728–5801); Linda S. Healey, Senior Financial Services Analyst, (202/452–5274), Division of Reserve Bank Operations and Payment Systems. For questions regarding the PSAF and earnings credits on clearing balances: Gregory L. Evans, Deputy Associate Director, (202/452–3945); Brenda L. Richards, Manager, Financial Accounting, (202/452–2753); or Rebekah Ellsworth, Financial Analyst, (202/452–3480), Division of Reserve Bank Operations and Payment Systems. For users of Telecommunications Device for the Deaf (TDD) only, please call 202/263–4869. Copies of the 2010 fee schedules for the check service are available from the Board, the Federal Reserve Banks, or the Reserve Banks' financial services Web site at *http://www.frbservices.org*.

SUPPLEMENTARY INFORMATION:

I. Private Sector Adjustment Factor and Priced Services

A. *Overview*—Each year, as required by the Monetary Control Act of 1980, the Reserve Banks set fees for priced services provided to depository institutions. These fees are set to recover, over the long run, all direct and indirect costs and imputed costs, including financing costs, taxes, and certain other expenses, as well as the return on equity (profit) that would have been earned if a private business firm provided the services. The imputed costs and imputed profit are collectively referred to as the PSAF. Similarly, investment income is imputed and netted with related direct costs associated with clearing balances to estimate net income on clearing balances (NICB). From 1999 through 2008, the Reserve Banks recovered 98.7 percent of their total expenses (including special project costs and imputed expenses) and targeted after-tax profits or return on equity (ROE) for providing priced services.[1]

Table 1 summarizes 2008, 2009 estimated, and 2010 budgeted cost-recovery rates for all priced services. Cost recovery is estimated to be 92.0 percent in 2009 and budgeted to be 96.8 percent in 2010. The check service accounts for approximately 60 percent of the total cost of priced services and thus significantly influences the aggregate cost-recovery rate.

TABLE 1—AGGREGATE PRICED SERVICES PRO FORMA COST AND REVENUE PERFORMANCE [a]

[$ millions]

Year	1 [b] Revenue	2 [c] Total expense	3 Net income (ROE) [1 − 2]	4 [d] Targeted ROE	5 [e] Recovery rate after targeted ROE [1/(2+4)]
2008	873.8	820.4	53.4	66.5	98.5%
2009 (estimate)	679.8	718.0	−38.3	21.1	92.0%
2010 (budget)	565.8	565.7	0.1	18.9	96.8%

[a] Calculations in this table and subsequent pro forma cost and revenue tables may be affected by rounding.

[b] Revenue includes net income on clearing balances. Clearing balances are assumed to be invested in a broad portfolio of investments, such as short-term Treasury securities, government agency securities, commercial paper, long-term corporate bonds, and money market funds. To impute income, a constant spread is determined from the historical average return on this portfolio and applied to the rate used to determine the cost of clearing balances. NICB equals the imputed income from these investments less earnings credits granted to holders of clearing balances. The cost of earnings credits is based on the discounted three-month Treasury bill rate.

[c] The calculation of total expense includes operating, imputed, and other expenses. Imputed and other expenses include taxes, FDIC insurance, Board of Governors' priced services expenses, the cost of float, and interest on imputed debt, if any. Credits or debits related to the accounting for pension plans under FAS 158 [ASC 715] are also included.

[d] Targeted ROE is the after-tax ROE included in the PSAF. For the 2009 estimate, the targeted ROE reflects average actual clearing balance levels through July 2009.

[e] The recovery rates in this and subsequent tables do not reflect the unamortized gains or losses that must be recognized in accordance with FAS 158 [ASC 715]. Future gains or losses, and their effect on cost recovery, cannot be projected.

Table 2 portrays an overview of cost-recovery performance for the ten-year period from 1999 to 2008, 2008, 2009 budget, 2009 estimate, and 2010 budget by priced service. The check service is the only service with a ten-year cost recovery rate below 100 percent. The Reserve Banks have been aggressively reducing costs in response to the banking industry's transition to an end-to-end electronic check processing environment and declining check volumes nationwide. Since 2003, the Reserve Banks have reduced the number of offices at which they process paper checks from forty-five to four and plan to process paper checks at only one office by early 2010. In addition, the Reserve Banks have significantly reduced check service staff as well as their physical check transportation network. The Reserve Banks believe that their ongoing cost reduction efforts should enable the check service to return to full cost recovery within the next several years.

[1] The ten-year recovery rate is based on the pro forma income statement for Federal Reserve priced services published in the Board's *Annual Report*.

Effective December 31, 2006, the Reserve Banks implemented Statement of Financial Accounting Standards (SFAS) No. 158: *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans [Accounting Standards Codification (ASC) 715 Compensation—Retirement Benefits]*, which resulted in recognizing a reduction in equity related to the priced services' benefit plans. Including this reduction in equity results in cost recovery of 92.0 percent for the ten-year period. This measure of long-run cost recovery is also published in the Board's *Anneal Report*.

TABLE 2—PRICED SERVICES COST RECOVERY

[Percent]

Priced service	1999–2008	2008	2009 Budget	2009 Estimate	2010 Budget [a]
All services	98.7	98.5	94.3	92.0	96.8
Check	97.6	97.8	92.3	92.0	94.5
FedACH	104.6	101.5	100.3	92.0	100.0
Fedwire Funds and NSS	103.0	100.4	98.6	90.9	100.4
Fedwire Securities	102.4	102.5	100.8	94.7	103.3

[a] 2010 budget figures reflect the latest data from the Reserve Banks. The Reserve Banks will transmit final budget data to the Board in November 2009, for Board consideration in December 2009.

1. *2009 Estimated Performance*—The Reserve Banks estimate that they will recover 92.0 percent of the costs of providing priced services in 2009, including imputed expenses and targeted ROE, compared with a budgeted recovery rate of 94.3 percent, as shown in table 2. The Reserve Banks expect to recover 95 percent of actual expenses, incurring an overall net loss of $38.3 million, which is $59.4 million less than the budgeted net income of $21.1 million. This shortfall is largely driven by lower-than-expected net income from clearing balances (NICB) and increased pension costs.[2]

2. *2010 Private Sector Adjustment Factor*—The 2010 PSAF for Reserve Bank priced services is $50.2 million. This amount represents a decrease of $2.6 million from the estimated 2009 revised PSAF of $52.8 million. This reduction is primarily the result of a decrease in the cost of equity, which is due to both a lower required return on equity and a lower amount of imputed equity.[3]

3. *2010 Projected Performance*—The Reserve Banks project that the FedACH® service, Fedwire® Funds and National Settlement Services, and Fedwire® Securities Service will fully recover their costs in 2010 and that the check service will not recover its costs.[4] Overall, the Reserve Banks project a priced services cost-recovery rate of 96.8 percent in 2010, with a net income of $0.1 million.[5] The projected priced services' cost recovery is heavily influenced by the check service's underrecovery. This underrecovery is driven by a projected reduction in check deposit volume and a projected decline in the effective price of Check 21 services, resulting in lower revenue for the service.[6]

The primary risks to the Reserve Banks' ability to achieve their targeted cost recovery rates are (1) unanticipated check volume and revenue reductions, (2) the potential for cost overruns or delays with technological upgrades, and (3) further substantial declines in clearing balances resulting in significant changes to the projected PSAF and NICB. Although the check service will not achieve full cost recovery in 2010, the Reserve Banks believe that they will return to full cost recovery within the next several years by aggressively managing operating costs, taking advantage of efficiencies gained from technological upgrades, and increasing value-added product revenue.

4. *2010 Pricing*—The following summarizes the Reserve Banks' changes in fee schedules for priced services in 2010:

Check

- The Reserve Banks will increase FedForward fees 6 percent for checks presented electronically and 17 percent for checks presented as substitute checks.[7] The average fee paid by FedForward depositors will decline by 23 percent over the average 2009 fee as the number of depository institutions that accept their presentments electronically increases. The Reserve Banks will also raise FedReturn fees 23 percent for electronic endpoints and almost 46 percent for substitute check endpoints.[8] The average fee paid by depository institutions using FedReturn will rise only 7 percent as the number of institutions that accept their returns electronically increases.[9]
- The Reserve Banks will increase traditional paper forward collection fees 47 percent and traditional paper return service fees 33 percent.
- With the 2010 fees, the price index for the total check service will have increased 83 percent since 2000. In comparison, since 2005, the first full year in which the Reserve Banks offered Check 21 services, the price index for Check 21 services will have decreased 57 percent.

FedACH

- The Reserve Banks will introduce a $25 minimum monthly fee for an originating depository financial institution (ODFI) that originates forward items and the revenue associated with origination is less than $25. Additionally, the Reserve Banks will introduce a $15 minimum monthly fee for a receiving depository financial institution (RDFI) that does not originate forward transactions and that has revenue less than $15 associated with receipts.
- The Reserve Banks will increase the monthly fees for FedACH settlement

[2] The 2009 estimated NICB was projected to be $48.8 million and is now estimated at $14.0 million. The decrease in NICB is due to decreases in the level of clearing balances and in the imputed investment rate in 2009. The 2009 estimated pension costs are $53.1 million higher than budgeted.

[3] In October 2008, the Board approved a budgeted 2009 PSAF of $62.2 million, which was based on the July 2008 clearing balance level of $7,361.6 million. Since that time, clearing balances have declined, which affects 2009 PSAF and NICB. The 2009 estimated PSAF of $52.8 million, which is based on actual average clearing balances of $4,560.1 million through July 2009, reflects the lower equity costs resulting from the decrease in clearing balances. The 2009 final PSAF will be adjusted to reflect average clearing balance levels through the end of 2009.

[4] FedACH and Fedwire are registered servicemarks of the Reserve Banks.

[5] The Reserve Banks expect to recover all of their actual and imputed expenses in 2010, and earn a small profit.

[6] The decline in the effective price of Check 21 services will result primarily from an increase in the proportion of checks presented to electronic endpoints, which incur relatively lower fees than checks presented to paper endpoints.

[7] FedForward is the electronic forward check collection product.

[8] FedReturn is the electronic check return product.

[9] The Reserve Bank's Check 21 service fees include separate and substantially different fees for the delivery of checks to electronic endpoints and substitute check endpoints. Therefore, the average effective fee paid by depository institutions that use Check 21 services is dependent on the proportion of institutions that accept checks electronically. Although the Reserve Banks are raising FedForward fees for the presentment of checks to both electronic and substitute check endpoints, the effective fee paid by depository institutions will decline by 23 percent in 2010 due to the expected increase in the number of institutions that accept checks electronically. The Reserve Banks are also raising FedReturn fees to both electronic and substitute check endpoints. However, because of the relatively larger changes for the FedReturn fees, the effective fee paid by depository institutions will rise by 7 percent in 2010.

from $37 to $45 per routing number and for information extract files from $35 to $50 per routing number. In addition, Reserve Banks will raise the addenda record fees for originations and receipts 0.3 mills and introduce a $0.15 fee for the use of automated notification of change functionality.

• The Reserve Banks will realign the volume-based pricing for receipts by implementing a per-item fee of 2.5 mills for items up to 1 million each month, a per-item fee of 1.8 mills for items over 1 million and up to 25 million each month, and a per-item fee of 1.6 mills for all items when volume is greater than 25 million each month.

• With the 2010 fees, the price index for the FedACH service will have decreased 36 percent since 2000.

Fedwire Funds and National Settlement

• The Reserve Banks will raise the monthly participation fee for Fedwire Funds customers with activity in that month from $60 to $75. In addition, the Reserve Banks will increase the online transfer fee by $0.04 in the highest-priced tier, $0.02 in the mid-priced tier, and $0.01 in the lowest-priced tier and increase the threshold to qualify for volume-based discounts.

• The Reserve Banks will increase the National Settlement Service's special settlement arrangement fee from $100 to $150.

• With the 2010 fees, the price index for the Fedwire Funds and National Settlement Services will have increased 12 percent since 2000.

Fedwire Securities

• The Reserve Banks will retain fees at their current levels.

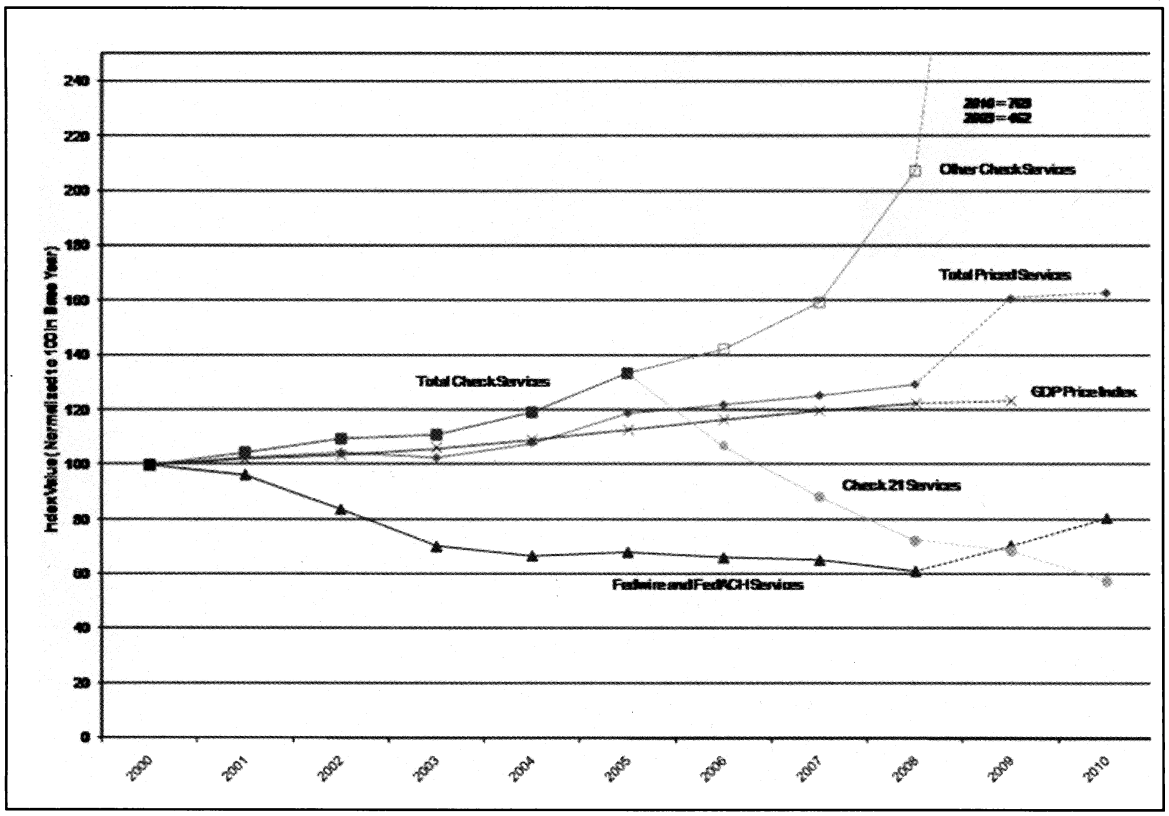
• With the 2010 fees, the price index for the Fedwire Securities Service will have decreased 23 percent since 2000.

• 5. *2010 Price Index*—Figure 1 compares indexes of fees for the Reserve Banks' priced services with the GDP price index. Compared with the price index for 2009, the price index for all Reserve Bank priced services is projected to increase 1.3 percent in 2010. The price index for the FedACH service, Fedwire Funds and National Settlement Services, and Fedwire Securities Service is projected to increase 14 percent. The price index for Check 21 services is projected to decrease 16 percent, reflecting the rapid increase in the number of depository institutions accepting checks electronically and the resulting reductions in the effective prices paid to collect and return checks using Check 21 services. The price index for all other check services is projected to increase 66 percent. For the period 2000 to 2010, the price index for all priced services is expected to increase 63 percent. In comparison, for the period 2000 to 2008 the GDP price index increased 22 percent.

Figure 1

2010 Price Index

Priced Indexes For Federal Reserve Priced Services



B. *Private Sector Adjustment Factor*—In March 2009, the Board requested comment on proposed changes to the methodology for calculating the PSAF.[10] The Board proposed replacing the current correspondent bank model with a ''publicly traded firm model' in which the key components used to determine the priced-services balance sheet and the PSAF costs would be based on data for the market of U.S. publicly traded firms. Specifically, these components include the capitalization ratio used to determine financing on the priced-services balance sheet and the effective tax rate, return on equity rate, and debt financing rates. The proposed changes were prompted by the implementation of the payment of interest on reserve (IOR) balances held by depository institutions (DIs) at the Reserve Banks and the anticipated consequent decline in balances held by DIs at Reserve Banks for clearing priced-services transactions (clearing balances).

Since the implementation of IOR, clearing balances have not declined as rapidly or significantly as originally anticipated. Between the implementation of IOR in October 2008 and January 2009, the total level of clearing balances held by DIs decreased approximately $2 billion, from $6.5 billion to $4.5 billion. During the first half of 2009, clearing balance levels were fairly flat at approximately $4.5 billion. Recently, clearing balances have begun to moderately decline again, with an average balance of $4.0 billion in September 2009. As a result of the relative stability in clearing balance behavior and the continued significant level of balances, the Board will continue to use the correspondent bank model, with two minor modifications, for the 2010 PSAF. First, given the lower level of clearing balances, the Board will reduce the level of core clearing balances.[11] Second, in the event that debt is required, the Board will use market-based rather than bank holding company (BHC)-based debt rates. Both of these changes are outlined below.

The Board is currently analyzing further the proposed publicly traded firm model and an alternate model suggested by several commenters based on a peer group of publicly traded payments processors.

B. *Private Sector Adjustment Factor*—The method for calculating the financing and equity costs in the PSAF requires determining the appropriate imputed levels of debt and equity and then applying the applicable financing rates. In this process, a pro forma balance sheet using estimated assets and liabilities associated with the Reserve Banks' priced services is developed, and the remaining elements that would exist if these priced services were provided by a private business firm are imputed. The same generally accepted accounting principles that apply to commercial-entity financial statements also apply to the relevant elements in the priced-services pro forma financial statements.

The portion of Federal Reserve assets that will be used to provide priced services during the coming year is determined using information on actual assets and projected disposals and acquisitions. The priced portion of these assets is determined based on the allocation of the related depreciation expense. The priced portion of actual Federal Reserve liabilities consists of clearing balances and other liabilities such as accounts payable and accrued expenses.

Long-term debt is imputed only when core clearing balances, long-term liabilities, and equity are not sufficient to fund long-term assets or if the interest rate risk sensitivity analysis, which measures the interest rate effect of the difference between interest rate sensitive assets and liabilities, indicates that a 200 basis point change in interest rates would change cost recovery by more than two percentage points. Short-term debt is imputed only when short-term liabilities and clearing balances not used to finance long-term assets are insufficient to fund short-term assets. A portion of clearing balances is used as a funding source for short-term priced-services assets. Long-term assets are partially funded from core clearing balances.

Because of the notable reduction in clearing balances since the implementation of IOR, the Board will adjust the level of core clearing balances from $4 billion to $1 billion. In addition, the Board will base the imputed debt rate on a market-based average debt rate for any imputed debt, if necessary, rather than an average BHC debt rate.[12] As compared to an average BHC rate, a market-based debt rate is easier to calculate and more transparent. The Board will use the average of the 3-month AA and A2/P2 nonfinancial commercial paper rates for short-term debt and the Merrill Lynch Corporate and High Yield Bond Index yield for long-term debt. The Board requested comment on this proposed change to the correspondent bank model. No comments were received that addressed this proposal.

Imputed equity meets the FDIC requirements for a well-capitalized institution for insurance premium purposes and represents the market capitalization, or shareholder value, for Reserve Bank priced services.[13] The equity financing rate is the targeted ROE rate produced by the capital asset pricing model (CAPM). In the CAPM, the required rate of return on a firm's equity is equal to the return on a risk-free asset plus a risk premium. To implement the CAPM, the risk-free rate is based on the three-month Treasury bill; the beta is assumed to equal 1.0, which approximates the risk of the market as a whole; and the monthly returns in excess of the risk-free rate over the most recent 40 years are used as the market risk premium. The resulting ROE influences the dollar level of the PSAF because this is the return a shareholder would require in order to invest in a private business firm.

For simplicity, given that federal corporate income tax rates are graduated, state income tax rates vary, and various credits and deductions can apply, an actual income tax expense is not calculated for Reserve Bank priced services. Instead, the Board targets a pretax ROE that would provide sufficient income to fulfill the priced services' imputed income tax obligations. To the extent that actual performance results are greater or less than the targeted ROE, income taxes are adjusted using an imputed income tax rate that is the median of the rates paid by the top fifty bank holding companies based on deposit balances over the past five years, adjusted to the extent that they invested in tax-free municipal bonds.

The PSAF also includes the estimated priced-services-related expenses of the Board of Governors and imputed sales

[10] 74 FR 15481–15491 (Apr. 6, 2009).

[11] Core clearing balances are considered the portion of clearing balances that has remained stable over time and are used to fund long-term priced services assets as needed.

[12] This change will likely have little practical effect on the PSAF because the funding need on the priced services balance sheet historically has been a fraction of the available clearing balances. Given current priced services assets and liabilities, the Board anticipates that even with sizable decreases in clearing balances through 2010, imputed debt will not be necessary.

[13] The FDIC requirements for a well-capitalized depository institution are (1) a ratio of total capital to risk-weighted assets of 10 percent or greater, (2) a ratio of Tier 1 capital to risk-weighted assets of 6 percent or greater, and (3) a leverage ratio of Tier 1 capital to total assets of 5 percent or greater. The priced services balance sheet has no components of Tier 1 or total capital other than equity; therefore, requirements 1 and 2 are essentially the same measurement.

As used in this context, the term ''shareholder'' does not refer to the member banks of the Federal Reserve System, but rather to the implied shareholders that would have an ownership interest if the Reserve Banks' priced services were provided by a private firm.

taxes based on Reserve Bank estimated expenditures. An assessment for FDIC insurance is imputed based on current FDIC rates and projected clearing balances held with the Reserve Banks.

1. *Net Income on Clearing Balances*—The NICB calculation is performed each year along with the PSAF calculation and is based on the assumption that the Reserve Banks invest clearing balances net of an imputed reserve requirement and balances used to finance priced-services assets.[14] The Reserve Banks impute a constant spread, determined by the return on a portfolio of investments, over the three-month Treasury bill rate and apply this investment rate to the net level of clearing balances.[15]

The calculation also involves determining the priced-services cost of earnings credits (amounts available to offset service fees) on contracted clearing balances held, net of expired earnings credits, based on a discounted Treasury bill rate. Rates and clearing balance levels used in the 2010 projected NICB are based on July 2009 rates and clearing balance levels. Because clearing balances are held for clearing priced-services transactions or offsetting priced-services fees, they are directly related to priced services. The net earnings or expense attributed to the investments and the cost associated with holding clearing balances, therefore, are considered net income for priced services.

Because the Reserve Banks now pay interest on reserve balances, a return on the imputed reserve requirement based on the level of clearing balances on the pro forma balance sheet is also projected.[16] Similar to the NICB calculation, the interest income on the imputed reserve requirement calculation is based on July 2009 clearing balance and rate information. In addition, because all excess balances held at the Reserve Banks receive explicit interest following the implementation of IOR, the priced services no longer impute investment income on any portion of excess balances. Consequently, the clearing balances on the priced-services pro forma balance sheet do not reflect excess clearing balances and only consist of contracted clearing balances held.

2. *Calculating Cost Recovery*—The PSAF and NICB are incorporated into the projected and actual annual cost recovery calculations for Reserve Bank priced services. In the fall of each year, the Board projects the PSAF for the following year using July clearing balance and rate data during the process of establishing priced services fees. When calculating actual cost recovery for the priced services at the end of each year, the Board historically has used the projected PSAF derived during the price-setting process with only minimal adjustments for actual rates or balance levels.[17] For 2009, in light of the uncertainty about the long-term effect that IOR would have on the level of clearing balances, the Board will adjust the PSAF used in the actual cost-recovery calculation to reflect the actual clearing balance levels maintained throughout 2009. NICB is also projected in the fall of each year using July data and is recalculated to reflect actual interest rates and clearing balance levels throughout the year when calculating actual priced services cost recovery.

3. *Analysis of the 2010 PSAF*—The 2010 PSAF for Reserve Bank priced services is $50.2 million. This amount represents a decrease of $2.6 million from the estimated 2009 revised PSAF of $52.8 million and a decrease of $12.0 million from the 2009 budgeted PSAF of $62.2 million. The decrease in the 2010 PSAF is primarily due to a reduction in the level of imputed equity and in the targeted ROE rate provided by the CAPM, partially offset by an increase in the imputed FDIC assessment.

Estimated 2010 Federal Reserve priced-services assets, reflected in table 3, have decreased $1,780.7 million, mainly due to a decline in imputed investments in marketable securities of $1,634.3 million. This reduction stems from the decline in clearing balances held by DIs at Reserve Banks following the implementation of IOR in October 2008.

The priced-services balance sheet includes projected clearing balances of $4,831.5 million, which represent a decrease of $2,530.1 million from the amount of clearing balances on the balance sheet for the budgeted 2009 PSAF. Because of the continued uncertainty regarding the level of clearing balances in an IOR environment, the actual PSAF costs used in cost-recovery calculations will continue to be based on the actual levels of clearing balances held throughout 2010.[18] To the extent that clearing balances fall below the current level of core clearing balances, debt would be imputed.

Credit float, which represents the difference between items in process of collection and deferred credit items, increased from $617.8 million in 2009 to $1,200.0 million in 2010.[19] The increase is primarily a result of new check products introduced in 2009.

As previously mentioned, clearing balances are available as a funding source for priced-services assets. As shown in table 4, in 2010, $10.2 million in clearing balances is used as a funding source for short-term assets. Because of moderate decreases in several long-term assets in 2010 ($154.4 million in pension assets, $86.9 million in Bank premises, and $30.7 million in furniture and equipment), long-term liabilities exceed long-term assets by $46.5 million. Consequently, no core clearing balances are used to fund long-term assets and the excess $46.5 million in equity capital is included in the NICB projection calculation as additional imputed investments. This represents a decrease of $72.3 million in clearing balances used to fund priced-services assets in 2010 over the level of clearing balances used to fund assets for the 2009 PSAF. The interest rate sensitivity analysis in table 5 indicates that a 200 basis point decrease in interest rates affects the ratio of rate-sensitive assets to rate-sensitive liabilities and increases cost recovery by 1.3 percentage points, while an increase of 200 basis points in

[14] Reserve requirements are the amount of funds that a DI must hold in reserve against specified deposit liabilities. DIs must hold reserves in the form of vault cash or deposits with Federal Reserve Banks. The dollar amount of a DI's reserve requirement is determined by applying the reserve ratios specified in the Board's Regulation D to the institution's reservable liabilities. The Reserve Banks priced services impute a reserve requirement of ten percent, which is applied to the amount of clearing balances held with the Reserve Banks.

[15] The investment portfolio is composed of investments comparable to a bank holding company's investment holdings, such as short-term Treasury securities, government agency securities, commercial paper, long-term corporate bonds, and money market funds. See table 7 for the investments imputed in 2010.

NICB is projected to be $14.5 million for 2010. This result uses an investment rate equal to a constant spread of 29 basis points over the three-month Treasury bill rate, applied to the clearing balance levels used in the 2010 pricing process. The 2009 NICB estimate is $14.0 million.

[16] The imputed interest income on the imputed reserve requirement is projected to be $1.5 million for 2010. The projected 2010 rate for imputed interest income on the reserve requirement is based on the July 2009 rate of 0.25 percent.

[17] The largest portion of the PSAF, the target ROE, historically has been fixed. Imputed sales tax, income tax, and the FDIC assessment are recalculated at the end of each year to adjust for actual expenditures, net income, and clearing balance levels.

[18] To the extent that the interest rates on excess balances are higher than the earnings credit rate, clearing balances will likely continue to decline. It is difficult to forecast the rapidity and degree of this shift because it depends on DI behavior and the disparity between the excess reserves rate and the earnings credit rate, which at current rates is negligible. The Board is planning to evaluate DIs' views as to any continued benefit to retaining the clearing balance program.

[19] Credit float occurs when the Reserve Banks present items for collection to the paying bank prior to providing credit to the depositing bank.

interest rates decreases cost recovery by 1.3 percentage points. The established threshold for a change in cost recovery is two percentage points; therefore, interest rate risk associated with using these balances is within acceptable levels and no long-term debt is imputed.

As shown in table 3, the amount of equity imputed for the 2010 PSAF is $369.4 million, a decrease of $89.0 million from the imputed equity for 2009. In accordance with FAS 158 [ASC 715], this amount includes an accumulated other comprehensive loss of $407.7 million. Both the capital to total assets ratio and the capital to risk-weighted assets ratio meet or exceed the regulatory requirements for a well-capitalized DI. Equity is calculated as 5.0 percent of total assets, and the ratio of capital to risk-weighted assets is 10.0 percent.[20] The Reserve Banks imputed an FDIC assessment for the priced services based on the FDIC's proposed 2010 assessment rates and the level of clearing balances held at Reserve Banks. For 2010, the FDIC assessment is imputed at $9.6 million, compared with a net FDIC assessment of $0.9 million in 2009. The increase is due to the exhaustion of the one-time FDIC credit that was used in prior years to offset a majority of the estimated FDIC assessment.[21] The imputed FDIC assessment also reflects the increased rates and new assessment calculation methodology from the FDIC's most recent proposed rule, which resulted in a prepaid FDIC asset of $24.6 million on the priced-services balance sheet.[22]

Table 6 shows the imputed PSAF elements, including the pretax ROE and other required PSAF costs, for 2009 and 2010. The $18.0 million decrease in ROE is caused by the combination of a lower amount of imputed equity and a decrease in the risk-free rate of return. Sales taxes decreased from $7.3 million in 2009 to $5.2 million in 2010. The effective income tax rate used in 2010 increased to 33.1 percent from 32.6 percent in 2009. The priced-services portion of the Board's expenses decreased $0.6 million from $7.8 million in 2009 to $7.2 million in 2010.

TABLE 3—COMPARISON OF PRO FORMA BALANCE SHEETS FOR FEDERAL RESERVE PRICED SERVICES[23]

[Millions of dollars—projected average for year]

	2010	2009	Change
Short-term assets:			
Imputed reserve requirement on clearing balances	$603.1	$797.9	$(194.8)
Receivables	45.9	53.6	(7.7)
Materials and supplies	0.9	1.9	(1.0)
Prepaid expenses	23.2	26.3	(3.1)
Items in process of collection[24]	520.0	236.4	283.6
Total short-term assets	1,193.1	1,116.1	77.0
Imputed investments	$5,464.7	$7,099.0	$(1,634.3)
Long-term assets:			
Premises[25]	$235.4	$322.3	$(86.9)
Furniture and equipment	62.1	92.8	(30.7)
Leasehold improvements and long-term prepayments	60.3	83.0	(22.7)
Prepaid pension costs	148.9	303.3	(154.4)
Prepaid FDIC asset	24.6	0.0	24.6
Deferred tax asset	198.9	152.2	46.7
Total long-term assets	730.2	953.6	(223.4)
Total assets	$7,388.0	$9,168.7	$(1,780.7)
Short-term liabilities[26]			
Clearing balances	$4,831.5	$7,361.6	$(2,530.1)
Deferred credit items[24]	1,720.0	854.2	865.8
Short-term payables	59.8	84.3	(24.5)
Total short-term liabilities	6,611.3	8,300.1	(1,688.8)
Long-term liabilities[26]			
Postemployment/postretirement benefits liability	$407.3	$410.2	$(2.9)
Total liabilities	$7,018.6	$8,710.3	$(1,691.7)
Equity[27]	369.4	458.4	(89.0)
Total liabilities and equity	$7,388.0	$9,168.7	$(1,780.7)

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[20] In December 2006, the Board, the FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision announced an interim ruling that excludes FAS 158 [ASC 715]-related accumulated other comprehensive income or losses from the calculation of regulatory capital. The Reserve Banks, however, elected to impute total equity at 5 percent of assets, as indicated above, until the regulators announce a final ruling.

[21] Previously, per FDIC rules, any remaining portion of the one-time assessment credit could offset up to 90 percent of the assessment amount. For 2009, 90 percent of the total imputed assessment of $9.3 million was offset by the remaining assessment credit, resulting in a net assessment of $0.9 million. No credit remained in 2010 to offset any portion of the $9.6 million assessment.

[22] For information on the proposed 2009 FDIC assessment rates, see *http://www.fdic.gov/news/news/press/2009/pr09178.html.*

[23] The 2009 PSAF values in tables 3, 4 and 6 reflect the budgeted 2009 PSAF of $62.2 million approved by the Board in October 2008.

[24] Represents float that is directly estimated at the service level.

[25] Includes the allocation of Board of Governors assets to priced services of $0.9 million for 2010 and $1.1 million for 2009.

[26] No debt is imputed because clearing balances are a funding source.

[27] Includes an accumulated other comprehensive loss of $322.6 million for 2009 and $407.7 million for 2010, which reflect the ongoing amortization of the accumulated loss in accordance with FAS 158 [ASC 715]. Future gains or losses, and their effects on the pro forma balance sheet, cannot be projected.

Table 4
Portion of Clearing Balances Used to Fund Priced-Services Assets
(millions of dollars)

	2010		2009	
A. Short-term asset financing				
Short-term assets to be financed:				
Receivables	$ 45.9		$ 53.6	
Materials and supplies	0.9		1.9	
Prepaid expenses	23.2		26.3	
Total short-term assets to be financed	$ 70.0		$ 81.8	
Short-term funding sources:				
Short-term payables	$ 59.8		$ 84.3	
Portion of short-term assets funded with clearing balances[28]		$ 10.2		$ (2.5)
B. Long-term asset financing				
Long-term assets to be financed:				
Premises	$ 235.4		$ 322.3	
Furniture and equipment	62.1		92.8	
Leasehold improvements and long-term prepayments	60.3		83.0	
Prepaid pension costs	148.9		303.3	
Prepaid FDIC asset	24.6		0.0	
Deferred tax asset	198.9		152.2	
Total long-term assets to be financed	$ 730.2		$ 953.6	
Long-term funding sources:				
Postemployment/postretirement benefits liability	$ 407.3		$ 410.2	
Imputed equity[29]	369.4		458.4	
Total long-term funding sources	$ 776.7		$ 868.6	
Portion of long-term assets funded with core clearing balances[28]		$ 0.0		$ 85.0
C. Total clearing balances used for funding priced-services assets		$ 10.2		$ 82.5

[28] Clearing balances shown in table 3 are available for financing priced-services assets. Using these balances reduces the amount available for investment in the NICB calculation. Long-term assets are financed with long-term liabilities, equity, and core clearing balances; a total of $4 billion and $1 billion in clearing balances is available for this purpose in 2009 and 2010, respectively. Short-term assets are financed with short-term payables and clearing balances not used to finance long-term assets. No short- or long-term debt is imputed.

[29] See table 6 for calculation of required imputed equity amount.

TABLE 5—2010 INTEREST RATE SENSITIVITY ANALYSIS [30]

[millions of dollars]

	Rate sensitive	Rate insensitive	Total
Assets:			
Imputed reserve requirement on clearing balances		$603.1	$603.1
Imputed investments	$5,464.7		5,464.7
Receivables		45.9	45.9
Materials and supplies		0.9	0.9
Prepaid expenses		23.2	23.2
Items in process of collection [31]	(1,200.0)	1,720.0	520.0
Long-term assets		730.2	730.2
Total assets	$4,264.7	$3,123.3	$7,388.0
Liabilities:			
Clearing balances	$4,831.5		$4,831.5
Deferred credit items		$1,720.0	1,720.0
Short-term payables		59.8	59.8
Long-term liabilities		407.3	407.3
Total liabilities	$4,831.5	$2,187.1	$7,018.6

Rate change results	200 basis point decrease in rates	200 basis point increase in rates
Asset yield ($4,264.7 × rate change)	$(85.3)	$85.3
Liability cost ($4,831.5 × rate change)	(96.6)	96.6
Effect of 200 basis point change	$11.3	$(11.3)
2010 budgeted revenue	$565.8	$565.8
Effect of change	11.3	(11.3)
Revenue adjusted for effect of interest rate change	$577.1	$554.5
2010 budgeted total expenses	$543.7	$543.7
2010 budgeted PSAF (net of $9.3 tax effect) [32]	40.9	40.9
Tax effect of interest rate change ($ change × 33.1%)	3.8	(3.8)
Total recovery amounts	$588.4	$580.8
Recovery rate before interest rate change	96.8%	96.8%
Recovery rate after interest rate change	98.1%	95.5%
Effect of interest rate change on cost recovery [33]	1.3%	(1.3)%

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[30] The interest rate sensitivity analysis evaluates the level of interest rate risk presented by the difference between rate-sensitive assets and rate-sensitive liabilities. The analysis reviews the ratio-sensitive assets to rate-sensitive liabilities and the effect on cost recovery of a change in interest rates of up to 200 basis points.

[31] The amount designated as rate-sensitive represents items collected prior to providing credit according to established availability schedules.

[32] The tax effect is due to the projected under-recovery of total actual costs, imputed costs, and targeted ROE.

[33] The effect of a potential change in rates is less than a two percentage point change in cost recovery; therefore, no long-term debt is imputed for 2010.

Table 6
Derivation of the 2010 and 2009 PSAF
(millions of dollars)

	2010			2009		
A. Imputed elements						
Short-term debt[34]		$ 0.0			$ 0.0	
Long-term debt[35]		0.0			0.0	
Equity						
Total assets from table 3	$ 7,388.0			$ 9,168.7		
Required capital ratio[36]	5%			5%		
Total equity		$ 369.4			$ 458.4	
B. Cost of capital						
1. Financing rates/costs						
Short-term debt		N/A			N/A	
Long-term debt		N/A			N/A	
Pretax return on equity[37]		7.6%			10.1%	
2. Elements of capital costs						
Short-term debt			$ 0.0			$ 0.0
Long-term debt			0.0			0.0
Equity	$ 369.4	x 7.6% =	28.2	$ 458.4	x 10.1%	46.2
			$ 28.2			$ 46.2
C. Other required PSAF costs						
Sales taxes		$ 5.2			$ 7.3	
FDIC assessment		9.6			0.9	
Board of Governors		7.2			7.8	
			22.0			16.0
D. Total PSAF			$ 50.2			$ 62.2
As a percent of assets			0.7%			0.7%
As a percent of expenses[38]			9.6%			9.5%
E. Tax rates			33.1%			32.6%

[34] No short-term is imputed because clearing balances are a fundign source for those assets that are not financed with short-term payables.

[35] No long-term debt is imputed because core clearing balances are a funding source.

[36] Based on the regulatory requirements for a well-capitalized institution for the purpose of assessing insurance premiums.

[37] The 2010 ROE is equal to a risk-free rate plus a risk premium (beta * market risk premium). The 2010 after-tax CAPM ROE is calculated as 0.18% + (1 * 4.93%) = 5.11%. Using a tax rate of 33.1%, the after-tax ROE is converted into a pretax ROE, which results in a pretax ROE of (5.11% / (1 − 33.1%)) = 7.6%.

[38] System 2010 budgeted priced services expenses less shipping and float are $521.2 million.

TABLE 7—COMPUTATION OF 2010 CAPITAL ADEQUACY FOR FEDERAL RESERVE PRICED SERVICES

[Millions of dollars]

	Assets	Risk weight	Weighted assets
Imputed reserve requirement on clearing balances	$603.1	0.0	$0.0
Imputed investments:			
3-month Treasury bills [39,40]	$2,317.5	0.0	$0.0
Commercial paper (1-month) [39]	2,746.3	1.0	2,746.3
GNMA mutual fund [41]	400.9	0.2	80.2
Total imputed investments	5,464.7	.....	2,826.5
Receivables	$45.9	0.2	$9.2
Materials and supplies	0.9	1.0	0.9
Prepaid expenses	23.2	1.0	23.2
Items in process of collection	520.0	0.2	104.0
Premises	235.4	1.0	235.4
Furniture and equipment	62.1	1.0	62.1
Leasehold improvements and long-term prepayments	60.3	1.0	60.3
Prepaid pension costs	148.9	1.0	148.9
Prepaid FDIC asset	24.6	1.0	24.6
Deferred tax asset	198.9	1.0	198.9
Total	$7,388.0	.....	$3,694.0
Imputed equity for 2010	$369.4		
Capital to risk-weighted assets	10.0%		
Capital to total assets	5.0%		

C. *Earnings Credits on Clearing Balances*—The Reserve Banks will maintain the current rate of 80 percent of the three-month Treasury bill rate to calculate earnings credits on clearing balances.

Clearing balances were introduced in 1981, as part of the Board's implementation of the Monetary Control Act, to facilitate access to Federal Reserve priced services by institutions that did not have sufficient reserve balances to support the settlement of their payment transactions. The earnings credit calculation uses a percentage discount on a rolling thirteen-week average of the annualized coupon equivalent yield of three-month Treasury bills in the secondary market. Earnings credits, which are calculated monthly, can be used only to offset charges for priced services and expire if not used within one year.[42]

D. *Check Service*—Table 8 shows the 2008, 2009 estimated, and 2010 budgeted cost recovery performance for the commercial check service.

TABLE 8—CHECK SERVICE PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Total expense	3 Net income (ROE) [1 − 2]	4 Targeted ROE	5 Recovery rate after targeted ROE [1/(2+4)]
2008	683.6	647.1	36.5	51.9	97.8%
2009 (estimate)	495.8	524.0	−28.2	15.1	92.0%
2010 (budget)	345.4	353.7	−8.4	11.6	94.5%

1. *2009 Estimate*—Through August 2009, the check service has recovered 95.3 percent of total costs, including imputed expenses, and targeted ROE. For the full year, the Reserve Banks do not expect to recover fully their costs of providing check services. Specifically, the Reserve Banks estimate that the check service will recover 92.0 percent of its total costs for the full year compared with the budgeted 2009 recovery rate of 92.3 percent, with an operating loss of $28.2 million (see table 8).[43] The lower-than-budgeted recovery rate is driven primarily by lower-than-anticipated NICB and higher-than-expected pension costs, which are offset largely by higher-than-expected product

[39] The imputed investments are assumed to be similar to those for which rates are available on teh Federal Reserve's H.15 statistical release, which can be located at *http://www.federalreserve.gov/releases/h15/data.htm.*

[40] Includes estimated amounts arising from the collection of items prior to providing credit according to established availability schedules. These amounts are assumed to be invested in a short-term Treasury security.

[41] The imputed mutual fund investment is based on Vanguard's GNMA Fund Investor Shares fund, which was chosen based on the investment strategies articulated in its prospectuses. The fund returns can be located at *https://personal.vanguard.com/VGApp/hnw/FundsByType.*

[42] A band is established around the contracted clearing balance to determine the maximum balance on which credits are earned as well as any deficiency charges. The clearing balance allowance is 2 percent of the contracted amount or $25,000, whichever is greater. Earnings credits are based on the period-average balance maintained up to a maximum of the contracted amount plus the clearing balance allowance. Deficiency charges apply when the average balance falls below the contracted amount less the allowance, although credits are still earned on the average maintained balance.

[43] The Reserve Banks expect to recover 95 percent of their actual expenses in 2009.

revenue and lower-than-expected operating costs.

The general decline in the number of checks written continues to influence the decline in checks collected by the Reserve Banks, although the estimated decline for 2009 is somewhat less than the budgeted assumption. For full-year 2009, the Reserve Banks estimate that their total forward check collection volume will decline nearly 9 percent compared with a budgeted decline of 12 percent.[44] The proportion of checks deposited and presented electronically has grown steadily in 2009 (see table 9). The Reserve Banks expect that year-end 2009 FedForward deposit and FedReceipt presentment penetration rates will reach 99 percent and 97 percent, respectively. The Reserve Banks also expect that year-end 2009 FedReturn and FedReceipt Return penetration rates will reach 97 percent and 72 percent, respectively. FedReturn and FedReturn Receipt penetration rates have lagged those of FedForward and FedReceipt because initial efforts by the Reserve Banks and depository institutions to apply electronics to the check clearing process focused on the relatively higher volume forward collection process. Moreover, the recent economic environment has limited depository institutions' back-office investments to apply electronics to the check return process.

TABLE 9—CHECK 21 PRODUCT PENETRATION RATES [a]

[Percent] [b]

	Forward deposit volume				Return Volume			
	FedForward		FedReceipt		FedReturn		FedReceipt	Return
	Full-year	Year-end	Full-year	Year-end	Full-year	Year-end	Full-year	Year-end
2007	43	58	12	23	38	45	1	1
2008	77	92	42	61	58	72	6	13
2009 (estimate)	97	98	78	90	82	93	28	45
2010 (budget)	99	99	95	97	95	97	60	72

[a] FedForward is the electronic forward check collection product; FedReceipt is electronic presentment with accompanying images; FedReturn is the electronic check return product; and FedReceipt Return is the electronic delivery of returned checks with accompanying images.

[b] Deposit and presentment statistics are calculated as a percentage of total forward collection volume. Return statistics are calculated as a percentage of total return volume.

As the vast majority of Reserve Bank check deposits are now electronic, paper forward-collection volume is expected to decline nearly 86 percent for the full year (see table 10). The Reserve Banks also estimate that paper return volume will decline at a slightly faster pace than anticipated, 60 percent for the full year, compared with a budgeted decline of 53 percent.

TABLE 10—PAPER CHECK PRODUCT VOLUME CHANGES

[Percent]

	Budgeted 2009 change	Estimated 2009 change
Forward Collection	−87	−86
Returns	−53	−60

2. *2010 Pricing*—In 2010, the Reserve Banks project that the check service will recover 94.5 percent of total expenses and targeted ROE.[45] Revenue is projected to be $345.4 million, a decline of $150.4 million from 2009. This decline is driven largely by projected reductions in check deposits and an increasing proportion of checks being presented electronically. Total expenses for the check service are projected to be $353.7 million, a decline of $170.3 million from 2009. The reduction of check costs is driven by the continued decline in the number of Reserve Bank check-processing sites and associated staff reductions. The Reserve Banks recently announced plans to further accelerate the consolidation of their check processing offices, which began in 2003 when they processed checks at 45 offices nationwide. In early 2010, the Reserve Banks will have a single full-service paper check processing site located at the Federal Reserve Bank of Cleveland.

For 2010, the Reserve Banks estimate that their total forward check volume will decline 9 percent (see table 11). FedForward and traditional paper check volumes are expected to decline 6 percent and 84 percent, respectively. The decline in Reserve Bank check volume can be attributed to increased competition, increased use of direct exchanges, and the continued decline in check use nationwide. The Reserve Banks also expect that return volume will decline 10 percent, as FedReturn volume rises 4 percent and traditional paper returns decline 76 percent.

TABLE 11—CHECK VOLUME

	2010 Budgeted volume (millions of items)	Growth from 2009 estimate (percent)
FedForward	7,821	−6
Traditional paper forward	47	−84
Total forward	7,868	−9
FedReturn	77	4
Traditional paper return	4	−76
Total return	81	−10

The Reserve Banks will increase FedForward fees, on average, 6 percent for checks presented electronically and 17 percent for checks presented as substitute checks (see table 12). The average fee paid by FedForward depositors will decline by 23 percent over the average 2009 fee, as the number of depository institutions that accept their presentments electronically increases. FedReturn fees will also increase, on average, 23 percent and 46 percent for electronic and substitute check endpoints, respectively. The average fee paid by depository institutions using FedReturn will rise 7 percent, as the number of institutions

[44] Total forward Reserve Bank check volumes are expected to drop from roughly 9.5 billion in 2008 to 8.7 billion in 2009.

[45] The Reserve Banks expect to recover all of their actual and 10 percent of their imputed expenses in 2010.

that accept their returns electronically increases.

For the traditional paper check products, the Reserve Banks will increase forward paper check collection fees 47 percent and paper return fees 33 percent (see table 12). These increases are designed to encourage the continued adoption of Check 21 services.

TABLE 12—2010 FEE CHANGES

	2009 Average fee [a]	2010 Average fee [a]	Fee change (percent)
FedForward:			
Electronic endpoints	$0.0205	$0.0218	6
Substitute check endpoints	0.0809	0.0945	17
Weighted average fee [b]	0.0314	0.0241	−23
FedReturn:			
Electronic endpoints	0.3066	0.3766	23
Substitute check endpoints	0.8983	1.3083	46
Weighted average fee [b]	0.6847	0.7352	7
Paper:			
Forward collection	0.0860	0.1262	47
Returns	2.1467	2.8528	33

[a] The average fees in this table represent combined cash letter and per-item fees for each product type.
[b] The weighted average fees for FedForward and FedReturn products are dependent on electronic receipt penetration rates. In this table, the weighted average fees are based on electronic receipt penetration rates estimated for full-year 2009 and projected for full-year 2010.

Risks to the Reserve Banks' ability to achieve budgeted 2010 cost recovery for the check service include greater-than-expected check volume losses to correspondent banks, aggregators, and direct exchanges, which would result in lower-than-anticipated revenue, and significant cost overruns associated with unanticipated problems with the Reserve Banks' Check 21 platform.

E. *FedACH Service*—Table 13 shows the 2008, 2009 estimate, and 2010 budgeted cost-recovery performance for the commercial FedACH service.

TABLE 13—FEDACH SERVICE PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Total expense	3 Net income (ROE) [1 − 2]	4 Targeted ROE	5 Recovery rate after targeted ROE [1/(2+4)]
2008	97.9	88.9	9.0	7.6	101.5%
2009 (estimate)	93.6	98.7	−5.1	3.1	92.0%
2010 (budget)	113.2	109.4	3.8	3.8	100.0%

1. *2009 Estimate*—The Reserve Banks estimate that the FedACH service will recover 92.0 percent of total expenses and targeted ROE, compared with the budgeted recovery rate of 100.3 percent, for an operating loss of $5.1 million.[46] The lower-than-budgeted recovery rate is driven by shortfalls in NICB and product revenue of $5.4 million and $3.5 million, respectively, and higher-than-expected pension costs of $6.5 million. Through August, FedACH average daily commercial origination volume has declined 2 percent relative to the same period in 2008. The Reserve Banks had originally projected a 10.5 percent growth in FedACH commercial origination volume for 2009, which was in line with historical volume growth rates. The FedACH volume decline reflects weaker-than-expected industry ACH volume growth and a slight loss of market share. For the full year, the Reserve Banks estimate that volume will decline 2 percent.

2. *2010 Pricing*—The Reserve Banks project that the FedACH service will recover 100.0 percent of total expenses and targeted ROE in 2010. Total revenue is budgeted to increase $19.6 million from the 2009 estimate, primarily due to increases in monthly fixed fees, changes to volume-based receipt fees, the introduction of new monthly minimum fees, the implementation of new value-added services, and increasing electronic access revenue. Total expenses are budgeted to increase $10.7 million from 2009 due to an increase in the allocation of electronic access costs.[47]

The Reserve Banks expect FedACH commercial origination and receipt volume in 2010 to grow 2.9 percent and 2.5 percent, respectively. The growth rates for recurring ACH credits and debits are projected to be slightly lower than their historical average. Moreover, payments that have accounted for much of the ACH growth in recent years (e.g., electronic check conversion applications, including checks converted at lockboxes and at the point of sale) are unlikely to be a source of significant volume growth in 2010. Additionally, the sustained growth of direct exchanges and competition from the private-sector ACH operator, Electronic Payments Network, is expected to limit FedACH volume growth.

[46] The Reserve Banks expect to recover 95 percent of their actual expenses in 2009.

[47] Beginning in 2010, the Reserve Banks changed the methodology for allocating both revenues and costs to the electronic access channels, resulting in both higher revenues and costs allocated to the FedACH service.

The Reserve Banks will adopt several pricing strategies that are designed to better align the revenue stream with the costs of providing the service, which are predominantly fixed, and to meet competitive challenges better. Specifically, the Reserve Banks will revise the current volume-based pricing structure for ACH receipt services, which includes volume-based tier levels and per-item fee incentives. The pricing establishes three volume tiers and applies a single transaction fee across all items if a receiving institution met the threshold for the highest volume tier level (see table 14). Eligible volume includes all receipt items originated through both the Reserve Banks and the private-sector operator. Eligibility for the revised volume-based price incentive will be determined by receipt volume aggregated across all of an institution's ACH routing numbers.

TABLE 14—VOLUME-BASED FEDACH RECEIPT FEES

Tier	Receipt volume		
	Minimum	Maximum	Per-item fee
Base	1	1,000,000	$0.0025
1	1,000,001	25,000,000	$0.0018
2	25,000,001	or greater	$0.0016 (all items)

The Reserve Banks will also introduce new minimum fees based on volume received from an ODFI or a RDFI, which will only be applied to FedACH participants that have one or more active routing numbers in the FedACH database. The new pricing consists of two minimum fees: (1) A $25 monthly fee for an ODFI that originates forward ACH transactions and the revenue associated with these transactions is less than the minimum fee, and (2) a $15 monthly fee for an RDFI that does not originate forward ACH transactions with the Reserve Banks and the revenue associated with the RDFI's receipt volume is less than the minimum fee.

The Reserve Banks will also increase the addenda record fees for origination and receipt transactions. At the same time, the Reserve Banks will increase monthly fees for FedACH settlement and information extract files and to introduce a fee for the use of automated notification of change functionality.

Risks to meeting the Reserve Banks' budgeted 2010 cost recovery include lower-than-anticipated volume due to competition from EPN and direct ACH exchanges, and unanticipated problems with technology upgrades that result in cost overruns.

F. *Fedwire Funds and National Settlement Services*—Table 15 shows the 2008, 2009 estimate, and 2010 budgeted cost-recovery performance for the Fedwire Funds and National Settlement Services.

TABLE 15—FEDWIRE FUNDS AND NATIONAL SETTLEMENT SERVICES PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Total expense	3 Net income (ROE) [1 − 2]	4 Targeted ROE	5 Recovery rate after targeted ROE [1/(2+4)]
2008	67.8	62.3	5.5	5.3	100.4%
2009 (estimate)	65.5	69.9	−4.4	2.2	90.9%
2010 (budget)	81.5	78.5	3.0	2.7	100.4%

1. *2009 Estimate*—The Reserve Banks estimate that the Fedwire Funds and National Settlement Services will recover 90.9 percent of total expenses and targeted ROE, compared with a 2009 budgeted recovery rate of 98.6 percent.[48] The lower-than-expected recovery rate is primarily attributable to lower-than-expected NICB and higher-than-expected pension costs. For full-year 2009, the Reserve Banks estimate that online Fedwire funds transfer volume will decline 5 percent, compared to a budgeted decline of 1 percent. With respect to the National Settlement Service, the Reserve Banks estimate that the volume of settlement entries processed during 2009 will be 11 percent lower than the 2009 budget projection. The decline in National Settlement Service volume is due primarily to the continued loss and consolidation of local check clearinghouse arrangements.

2. *2010 Pricing*—The Reserve Banks expect the Fedwire Funds and National Settlement Services to recover 100.4 percent of total expenses and targeted ROE in 2010. The Reserve Banks project total revenue to increase $16.0 million from the 2009 estimate. Approximately half the increase in revenue is due to increases in the monthly participation fee and transaction fees for the Fedwire Funds Service. The other half of the increase in revenue is primarily due to an increase in electronic access revenue of $6.6 million and NICB revenue of $1 million.

The Reserve Banks project total expenses to increase $8.6 million from the 2009 estimate. This increase is mainly due to an increase in the allocation of electronic access costs as well as increased amortization and depreciation expenses associated with the Fedwire migration program.[49] Online volumes for the Fedwire Funds Service and the National Settlement Service for 2010 are budgeted to remain unchanged from 2009 estimates.

[48] The Reserve Banks expect to recover 94 percent of their actual expenses in 2009.

[49] Beginning in 2010, the Reserve Banks changes the methodology for allocating both revenues and costs to the electronic access channels, resulting in both higher revenues and costs allocated to the Fedwire Funds Service.

The Reserve Banks will raise volume-based transfer fees for the Fedwire Funds Service by $0.01 to $0.04 across the three volume tiers. The Reserve Banks will also restructure the three volume tiers by increasing the threshold to qualify for volume-based discounts from 3,000 transfers per month to 14,000 transfers per month. The Reserve Banks will increase the Fedwire Funds monthly participation fee by $15 to $75 in 2010. The Reserve Banks estimate that the price increases will result in an approximate 23 percent price increase to the average Fedwire Funds customer. With respect to the National Settlement Service, the Reserve Banks will retain fees at their current levels except for the special settlement arrangement fee, which the Reserve Banks will increase by $50 to $150 in 2010.[50]

G. *Fedwire Securities Service*—Table 16 shows the 2008, 2009 estimate, and 2010 budgeted cost recovery performance for the Fedwire Securities Service.[51]

TABLE 16—FEDWIRE SECURITIES SERVICE PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Total expense	3 Net income (ROE) [1 − 2]	4 Targeted ROE	5 Recovery rate after targeted ROE [1/(2+4)]
2008	24.5	22.2	2.3	1.7	102.5%
2009 (estimate)	24.8	25.4	−0.6	0.8	94.7%
2010 (budget)	25.7	24.1	1.6	0.8	103.3%

1. *2009 Estimate*—The Reserve Banks estimate that the Fedwire Securities Service will recover 94.7 percent of total expenses and targeted ROE, compared with a 2009 budgeted recovery rate of 100.8 percent.[52] The lower-than-budgeted recovery is primarily attributable to lower-than-expected NICB and increased pension costs. Through August, online securities volume is down almost 4 percent from the same period in 2008. The decline in revenues and higher-than-expected costs led the Reserve Banks to implement a mid-year price increase in monthly account maintenance fees.

2. *2010 Pricing*—The Reserve Banks project that the Fedwire Securities Service will recover 103.3 percent of total expenses and targeted ROE in 2010. The Reserve Banks project that total revenue will increase by $0.9 million compared with the 2009 estimate. The increase in revenue is due to the full-year effect of the mid-year price increase to account maintenance fees. Total expenses are budgeted to decrease $1.3 million from the 2009 estimate because of declining operating costs.[53] For 2010, online securities volume is projected to decline 5 percent from current 2009 estimates while offline securities volume is projected to remain unchanged.[54]

The fees for the Fedwire Securities Service will remain unchanged from 2009.

H. *Electronic Access*—The Reserve Banks allocate the costs and revenues associated with electronic access to the Reserve Banks' priced services. There are currently three electronic access channels through which customers can access the Reserve Banks' priced services: FedLine®, FedPhone®, and FedMail®.[55] The Reserve Banks package these channels into nine electronic access packages that are supplemented by a number of premium (or à la carte) access and accounting information options.

Attended access packages offer access to critical payment and information services via a web-based interface. The FedMail E-mail package provides access to basic information services via fax or email, while the FedLine Web packages offer FedMail E-mail plus, online attended access to a broad range of informational services and check services. The FedLine Advantage packages expand upon the FedLine Web packages and offer attended access to FedACH and Fedwire Services.

Unattended access solutions are computer-to-computer, IP-based interfaces designed for medium-to high-volume customers. The FedLine Command package offers an unattended connection to FedACH, Fedwire Securities statement services, and most accounting information services. The final three packages are FedLine Direct packages, which allow for unattended connections at one of three connection speeds to FedACH, Fedwire Funds and Securities transactional and information services, and most accounting information services.

For 2010, the Reserve Banks will leave prices for most attended access solutions unchanged and will increase fees on the FedLine Command and the FedLine Direct electronic access packages to improve the alignment of revenues and costs. In addition, the Reserve Banks will raise fees on various premium option services.

II. Analysis of Competitive Effect

All operational and legal changes considered by the Board that have a substantial effect on payments system participants are subject to the competitive impact analysis described in the March 1990 policy. ''The Federal Reserve in the Payment System.''[56] Under this policy, the Board assesses whether changes would have a direct and material adverse effect on the

[50] The special settlement arrangement fee currently applies only to CHIPS.

[51] The Reserve Banks provide transfer services for securities issued by the U.S. Treasury, federal government agencies, government-sponsored enterprises, and certain international institutions. The prices component of this service, reflected in this memorandum, consists of revenues, expenses, and volumes associated with the transfer of all non-Treasury securities. For Treasury securities, the U.S. Treasury assesses fees for the securities transfer component of the service. The Reserve Banks assess a fee for the funds settlement component of a Treasury securities transfer; this component is not treated as a priced service.

[52] The Reserve Banks expect to recover 99 percent of their actual expenses in 2009.

[53] For 2010, the Reserve Banks changed the methodology for allocating costs to the electronic access channels, resulting in lower costs allocated to the Fedwire Securities Service.

[54] The Reserve Banks expect Fedwire Securities volumes to decline when the Fixed Income Clearing Corporation's Mortgage Back Securities Division (FICC–MBSD) implements it proposal to become a central counterparty allowing for an additional around of netting. The new netting service is expected to reduce the number of securities transactions that settle over the Fedwire Securities Service.

[55] FedPhone, FedMail, and FedLine are registered service marks of the Reserve Banks. These connections may also be used to access non-priced services provided by the Reserve Banks. FedPhone is a free access option.

[56] Federal Reserve Regulatory Service (FRRS) 9–1558.

ability of other service providers to compete effectively with the Federal Reserve in providing similar services because of differing legal powers or constraints or because of a dominant market position deriving from such legal differences. If the changes create such an effect, the Board must further evaluate the changes to assess whether the associated benefits—such as contributions to payment system efficiency, payment system integrity, or other Board objectives—can be achieved while minimizing the adverse effect on competition.

The Board projects that the 2010 fees will result in a net income below the targeted ROE, primarily due to shortfalls in the check service. Given the ongoing major structural transition in the nation's check clearing system, it is likely that other market participants are also not achieving an ROE equivalent to that targeted by the Reserve Banks for services similar to Reserve Bank priced services. Therefore, while it is possible, it is not likely that the Reserve Banks' failure to achieve the targeted ROE would adversely affect the ability of other service providers to compete with the Reserve Banks. In addition, any potential adverse effect on competing service providers would not be the result of differing legal powers or a dominant market position deriving from such legal differences.

The Reserve Banks have taken steps to maximize their 2010 cost recovery. They are continuing to reduce check service costs by restructuring their check processing operations as volumes continue to decline and shift to electronic product offerings. These cost reduction efforts will continue into 2010 and beyond, and should position the check service to return to full cost recovery within the next several years. In addition, the Reserve Banks are significantly increasing fees for traditional paper check services and increasing fees more-modestly for Check 21 services. The Reserve Banks believe that more-significant fee increases for Check 21 services will slow the transition to a full electronic check-processing environment nationwide and result in lower check net revenue because of additional volume losses. Given the fee increases and the check market environment, the Board believes that additional fee increases at this time may hinder the achievement of the Reserve Banks' objective of improving the efficiency of the nation's check-collection system and may not materially improve cost recovery.

FedACH Service 2010 Fee Schedule

[Effective January 4, 2010. **Bold indicates changes from 2009 prices**]

	Fee ($)
FedACH minimum monthly fee [57]	
ODFI	**25.00**
RDFI	**15.00**
Origination (per item or record): [58]	
Items in small files	0.0030
Items in large files	0.0025
Addenda record	**0.0013**
Receipt (per item or record): [59]	
Volume based fees [60]	
Base (up to 1,000,000 per month)	**0.0025**
Tier 1 (1,000,001–25,000,000 per month)	**0.0018**
Tier 2 (more than 25,000,000 per month)	**0.0016 (all items)**
Addenda record	**0.0013**
Risk Product:	
Risk origination monitoring criteria	
Tier 1 (1–20 sets)	8.00/set of criteria/month
Tier 2 (21–150 sets)	4.00/set of criteria/month
Tier 3 (more than 150 sets)	1.00/set of criteria/month
Risk origination monitoring batch	0.0025/batch
FedEDI Plus:	
Defined report generated	0.20
On demand report generated	0.75
Premier report	10.00
Secure delivery via e-mail	0.20
Monthly fee (per routing number):	
Account servicing fee [61]	37.00
FedACH settlement [62]	**45.00**
Information extract file	**50.00**
IAT Output File Sort	35.00
FedLine Web origination returns and notification of change (NOC) fee: [63]	0.30
Voice response returns/NOC fee: [64]	3.00
Automated NOC fee: [65]	**0.15**
Non-electronic input/output fee: [66]	
CD or DVD input/output	50.00
paper input/output	50.00
Facsimile exception returns/NOC [67]	30.00
Canadian cross-border fee:	
Item originated to Canada [68]	0.62
Return received from Canada [69]	0.99
Trace of item at receiving gateway	5.50
Trace of item not at receiving gateway	5.00
Mexico service fee:	
Item originated to Mexico [68]	0.67
Return received from Mexico [69]	0.91
Item trace	13.50

FedACH Service 2010 Fee Schedule—Continued

[Effective January 4, 2010. **Bold indicates changes from 2009 prices**]

	Fee ($)
Panama service fee:	
Item originated to Panama [68]	0.72
Return received from Panama [69]	1.00
Item trace	7.00
NOC	0.72

Fedwire Funds and National Settlement Services 2010 Fee Schedule

[Effective January 4, 2010. **Bold indicates changes from 2009 fee schedule**]

	Fee ($)
Fedwire Funds Service	
Monthly participation fee	**75.00**
Basic volume-based transfer fee (originations and receipts)	
Per transfer for the first 14,000 transfers per month	**0.30**
Per transfer for additional transfers up to 90,000 per month	**0.19**
Per transfer for every transfer over 90,000 per month	**0.09**
Surcharge for offline transfers (originations and receipts)	40.00
National Settlement Service	
Basic:	
Settlement entry fee	0.80
Settlement file fee	18.00
Surcharge for offline file origination	40.00
Minimum monthly charge (account maintenance) [70]	60.00
Special settlement arrangements [71]	
Fee per day	**150.00**

Fedwire Securities Service 2010 Fee Schedule (Non-Treasury Securities)

[Effective January 4, 2010]

	Fee
Basic transfer fee:	
Transfer or reversal originated or received	0.35
Surcharge:	
Offline transfer or reversal originated or received	60.00
Monthly maintenance fees:	
Account maintenance (per account)	36.00
Issues maintained (per issue/per account)	0.40
Claim adjustment fee	0.60
Joint custody fee	40.00

Electronic Access 2010 Fee Schedule

[Effective January 4, 2010. **Bold prices indicate changes from 2009 fee schedule**]

Electronic Access Packages (monthly)	
FedMail E-mail	$20.00
FedLine Web W3	$95.00
Includes: FedMail E-mail.	
FedLine Web with three individual subscriptions.	
Service Charge Information.	
Account Management Information.	
FedACH Risk Monitoring Service.	
FedEDI Service.	
FedLine Web W5	$140.00

Electronic Access 2010 Fee Schedule—Continued

[Effective January 4, 2010. **Bold prices indicate changes from 2009 fee schedule**]

Includes: FedMail E-mail.	
FedLine Web with five individual subscriptions.	
Service Charge Information.	
Account Management Information.	
FedACH Risk Monitoring Service.	
FedEDI Service.	
Cash Management System Basic-Own report only.	
FedLine Advantage A3	**$330.00**
Includes: FedLine Web W3 package.	
FedLine Advantage with three individual subscriptions.	
Virtual Private Network maintenance for one device..	
FedLine Advantage A5	$380.00
Includes: FedLine Web W5 package.	
FedLine Advantage with five individual subscriptions.	
Virtual Private Network maintenance for one device.	
Intraday search download feature within Account Management Information.	
FedLine Command	**$700.00**
Includes: FedLine Advantage A5 package.	
Virtual Private Network maintenance for one device.	
Billing Data Format File.	
Intra-Day File.	
End of Day Reconcilement File.	
Statement of Account Spreadsheet File (SASF).	
FedLine Direct D56, D256, DT1	**D56 $2,800.00** D256 $3,500.00, and **DT1 $5,100.00**
Includes: FedLine Command package.	
One dedicated unattended wide area network connection for FedLine Direct.	
Premium Options (monthly) [72]	
Electronic Access:	
FedMail Fax (monthly per routing number)	$30.00
Additional subscribers package (each package contains 5 additional subscribers)	$80.00
Maintenance of additional Virtual Private Network	$60.00
Additional dedicated connections [73]	
56K	**$1,750.00**
256K	**$2,450.00**
T1	**$3,000.00**
FedImage/Large File Delivery	Various
Transparent Contingency	**$1,000.00**
FedLine International Setup (one-time fee)	**$1,000.00**
FedLine Advantage 800# Usage	**$2.00**
Accounting Information Services:	
Cash Management System:	
Basic—Respondent and/or sub account reports (per report/month)	$10.00
Basic—Respondent/sub account recap report (per month)	$40.00
Plus—Own report up to six times a day (per month)	**$60.00**
Plus—Less than 10 respondent and/or sub accounts	**$125.00**
Plus—10–50 respondent and/or sub accounts	$225.00
Plus—51–100 respondents and/or sub accounts	**$400.00**
Plus—101–500 respondents and/or sub accounts	**$750.00**
Plus—>500 respondents and/or sub accounts	**$1,000.00**
End of Day Reconcilement File (per month)	**$150.00**
Statement of Account Spreadsheet File (per month)	**$150.00**
Intra-Day File (per month)	**$150.00**
ACTS Report—<= 20 subaccounts	**$250.00**
ACTS Report—21–40 subaccounts	**$500.00**
ACTS Report—41–60 subaccounts	**$750.00**
ACTS Report—>60 subaccounts	**$1,000.00**

By order of the Board of Governors of the Federal Reserve System, November 2, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–26743 Filed 11–5–09; 8:45 am]

BILLING CODE 6210–01–C

[57] Minimum fee of $25 for an ODFI that originates forward items and the revenue associated with origination is less than $25. Minimum fee of $15 for an RDFI that does not originate forward transactions and the revenue associated with receipt is less than $15.

[58] Small files contain fewer than 2,500 items and large files contain 2,500 or more items. These origination fees do not apply to items that the Reserve Banks receive from the private-sector ACH operator.

[59] Receipt fees do not apply to items that the Reserve Banks send to the private-sector ACH operator.

[60] Depository institutions that meet Tier 2 volume requirements pay $0.0016 for all items. Eligible volume includes all forward receipt items originated through both the Reserve Banks and the private-sector operator that are delivered to the RDFI by the Reserve Banks.

[61] The account servicing fee applies to routing numbers that have received or originated FedACH transactions. Institutions that receive only U.S. government transactions or that elect to use the other operator exclusively are not assessed the account servicing fee.

[62] The FedACH settlement fee is applied to any routing number with activity during a month. This fee does not apply to routing numbers that use the Reserve Banks for U.S. government transactions only.

[63] The fee includes the transaction and addenda fees in addition to the conversion fee.

[64] The fee includes the transaction and addenda fees in addition to the voice response fee.

[65] The fee includes the notification of change processing fee.

[66] Limited services are offered in contingency situations.

[67] The fee includes the transaction fee in addition to the conversion fee.

[68] This per-item surcharge is in addition to the standard domestic origination and input file processing fees.

[69] This per-item surcharge is in addition to the standard domestic receipt fees.

[70] This minimum monthly charge will only be assessed if total settlement charges during a calendar month are less than $60.

[71] Special settlement arrangements use Fedwire funds transfers to effect settlement. Participants in arrangements and settlement agents are also charged the applicable Fedwire funds transfer fee for each transfer into and out of the settlement account.

[72] Premium options for FedLine Web W3 and FedLine Advantage A3 are limited to FedMail Fax.

[73] Network diversity supplemental charge of $1,200 a month may apply in addition to these fees.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Draft Guidance on Institutional Review Board Approval of Research With Conditions

AGENCY: Office for Human Research Protections, Office of Public Health and Science, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Office for Human Research Protections (OHRP), Office of Public Health and Science, is announcing the availability of a draft guidance document entitled ''Guidance on IRB Approval of Research with Conditions,'' and is seeking comment on the draft guidance. The draft guidance document, when finalized, would provide OHRP's first formal guidance on this topic. The draft document, which is available on the OHRP Web site at *http://www.hhs.gov/ohrp/requests/,* is intended primarily for institutional review boards (IRBs), investigators, Department of Health and Human Services (HHS) funding agencies, and others that may be responsible for the review, conduct, or oversight of human subject research conducted or supported by HHS. OHRP will consider comments received before issuing the final guidance document.

DATES: Submit written comments by January 5, 2010.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Guidance on IRB Approval of Research with Conditions'' to the Division of Policy and Assurances, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–402–2071. *See* the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

You may submit comments, identified by docket ID number HHS–OPHS–2009–0017, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Enter the above docket ID number in the ''Enter Keyword or ID'' field and click on ''Search.'' On the next Web page, click on the ''Submit a Comment'' action and follow the instructions.
- *Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]:* Michael A. Carome, M.D., Captain, U.S. Public Health Service, OHRP, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852.

Comments received, including any personal information, will be posted without change to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Michael A. Carome, M.D., Captain, U.S. Public Health Service, OHRP, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852, 240–453–6900; e-mail *Michael.Carome@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Overview

OHRP is announcing the availability of a draft guidance document entitled ''Guidance on IRB Approval of Research with Conditions.'' The draft guidance document, when finalized, will represent OHRP's current thinking on this topic and will provide OHRP's first formal guidance on this topic. The draft document is intended primarily for IRBs, investigators, HHS funding agencies, and others that may be responsible for the review, conduct, or oversight of human subject research conducted or supported by HHS. The guidance document would apply to non-exempt human subjects research conducted or supported by HHS. It provides guidance on the authority of IRBs to approve research with conditions. In particular, OHRP offers guidance on the following topics:

(1) What actions can an IRB take when reviewing research?

(2) What does *IRB approval with conditions* mean?

(3) What circumstances preclude the IRB from approving research?

(4) What circumstances permit the IRB to approve research with conditions?

(5) How should the IRB handle changes to research that are proposed after the IRB has approved the research with conditions?

(6) How do conditions on IRB approval at the time of initial review affect the initiation of research?

(7) How do conditions on IRB approval at the time of continuing review, or at the time of review of proposed changes in previously approved research, affect ongoing research?

(8) What must the IRB records include regarding the documentation of conditions of IRB approval of research?

B. Pertinent Recommendations by the Secretary's Advisory Committee on Human Research Protections (SACHRP) Related to Continuing Review and Expedited Review

In a March 14, 2007 letter, SACHRP transmitted to the Secretary of Health and Human Services recommendations regarding IRB continuing review and expedited review of research. Two of these recommendations are addressed by the draft guidance document. The following discussion describes OHRP's response to these SACHRP recommendations and identifies the

section(s) of the draft guidance document that address each recommendation.

(1) *SACHRP Recommendation:* OHRP and the Food and Drug Administration should issue expanded guidance (a) clarifying that final approval of stipulations from convened meeting review (*i.e.,* ''contingent approval'') is not a form of expedited review; and (b) permitting IRBs to describe in their written policies and procedures ''stipulation mechanisms'' for verifying changes required for approval of proposed research under which (i) the IRB Chairperson, or designated member-reviewer, may exercise reasonable judgment in verifying that the stipulations of the convened IRB have been satisfied; and (ii) a qualified IRB administrator may verify that the investigator has implemented specific language (*e.g.,* in the protocol, informed consent document, or advertisements) dictated by the convened IRB (and requiring no subjective judgment on the part of the administrator).

OHRP's Response: OHRP agrees with this recommendation. Sections B and D of the draft guidance document in particular reflect OHRP's implementation of SACHRP's recommendation.

(2) *SACHRP Recommendation:* OHRP should modify its guidance on continuing review so that, when the study has been reviewed by the IRB (at a convened meeting or through an expedited process, as appropriate) and the IRB finds that there are no substantive concerns in terms of the risk-benefit relationship, informed consent, or other key protections, suspension of all research activity is not required when the expiration date passes, provided that IRB review is completed within 30 days past the expiration date.

OHRP's Response: OHRP agrees in general with the intent of this recommendation. OHRP has addressed this recommendation through its discussion of conditional approval by the IRB at the time of continuing review in section G of the draft guidance document.

II. Electronic Access

The draft guidance document is available on OHRP's Web site at *http://www.hhs.gov/ohrp/requests/.*

III. Request for Comments

OHRP requests comments on its draft guidance document. OHRP will consider all comments before issuing a final guidance document.

Dated: November 3, 2009.

Jerry Menikoff,

Director, Office for Human Research Protections.

[FR Doc. E9–26830 Filed 11–5–09; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Draft Guidance on Institutional Review Board Continuing Review of Research

AGENCY: Office for Human Research Protections, Office of Public Health and Science, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Office for Human Research Protections (OHRP), Office of Public Health and Science, is announcing the availability of a draft guidance document entitled, ''Guidance on IRB Continuing Review of Research,'' and is seeking comment on the draft guidance. The draft guidance document, when finalized, will represent OHRP's current thinking on this topic and will supersede OHRP's January 15, 2007 guidance document entitled ''Guidance on Continuing Review,'' available at *http://www.hhs.gov/ohrp/humansubjects/guidance/contrev0107.htm.* The draft document, which is available on the OHRP Web site at *http://www.hhs.gov/ohrp/requests/,* is intended primarily for institutional review boards (IRBs), investigators, Department of Health and Human Services (HHS) funding agencies, and others that may be responsible for the review, conduct, or oversight of human subject research conducted or supported by HHS. OHRP will consider comments received before issuing the final guidance document.

DATES: Submit written comments by January 5, 2010.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled, ''Guidance on IRB Continuing Review of Research,'' to the Division of Policy and Assurances, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–402–2071. *See* the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

You may submit comments, identified by docket ID number HHS–OPHS–2009–0016, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Enter the above docket ID number in the ''Enter Keyword or ID'' field and click on ''Search.'' On the next Web page, click on the ''Submit a Comment'' action and follow the instructions.
- *Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]:* Michael A. Carome, M.D., Captain, U.S. Public Health Service, OHRP, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852.

Comments received, including any personal information, will be posted without change to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Michael A. Carome, M.D., Captain, U.S. Public Health Service, OHRP, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852, 240–453–6900; e-mail *Michael.Carome@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Overview

OHRP is announcing the availability of a draft guidance document entitled, ''Guidance on IRB Continuing Review of Research.'' The draft guidance document, when finalized, will represent OHRP's current thinking on this topic and will supersede OHRP's January 15, 2007 guidance document entitled ''Guidance on Continuing Review,'' available at *http://www.hhs.gov/ohrp/humansubjects/guidance/contrev0107.htm.* The draft document is intended primarily for IRBs, investigators, HHS funding agencies, and others that may be responsible for the review, conduct, or oversight of human subject research conducted or supported by HHS.

To enhance human subject protections and reduce regulatory burden, OHRP and the Food and Drug Administration have been actively working to harmonize the agencies' regulatory requirements and guidance for human subjects research. The draft guidance document was developed as a part of these efforts.

The guidance document would apply to non-exempt human subjects research conducted or supported by HHS. It provides guidance on the HHS regulations for the protection of human research subjects at 45 CFR part 46 related to IRB continuing review of research. In particular, the guidance addresses the following major topics:

(1) Key IRB Considerations when Evaluating Research Undergoing Continuing Review;

(2) Process for Conducting Continuing Review;

(3) Additional Considerations for Continuing Review of Multicenter Research Projects;

(4) When Expedited Review Procedures may be Used by an IRB for Continuing Review;

(5) Determining the Frequency of Continuing Review;

(6) Determining the Effective Date of Initial IRB Approval and the Dates for Continuing Review;

(7) Lapses in IRB Approval;

(8) Communicating the IRB's Continuing Review Determination to Investigators and the Institution;

(9) Suspension or Termination of IRB Approval of Research or Disapproval of Research at the Time of Continuing Review;

(10) Identifying the Point When Continuing Review is No Longer Necessary; and

(11) Continuing Review is Not Required for Exempt Human Subjects Research Projects.

B. Response to the Secretary's Advisory Committee on Human Research Protections' (SACHRP's) Recommendations Regarding OHRP's Current Guidance on Continuing Review

In a March 14, 2007 letter, SACHRP transmitted to the Secretary of Health and Human Services 14 recommendations regarding continuing review, 13 of which called for changes in OHRP's current guidance on continuing review. These recommendations were the primary impetus for OHRP to draft an updated guidance document on IRB continuing review. The following discussion describes OHRP's response to these SACHRP recommendations and identifies the section(s) of the draft guidance document that address specific recommendations.

(1) *SACHRP Recommendation:* OHRP should clarify its guidance on the required duration of continuing review. Continuing review may end when all research interventions and interactions with subjects are over and data collection for research purposes is complete, as described in the approved study plan/protocol, at the research site for which the IRB has oversight. The IRB must have reviewed and approved the investigator's plan for data analysis and the safeguards in place for confidentiality protections. The investigator still retains the responsibility to notify former subjects and the IRB if subsequent analyses and/or new information raise concerns about rights, safety, and welfare of human subjects.

OHRP's Response: Given (a) OHRP's current interpretation of what it means to *obtain* identifiable private information; (b) category (8)(c) on the list of categories of research that may be reviewed by the IRB through an expedited review procedure; and (c) the importance of continuing to require the prompt reporting of unanticipated problems involving risks to subjects or others to the IRB, appropriate institutional officials, and OHRP that may occur during the data analysis phase of a research study, OHRP believes that continuing review should continue at least annually as long as the analysis of data that includes individually identifiable private information, as described in the IRB-approved protocol, is ongoing. However, as discussed in section E.2 of the draft guidance (under the sub-heading ''*Expedited review category (8)(c) and data analysis*'') this continuing review can be expedited and done in a way that results in little, if any, burden. The draft guidance also explains that for a multicenter research project, only the institution engaged in the ongoing data analysis activities (*e.g.,* the institution operating the coordinating center or statistical center for the research project) needs to ensure that continuing review of the research by an IRB designated under the institution's FWA occurs at least annually. Finally, the draft guidance in section K clarifies that when data analysis activities for a research study progress to the point when they no longer involve analysis of identifiable private information, further continuing review of the research is no longer required.

(2) *SACHRP Recommendation:* OHRP should revise its interpretation and develop new guidance to (a) define simplified criteria and the expectations for the content of continuing review based upon current risk level; and (b) to permit IRBs to develop, within their written procedures, policies and procedures for the selective application of section 46.111 to continuing review.

OHRP's Response: OHRP has retained its interpretation that the criteria for IRB approval of research at the time of continuing review are the criteria under HHS regulations at 45 CFR 46.111, and when applicable, the criteria under subparts B, C, and D of 45 CFR part 46. However, the draft guidance explains in section B.1 that at the time of continuing review, the IRB should start with the presumption that the research, as previously approved, does satisfy these criteria and should focus on whether there is any new information provided by the investigator that would alter the prior determinations of the IRB. The guidance then recommends in sections B.2–B.5 that, when conducting continuing review and evaluating whether research continues to satisfy the criteria for IRB approval of research, IRBs should pay particular attention to the following four aspects of the research: (1) Risk assessment and monitoring; (2) adequacy of the process for obtaining informed consent; (3) investigator and institutional issues; and (4) research progress.

(3) *SACHRP Recommendation:* OHRP should modify its interpretation of expedited review category (8)(b) so that expedited review is permitted if no additional risks have been identified at any research sites and no interventions or other study activities have occurred at the IRB's research site since the preceding review. Guidance should be revised to reflect this interpretation.

OHRP's Response: Implementation of this recommendation would require revision of the expedited review list. Therefore, this recommendation cannot be addressed through revision of OHRP's guidance on IRB continuing review.

(4) *SACHRP Recommendation:* OHRP should revise its current guidance to give more examples of when continuing review is not necessary and when expedited review category (9) may be used.

OHRP's Response: OHRP agrees with this recommendation. Section E.3 of the draft guidance includes two examples of research studies that would be eligible for continuing review under an expedited review procedure under category (9); one involving research that includes chest x-ray procedures, and another involving research that includes procedures for collection of blood at a frequency which exceeds the frequency described in expedited review category (2). OHRP invites the public to provide suggestions of other examples.

Section K of the draft guidance provides guidance on when continuing review of a research study would no longer be necessary.

(5) *SACHRP Recommendation:* OHRP should revise its guidance to clarify an expectation that the investigator is responsible for the review and interpretation of ''recent and relevant'' literature for IRB evaluation. Guidance should clarify that it is not an IRB responsibility to perform a review of the scientific literature.

OHRP's Response: OHRP agrees with this recommendation. The draft guidance in section C.4 includes an explicit statement that OHRP does not expect the IRB to perform an independent review of the relevant scientific literature related to a particular research project undergoing continuing review and that this

responsibility rests with the investigators and any monitoring entity for the research.

(6) *SACHRP Recommendation:* OHRP should revise its guidance to emphasize that once a research protocol is determined to be exempt, and all subsequent research activities continue to meet exemption criteria, there is no regulatory requirement for ongoing review.

OHRP's Response: OHRP agrees with this recommendation. The draft guidance in section L advises that once the determination has been made that a research project is exempt, no continuing review of the project by the IRB is required under the HHS regulations at 45 CFR part 46.

(7) *SACHRP Recommendation:* OHRP should prepare simplified, unified, and practical guidance for continuing review that focuses on the substance of review.

OHRP's Response: OHRP agrees with this recommendation. The draft guidance document in its entirety represents an attempt to consolidate in one guidance document all OHRP guidance regarding continuing review. In preparing the draft guidance on continuing review, content was taken from the following documents: (a) The January 15, 2007 Guidance on Continuing Review; (b) the January 15, 2007 Guidance on Written IRB Procedures; (c) the January 15, 2007 Guidance on Reviewing and Reporting Unanticipated Problems Involving Risks to Subjects or Others and Adverse Events; (d) OHRP's Frequently Asked Questions on Investigator Responsibilities; and (e) the August 11, 2003 Guidance on Expedited Review. Section B of the draft guidance focuses on the substance of continuing review through its discussion of key IRB considerations when reviewing research undergoing continuing review. Section C of the draft guidance focuses on the process for conducting IRB review and provides guidelines for facilitating and simplifying this process.

(8) *SACHRP Recommendation:* OHRP should revise its guidance to reflect that the final IRB approval of a study ''sets the clock'' for continuing review. For multi-site reviews, this may differ by site.

OHRP's Response: OHRP agrees with this recommendation with respect to setting the date for the first continuing review of a research study that was initially reviewed and approved by the IRB at a convened meeting. The draft guidance in section G clarifies that instead of the first continuing review being required within one year of the convened meeting at which the initial approval was granted, it must occur within one year of the date on which any changes or clarifications requested by the IRB at its convened meeting have been reviewed and accepted as satisfactory by the IRB chairperson (or other individual(s) designated by the IRB at the time of the convened IRB meeting). OHRP notes that adoption of this recommendation represents a change to OHRP's long-standing policy position on this issue.

(9) *SACHRP Recommendation:* OHRP should revise its ''30-day rule'' to remove unnecessary restrictions on IRBs in scheduling continuing reviews. If a defined time window is deemed necessary, 60 days would be more appropriate.

OHRP's Response: OHRP has retained its current position on this issue (*see* section G.3 of the draft guidance).

(10) *SACHRP Recommendation:* OHRP should modify its guidance on continuing review so that, when the study has been reviewed by the IRB (at a convened meeting or through an expedited process, as appropriate) and the IRB finds that there are no substantive concerns in terms of the risk-benefit relationship, informed consent, or other key protections, suspension of all research activity is not required when the expiration date passes, provided that IRB review is completed within 30 days past the expiration date.

OHRP's Response: OHRP has addressed this recommendation through its discussion of conditional approval by the IRB in section C.9 of the draft guidance on continuing review and its new draft *Guidance on IRB Approval of Research with Conditions* that is also being made available for public review and comment, as noted in another notice of availability published in this same issue of the **Federal Register.**

(11) *SACHRP Recommendation:* Regarding the issue of continued participation of already enrolled subjects in research during temporary lapses in IRB approval, wording in current OHRP guidance that refers to ''individual requests'' should be revised to clarify that approval of a general request for all research subjects to continue in the research during the review process is acceptable.

OHRP's Response: OHRP agrees with this recommendation. The draft guidance in section H advises that the determination regarding whether it is in the best interests of already enrolled subjects to continue to participate in the research after IRB approval has expired may be made for all enrolled subjects as a group or for each individual subject.

(12) *SACHRP Recommendation:* OHRP guidance on continuing review should be revised to state that a ''protocol summary'' may or may not be a separate document; and that combination of information sources, such as consent forms and the continuing review application, may appropriately constitute a ''summary'' for the IRB members.

OHRP's Response: OHRP agrees with this recommendation. The draft guidance in section C.4 clarifies that a project summary could be included as part of a continuing review progress report, provided as a separate document, or addressed by referencing other documents made available to the IRB, including the informed consent document.

(13) *SACHRP Recommendation:* OHRP should clarify its guidance to state that qualified IRB staff may act as a consultant to the IRB and accomplish the review of the full study protocol.

OHRP's Response: OHRP agrees with this recommendation in part. OHRP believes that IRB staff who are not IRB members can carry out review activities of the IRB file to facilitate the review conducted by IRB members at the time of continuing review. However, determinations that the IRB must make under the regulations at 45 CFR 46.111 and, when applicable, subparts B, C, and D, must be made by the IRB members, and individuals who are not IRB members may not approve research on behalf of the IRB. The draft guidance in section C.7 discusses the involvement of IRB staff in preliminary review of IRB records as part of the continuing review process.

C. Summary of Additional Key Changes and New Content

(1) The draft guidance does not include a reference to ''substantive and meaningful continuing review'' that is found in OHRP's current guidance on continuing review. Instead, the new draft guidance has been expanded to include a section on key IRB considerations when evaluating research undergoing continuing review (*see* section B) and to provide more details regarding regulatory requirements and recommendations for the process for conducting continuing review (*see* section C).

(2) The draft guidance recommends that IRBs act and vote on research studies individually. It further clarifies that if an IRB adopts a procedure under which the IRB votes on groups of studies undergoing continuing review, such a procedure must provide IRB members with the ability to vote ''yes'' on some studies, ''no'' on others, and abstain on others.

(3) The draft guidance provides new guidance on the involvement of IRB staff, regardless of whether they are IRB members, in preliminary reviews of continuing review documents and IRB files in order to facilitate the continuing review of research by the IRB (*see* section C.7).

(4) The draft guidance describes how continuing review of research at convened meetings can be accomplished in an efficient and timely manner (*see* section C.8).

(5) The draft guidance discusses the concept of conditional IRB approval in the context of continuing review (*see* section C.9).

(6) The draft guidance discusses issues unique to continuing IRB review of multicenter research studies (*see* section D).

(7) The draft guidance clarifies the point in time when continuing review is no longer necessary (*see* section K).

II. Electronic Access

The draft guidance document is available on OHRP's Web site at *http://www.hhs.gov/ohrp/requests/.*

III. Request for Comments

OHRP requests comments on its draft guidance document. OHRP will consider all comments before issuing a final guidance document.

Dated: November 3, 2009.

Jerry Menikoff,

Director, Office for Human Research Protections.

[FR Doc. E9–26828 Filed 11–5–09; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–43]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Rita, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Coast Guard:* Commandant, United States Coast Guard, Attn: Jennifer Stomber, 2100 Second St., SW., Stop 7901, Washington, DC 20593–0001; (202) 475–5609; *Energy:* Mr. Mark Price, Department of Energy, Office of Engineering & Construction Management, MA–50, 1000 Independence Ave, SW., Washington, DC 20585: (202) 586–5422; *GSA:* Mr. Gordon Creed, Acting Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th & F Streets, NW., Washington, DC 20405; (202) 501–0084; *Navy:* Mrs. Mary Arndt, Acting Director, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9305; (These are not toll-free numbers).

Dated: October 29, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 11/06/2009

Suitable/Available Properties

Building

Montana

Bldg. 743
Glacier National Park
West Glacier MT 59921
Landholding Agency: GSA
Property Number: 54200940005
Status: Surplus
GSA Number: 7–I–MT–0544–AB
Comments: 678 sq. ft., most recent use—dormitory, off-site use only.

Bldg. 744
Glacier National Park
West Glacier MT 59936
Landholding Agency: GSA
Property Number: 54200940006
Status: Surplus
GSA Number: 7–I–MT–0544AA
Comments: 1812 sq. ft., most recent use—dormitory, off-site use only.

Suitable/Available Properties

Land

Missouri

Tract LLWAS K3 Mexico City Ave.
Kansas City MO 64153
Landholding Agency: GSA
Property Number: 54200940004
Status: Surplus
GSA Number: 7–U–MO–0687AA
Comments: 0.034 w/easements.

Unsuitable Properties

Building

Guam

9 Bldgs.
Naval Base
Piti GU
Landholding Agency: Navy
Property Number: 77200940006
Status: Unutilized
Directions: 92, 204, 211NH, 292, 453, 454, 4407PP, 5120, 5125
Reasons: Extensive deterioration, Secured Area.

Unsuitable Properties

Building

Hawaii

Kauhola Point Lighthouse
Kauhola Point HI
Landholding Agency: Coast Guard
Property Number: 88200940001
Status: Unutilized
Reasons: Extensive deterioration.

New Mexico

13 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200940004
Status: Unutilized
Directions: 54–0306, 54–0315, 54–0324, 54–0325, 54–1058, 54–0296, 54–0304, 54–0367, 54–0483, 54–1027, 54–1028, 54–1030, 54–1041
Reasons: Extensive deterioration, Secured Area.

[FR Doc. E9–26420 Filed 11–5–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Update to the Report on Residual Radioactive and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendor Facilities

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of the release of an update to *The Report on Residual Radioactive and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendor Facilities* under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7484–7385.

This update is the third revision to the original report. The original report was issued in November, 2002; the first update was issued in October, 2003; and the second update was issued in December, 2006. The purpose of the original report and subsequent updates is to evaluate whether significant residual contamination remained at atomic weapons employer or beryllium vendor facilities after such facilities had concluded work for the Department of Energy (DOE) or its predecessor agencies.

NIOSH was required to submit the original report by section 3151(b) of the National Defense Authorization Act for Fiscal Year 2002, Public Law 107–107 (December 18, 2001), which amended EEOICPA. EEOICPA was amended again in section 3169 of the National Defense Authorization Act of Fiscal Year 2005, Public Law 108–375 (October 28, 2004) which directed NIOSH to update the residual contamination report by December, 2006.

This third revision to the original report has been prepared because the determination of residual contamination for several sites has changed since the issuance of the December 2006 version of the report. Specifically, this updated report is being submitted due to several recent changes in facility designations by DOE and the Department of Labor, and due to new information for certain facilities that was acquired and evaluated since the issuance of the December 2006 version of the report.

DOE uses the designations in this report to modify its publicly available list of EEOICPA-covered facilities, which includes the time periods determined by DOL to be covered under EEOICPA.

The entire report can be viewed on the Office of Compensation and Analysis Support Web site at *http://www.cdc.gov/niosh/ocas/*.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Interim Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number).

Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E9–26843 Filed 11–5–09; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0507]

Agency Information Collection Activities: Proposed Collection; Comment Request; Requirements for Submission of Labeling for Human Prescription Drugs and Biologics in Electronic Format

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting requirements contained in the requirements for submission of labeling for human prescription drugs and biologics in electronic format.

DATES: Submit written or electronic comments on the collection of information by January 5, 2010.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, *Elizabeth.Berbakos@fda.hhs.gov*, 301–796–3792

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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, when appropriate, and other forms of information technology.

Requirements for Submission of Labeling for Human Prescription Drugs and Biologics in Electronic Format; (OMB Control Number 0910 0530)—Extension

FDA is requesting that OMB extend approval under the Paperwork Reduction Act (44 USC 3501–3520) for the information collection resulting from the requirement that the content of labeling for prescription drug products be submitted to FDA electronically in a form that FDA can process, review, and archive. This requirement was set forth in the final rule entitled ''Requirements for Submission of Labeling for Human Prescription Drugs and Biologics in Electronic Format'' (December 11, 2003; 68 FR 69009), which amended FDA regulations governing the format in which certain labeling is required to be submitted for FDA review with new drug applications (NDAs) (21 CFR 314.50(l)(1)(i)), including supplemental NDAs, abbreviated new drug applications (ANDAs) (21 CFR 314.94(d)(1)(ii)), including supplemental ANDAs, and annual reports (21 CFR 314.81(b)(2)(iii)(b)) (the final rule also applied to certain Biologics License Applications, but the information collection for these requirements is not part of this OMB approval request).

This OMB approval request is only for the burden associated with the electronic submission of the content of labeling. The burden for submitting labeling as part of NDAs, ANDAs, supplemental NDAs and ANDAs, and annual reports, has been approved by OMB under Control Number 0910–0001.

When we last requested that OMB extend approval for this information collection (see the **Federal Register** of March 29, 2006 (71 FR 15752)), we received several comments. Generally, the comments said that, unlike FDA's December 11, 2003, final rule, the agency has now identified Extensible Markup Language (XML) as the required file format for Structured Product Label documents (SPL), and that the burden hours and costs that were calculated in the final rule were based on the submission of the content of labeling in PDF. The comments said that the burden estimate in March 29, 2006, **Federal Register** notice does not take into account the amount of time required to obtain, install, and update the program required to create the electronic files in the new format, and that SPL is a relatively new format requiring an initial investment in software, training, and process change that cannot simply be converted from the Word or PDF version of labeling. The comments said that the process for creating the SPL labeling includes significant effort in mapping, coding, recreation of the file, and quality control.

In the December 13, 2006, **Federal Register** (71 FR 74924), we said that we will respond to the comments as soon as we have gathered sufficient information to address the costs specified in the comments, and that the public will have an opportunity to comment on the response at that time. The burden hours and costs associated with making these submissions using the SPL standard are discussed here.

We estimate that it should take applicants approximately 1.25 hours to convert the content of labeling from Word or PDF to SPL format. The main task involved in this conversion is copying the content from one document (Word or PDF) to another (SPL). Over the past few years, several enhancements have been made to SPL authoring software which significantly reduces the burden and time needed to generate well-formed SPL documents. SPL authors may now copy a paragraph from a Word or PDF document and paste the text into the appropriate section of an SPL document. In those cases where an SPL author needs to create a table, the table text may be copied from the Word or PDF document and pasted into each table cell in the SPL document, eliminating the need to retype any information. Enhancements have also been made to the software for conversion vendors. Conversion software vendors have designed tools which will import the Word version of the content of labeling and, within minutes, automatically generate the SPL document (a few formatting edits may have to be made).

Based on the number of content of labeling submissions received during 2006, 2007, and 2008, we estimate that approximately 5,000 content of labeling submissions are made annually with original NDAs, ANDAs, supplemental NDAs and ANDAs, and annual reports by approximately 450 applicants. Therefore, the total annual hours to convert the content of labeling from Word or PDF to SPL format would be approximately 6,250 hours.

Concerning costs, we continue to conclude that there are no capital costs or operating and maintenance costs associated with this collection of information. In May 2009, FDA issued a guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Listing.'' The guidance describes how to electronically create and submit SPL files using defined code

sets and codes for establishment registration and drug listing information, including labeling. The information collection resulting from this guidance, discussed in the **Federal Register** of January 8, 2009 (74 FR 816), has been approved by OMB under Control Number 0910–0045. As discussed in the January 8, 2009, **Federal Register** notice, to create an SPL file and submit it to FDA, a registrant would need the following tools: A computer, appropriate software, access to the Internet, knowledge of terminology and standards, and access to FDA's electronic submission gateway (ESG). Registrants (and most individuals) have computers and Internet access available for their use. If a business does not have an available computer or access to the Internet, free use of computers and the Internet are usually available at public facilities, e.g., a community library. In addition, there should be no additional costs associated with obtaining the appropriate software. In 2008, FDA collaborated with GlobalSubmit to make available free SPL authoring software that SPL authors may utilize to create new SPL documents or edit previous versions. (Information on obtaining this software is explained in section IV.A of the guidance ''Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Listing.'') In addition to the software, FDA also provides technical assistance and other resources, code sets and codes, and data standards regarding SPL files.

After the SPL file is created, the registrant would upload the file through the ESG, as explained in the January 8, 2009, **Federal Register** notice. A digital certificate is needed to use the ESG. The digital certificate binds together the owner's name and a pair of electronic keys (a public key and a private key) that can be used to encrypt and sign documents. A fee of up to $20.00 is charged for the digital certificate and the registrant may need to renew the certificate not less than annually. We are not calculating this fee as a cost for this extension because all applicants who submit content of labeling are also subject to the drug establishment registration and listing requirements and would have already acquired the digital certificate as a result of the May 2009 guidance on drug establishment registration and listing.

FDA estimates the burden of this collection of information as follows:

TABLE 1.

	Number of respondents	Annual frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Content of labeling submissions in NDAs, ANDAs, supplemental NDAs and ANDAs, and annual reports	450	11.11	5,000	1.25	6,250

There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 29, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–26760 Filed 11–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Collection of Information for Agency for Healthcare Research and Quality's (AHRQ) Hospital Survey on Patient Safety Culture Comparative Database.'' In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on September 2nd, 2009 and allowed 60 days for public comment. One comment was received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by December 7, 2009.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by e-mail at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by e-mail at *doris.lefkowitz@ahrg.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Collection of Information for Agency for Healthcare Research and Quality's (AHRQ) Hospital Survey on Patient Safety Culture Comparative Database

The Agency for Healthcare Research and Quality (AHRQ) requests that the Office of Management and Budget (OMB) approve, under the Paperwork Reduction Act of 1995, AHRQ's collection of information for the AHRQ Hospital Survey on Patient Safety Culture (Hospital SOPS) Comparative Database. The Hospital SOPS Comparative Database consists of data from the AHRQ Hospital Survey on Patient Safety Culture. Hospitals in the U.S. are asked to voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The database was developed by AHRQ in 2006 in response to requests from hospitals interested in knowing how their patient safety culture survey results compare to those of other hospitals in their efforts to improve patient safety.

In 1999, the Institute of Medicine called for health care organizations to develop a ''culture of safety'' in which their workforces and processes focus on improving the reliability and safety of care for patients (IOM, 1999; To Err is Human: Building a Safer Health

System). To respond to the need for tools to assess patient safety culture in health care, AHRQ developed and pilot tested the Hospital Survey on Patient Safety Culture with OMB approval (OMB No. 0935–0115; Approved 2/4/2003). The survey was designed to enable hospitals to assess staff opinions about patient safety issues, medical error, and error reporting and includes 42 items that measure 12 dimensions of patient safety culture. AHRQ released the survey in the public domain along with a Survey User's Guide and other toolkit materials in November 2004 on the AHRQ Web site. Since its release, the survey has been voluntarily used by hundreds of hospitals in the U.S.

The Hospital SOPS survey and the Hospital SOPS Comparative Database are supported by AHRQ to meet its goals of promoting improvements in the quality and safety of health care in hospital settings. This project is conducted pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to health statistics, surveys, and database development. See 42 U.S.C. 299a(a)(1) and (8). The surveys, toolkit materials, and comparative database results are all made available in the public domain along with technical assistance, provided by AHRQ through its contractor at no charge to hospitals, to facilitate the use of these materials for hospital patient safety and quality improvement.

Method of Collection

Information for the Hospital SOPS database has been collected by AHRQ on an annual basis since 2006. Hospitals are asked to voluntarily submit their Hospital SOPS survey data to the comparative database between May 1 and June 30. The data are then cleaned and aggregated and used to produce a Comparative Database Report that displays averages, standard deviations, and percentile scores on the survey's 42 items and 12 patient safety culture dimensions, as well as displaying these results by hospital characteristics (bed size, teaching status, ownership) and respondent characteristics (hospital work area, staff position, and those with direct interaction with patients). In addition, trend data, showing changes in scores over time, are presented from hospitals that have submitted to the database more than once.

Estimated Annual Respondent Burden

Hospitals administer the AHRQ Hospital Survey on Patient Safety Culture every 16 months on average. Therefore, the number of hospital submissions to the database varies each year because hospitals do not submit data every year. The 250 respondents/point-of-contacts (POCs) shown in Exhibit I are based on an estimated increase in the number of submissions in 2010 and 2011 (above the 180 respondents from 2009). Data submission is typically handled by one POC who is either a hospital patient safety manager or a survey vendor. The POC completes a number of data submission steps and forms, beginning with completion of an online Eligibility and Registration Form. The POCs typically submit data on behalf of 3 hospitals, on average, because many hospitals are part of a multi-hospital system that is submitting data, or the POC is a vendor that is submitting data for multiple hospitals. In 2009, 180 POCs submitted data on behalf of a total of 535 hospitals (an average of 3 hospital submissions per POC). Exhibits 1 and 2 are based on the estimated number of individual POCs who will complete the database submission steps and forms in the coming years, not based on the number of hospitals. The Patient Safety Improvement Initiatives Form is completed only by POCs from trending hospitals that have submitted data more than once, so only about half of the POCs each year will be asked to complete the form for each of the 3 hospitals (on average) they are submitting data for. The Hospital Information Form is completed by all POCs for each of their hospitals. The total annual burden hours are estimated to be 1,508.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be $69,438 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

[Hours total]

Form name	Number of respondents/POCs	Number of response per POCs	Response per response	Total burden hours
Eligibility/Registration Form and Data Submission*	250	1	5.6	1,400
Data Use Agreement	250	1	3/60	13
Patient Safety Improvement Initiatives Form (for trending hospitals only)	125	3	5/60	32
Hospital Information Form	250	3	5/60	63
Total	875	NA	NA	1,508

*The Eligibility and Registration Form requires 3 minutes to complete; however about 5.5 hours is required to prepare/plan for the data submission. This includes the amount of time POCs and other hospital staff (CEO, lawyer, database administrator) typically spend deciding whether to participate in the database and preparing their materials and data set for submission to the database, and performing the submission.

EXHIBIT 2—ESTIMATED ANNUALIZED COST HOURS

[Hours total]

Form name	Number of responses per POCs	Total burden hours	Average hourly wage rate*	Total cost burden
Eligibility/Registration Form and Data Submission	250	1,400	$46.11	$64,554
Data Use Agreement	250	13	45.22	588
Patient Safety Improvement Initiatives Form (for trending hospitals only)	125	32	45.22	1,447
Hospital Information Form	250	63	45.22	2,849

EXHIBIT 2—ESTIMATED ANNUALIZED COST HOURS—Continued

[Hours total]

Form name	Number of responses per POCs	Total burden hours	Average hourly wage rate*	Total cost burden
Total	875	1,508	NA	$69,438

*Wage rates were calculated using the mean hourly wage based on occupational employment and wage estimates from the Dept of Labor, Bureau of Labor Statistics' May 2008 National Industry-Specific Occupational Employment and Wage Estimates NAICS 622000—Hospitals, located at *http://www.bls.gov/oes/2008/may/naics3_22000.htm.* Wage rate of $46.22 is based on the mean hourly wages for Medical and Health Services Managers. Wage rate of $46.11 is the weighted mean hourly wage for: Medical and Health Services Managers ($45.22 x 2.6 hours = $117.57), Lawyers ($62.95 x .5 hours =$31 .48), Chief Executives ($89.16 x .5 hours = $44.58), and Database Administrators ($32.30 x 2 hours = $64.60) [Weighted mean = ($117.57 + 31.48 + 44.58 + 64.60)/5.6 hours = $258.2315.6 hours = $46.1 1/hour].

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the estimated annualized cost to the government for developing, maintaining, and managing the database and analyzing the data and producing reports. The cost is estimated to be $250,000 annually.

EXHIBIT 3—ESTIMATED ANNUALIZED COST

Cost component	Annualized cost
Database Development and Maintenance	$50 000
Data Submission	75,000
Data Analysis & Reports	125,000
Total	250,000

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research, quality improvement and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: October 21, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9–26673 Filed 11–5–09; 8:45 am]

BILLING CODE M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0506]

Agency Information Collection Activities; Proposed Collection; Comment Request; Bar Code Label Requirement for Human Drug and Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the bar code label requirements for human drug and biological products.

DATES: Submit written or electronic comments on the collection of information by January 5, 2010.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane., rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, *Elizabeth.Berbakos@fda.hhs.gov*, 301–796–3792.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA' s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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, when appropriate, and other forms of information technology.

Bar Code Label Requirement for Human Drug and Biological Products (21 CFR Part 314) (OMB Control Number 0910–0537) Extension

In the **Federal Register** of February 26, 2004 (69 FR 9120), we issued new regulations that required human drug product and biological product labels to have bar codes. The rule required bar codes on most human prescription drug products and on over-the-counter (OTC) drug products that are dispensed pursuant to an order and commonly used in health care facilities. The rule also required machine-readable information on blood and blood components. For human prescription drug products and OTC drug products that are dispensed pursuant to an order and commonly used in health care facilities, the bar code must contain the National Drug Code number for the product. For blood and blood components, the rule specifies the minimum contents of the machine-readable information in a format approved by the Director, Center for Biologics Evaluation and Research as blood centers have generally agreed upon the information to be encoded on the label. The rule is intended to help reduce the number of medication errors in hospitals and other health care settings by allowing health care professionals to use bar code scanning equipment to verify that the right drug (in the right dose and right route of administration) is being given to the right patient at the right time.

Most of the information collection burden resulting from the final rule, as calculated in table 1 of the final rule (69 FR 9120 at 9149), was a one-time burden that does not occur after the rule's compliance date of April 26, 2006. In addition, some of the information collection burden estimated in the final rule is now covered in other OMB-approved information collection packages for FDA. However, parties may continue to seek an exemption from the bar code requirement under certain, limited circumstances. Section 201.25(d) (21 CFR 201.25(d)) requires submission of a written request for an exemption and describes the contents of such requests. Based on the number of exemption requests we have received, we estimate that approximately two exemption requests may be submitted annually, and that each exemption request will require 24 hours to complete. This would result in an annual reporting burden of 48 hours.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	No. of Responses per Respodent	Total Annual Responses	Hours per Response	Total Hours
201.25(d)	2	1	2	24	48

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: November 2, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–26850 Filed 11–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Next Series of Tobacco Use Supplements to the Current Population Survey (TUS–CPS) (NCI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Next Series of Tobacco Use Supplements to the Current Population Survey (TUS–CPS). *Type of information request:* REINSTATEMENT WITH CHANGE of OMB #0925–0368, Expiration 4/30/2009. *Need and Use of Information Collection:* The 2010–2011 Tobacco Use Supplement to the Current Population Survey conducted by the Census Bureau will collect data from the U.S. civilian non-institutionalized population on smoking, other tobacco use, and attempts at cessation; policy information such as home and workplace smoking policies; health professional advice to stop smoking; and changes in smoking norms and attitudes. The TUS–CPS will be and has been in the past a key source of national, State, and some local-level data on these topics in U.S. households because it uses a large, nationally representative sample. This survey is part of a continuing series of surveys (OMB# 0925–0368) that were sponsored by National Cancer Institute (NCI) and has been administered triennially as part of the U.S. Census Bureau's and the Bureau of Labor Statistics CPS. The TUS–CPS has been fielded since 1992, most recently in 2006–07, and its data are available for public use. Government agencies, other researchers and the public can use the data to monitor progress in the control of tobacco use, conduct tobacco-related research, evaluate tobacco control programs, examine tobacco-use-related health disparities, and use this data to help determine policies and services that need to be provided. A unique feature is the ability to link other social and economic Census Bureau and Bureau of Labor Statistics data and other sponsor-supported supplement data to the TUS–CPS data. Much of this data can also be linked to cancer and other cause-specific mortality data through the National Longitudinal Mortality Study (co-sponsored by three NIH agencies, the National Center for Health Statistics/Centers for Disease Control and Prevention (CDC), and the Census Bureau). This survey has in the past, and the 2010–2011 survey, will provide in the future invaluable information to measure progress toward tobacco control as part of the (NCI's) Cancer Progress Report, and the Department of Health and Human Services' Healthy People 2010 and 2020 Goals. This data will also provide a basis for the National Human Genome Research Institute's PhenX Alcohol, Tobacco, and Other Substances Toolkit, provide long-term trend data for CDC and other State and local public health staff, and support the research of extramural scientists. The 2010–2011 TUS–CPS is also relevant to several NCI tobacco control initiatives. The main 2010–2011 survey will allow State and sub-State-specific estimates to be made as do all the previous surveys. The May 2011 Follow-Up questionnaire will consist of an abbreviated version of the main 2010–2011 questionnaire. Data will be collected in May 2010, August 2010, January 2011, and May 2011 from approximately 315,000 respondents (270,000 unique respondents, 45,000 of

these in the May 2011 Follow-Up). The 2010–2011 TUS–CPS, complemented by the Follow-Up questionnaire, will be useful for researchers interested in measuring the impact on tobacco cessation of new FDA regulation (the Family Smoking Prevention and Tobacco Control Act) as it is implemented, and will complement Federal tobacco research and policy efforts. *Frequency of Response:* One-time study for the main 2010–2011 survey; One-time study for the May 2011 Follow-Up. *Affected Public:* Individuals or households. *Type of Respondents:* Persons 18 years of age or older. The annualized cost to respondents is estimated at $285,000. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report. The annual reporting burden is presented in the table below.

TABLE—ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondent per survey period	Number of respondents (annualized)	Responses per respondent	Average time per response (minutes/hour)	Annual burden hours
May 2010: Individuals	30,000	1	9/60 (0.15)	4,500
August 2010: Individuals	30,000	1	9/60 (0.15)	4,500
January 2011: Individuals	30,000	1	9/60 (0.15)	4,500
May 2011 Follow-Up: Individuals	15,000	1	6/60 (0.10)	1,500
Totals	105,000			15,000

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Anne Hartman, M.S., M.A., Health Statistician, National Cancer Institute, 6130 Executive Blvd—MSC 7344, Executive Plaza North, Suite 4005, Bethesda, Maryland 20892–7344, or call non-toll free 301–496–4970, or FAX your request, to 301–435–3710, or e-mail your request, including your address, to *ah42t@nih.gov* or *hartmana@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: November 2, 2009.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. E9–26848 Filed 11–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS 10198 and CMS–10296]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Creditable Coverage Disclosure to CMS On-Line Form and Instructions; *Use:* Most entities that currently provide prescription drug benefits to any Medicare Part D eligible individual must disclose to the CMS whether the prescription drug benefit that they offer is creditable. The disclosure is required to be provided annually and upon any change that affects whether the coverage is creditable prescription drug coverage. CMS released a Disclosure to CMS Guidance Paper and a disclosure to CMS notification on-line form in January 2006.

Section 1860D–1 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and implementing regulations at 42 CFR 423.56 require that entities that offer prescription drug benefits under any of the types of coverage described in 42 CFR 423.56 (b) provide a disclosure of creditable coverage to CMS informing us whether such coverage meets the actuarial requirements specified in guidelines provided by CMS. *Form Number:* CMS–10198 (OMB#: 0938–1013); *Frequency:* Reporting—Yearly and Semi-annually; *Affected Public:* Federal Government, Business or other for-profits and not-for-profit institutions, and State, Local, or Tribal Governments; *Number of Respondents:* 87,500; *Total Annual Responses:* 87,500; *Total Annual Hours:* 7,291.7. (For policy questions regarding this collection contact Louis Blank at 410–786–5511. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Electronic

Health Records (EHR) Testing; *Use:* The Centers for Medicare and Medicaid Services (CMS) has indicated through statements in proposed and final rulemaking for the Reporting Hospital Quality Data for Annual Payment Update (RHQDAPU) program that it is actively seeking to pursue quality measurement based on alternative sources of data that do not require manual chart abstraction or that utilize data already being reported by many hospitals for other programs, as doing so would potentially reduce the burden associated with the collection and reporting of measures for the program. Over the years, we have encouraged hospitals to take steps toward the adoption of electronic health records (EHRs) that would allow for reporting of clinical quality data from the EHRs directly to a CMS data repository beginning with the FY 2006 Inpatient Prospective Payment System (IPPS) Rule (70 FR 47420 through 47421). We have also encouraged hospitals that are implementing, upgrading, or developing EHR systems to ensure that the technology obtained, upgraded, or developed conforms to standards adopted by the Department of Health and Human Services (HHS).

In the IPPS 2010 proposed rule (74 FR 24182), we described our intent to begin a voluntary testing program for the submission to CMS of standardized data elements needed to calculate inpatient hospital quality measures on the topics of Stroke, Venous Thromboembolism, and Emergency department throughput. These measures have not been adopted for Reporting Hospital Quality for Annual Payment Update (RHQDAPU) program, and participation in this voluntary EHR-testing program will not substitute for submission of data elements required under the RHQDAPU program in a time, form and manner specified by the Secretary. Similarly, non-participation in this voluntary program will not incur any penalties. The results of this voluntary testing process will enable CMS to assess the feasibility of collecting data elements via electronic health records as a future alternative to submission of manually chart abstracted data elements by hospitals, thereby potentially reducing the administrative burden associated with submission of quality measures for the RHQDAPU program. *Form Number:* CMS–10296 (OMB#: 0938–New); *Frequency:* Reporting—Once; *Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 55; *Total Annual Responses:* 55; *Total Annual Hours:* 28,655. (For policy questions regarding this collection contact Shaheen Halim 410–786–0641. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *December 7, 2009.*

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 30, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–26831 Filed 11–5–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–0282]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Advantage Appeals and Grievance Data Disclosure Requirements (42 CFR 422.111); *Use:* Medicare Advantage (MA) organizations must disclose information pertaining to the number of disputes, and their disposition in the aggregate, with the categories of grievances and appeals to any individual eligible to elect an MA organization who requests this information. Medicare demonstrations also are required to conform to MA appeals regulations and thus are included in the count of organizations affected by this requirement. MA organizations also are required by the statute and the MA regulation to provide aggregate grievance data to MA eligible beneficiaries upon request. MA eligible individuals will use this information to help them make informed decisions about their organization's performance in the area of appeals and grievances. *Form Number:* CMS–R–0282 (OMB#: 0938–0778); *Frequency:* Reporting—Semi-annually and Yearly; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 629; *Total Annual Responses:* 47,175; *Total Annual Hours:* 4,931.36. (For policy questions regarding this collection contact Stephanie Simons at 206–615–2420. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at: *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *January 5, 2010:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 30, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–26829 Filed 11–5–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Native Employment Works (NEW) Program Plan Guidance and Report Requirements.

OMB No.: 0970–0174.

Description: The Native Employment Works (NEW) program plan is the application for NEW program funding. As approved by the Department of Health and Human Services (HHS), it documents how the grantee will carry out its NEW program. The NEW program plan guidance provides instructions for preparing a NEW program plan and explains the process for plan submission every third year. The NEW program report provides information on the activities and accomplishments of grantees' NEW programs. The NEW program report and instructions specify the program data that NEW grantees report annually.

Respondents: Federally recognized Indian Tribes and Tribal organizations that are NEW program grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
NEW program plan guidance	26	1	29	754
NEW program report	48	1	15	720

Estimated Total Annual Burden Hours: 1,474.

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7245, Attn: Desk Officer for the Administration for Children and Families.

Dated: November 2, 2009.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. E9–26731 Filed 11–5–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Recovery Services for Adolescents and Families—New

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment will conduct a data collection on the helpfulness of recovery support services for whether young people and their families after leaving substance abuse treatment. Specifically, the Recovery Services for Adolescents and Families (RSAF) project is evaluating a pilot test of the following recovery support services for whether young people and their families find the following recovery support services helpful: (1) Telephone/text message support; (2) a recovery-oriented social networking site; and (3) a family program. Approximately 200 adolescent respondents will be asked to complete 4 data collection forms (some repeated) during 5 interviews (baseline and 4 follow-ups) over a 12-month period after enrollment or discharge from treatment. Approximately 200 collateral respondents (*i.e.,* a parent/guardian/concerned other) will be asked to complete 7 data collection forms (some repeated) during 5 interviews (baseline and 4 follow-ups) over a 12-month period after their adolescent's enrollment or discharge from treatment. Approximately 15 to 20 project staff respondents, including Project Coordinators, Telephone Support Volunteers, a Social Network Site Moderator, Family Program Clinicians, and a Support Services Supervisor, will be asked to complete between 2 and 5 data collection forms at varying intervals during the delivery of recovery support services. Across all respondents, a total of 28 data collection forms will be used. Depending on the time interval and task, information collections will take anywhere from about 5 minutes to 2 hours to complete. A description of each data collection form follows:

Adolescent Participant

• *Global Appraisal of Individual Needs—Initial (GAIN–I 5.6.0 Full).* The GAIN is an evidence-based assessment used with both adolescents and adults and in outpatient, intensive outpatient, partial hospitalization, methadone, short-term residential, long-term residential, therapeutic community, and correctional programs. There are over 1000 questions in this initial version that are in multiple formats, including

multiple choice, yes/no, and open-ended. Eight content areas are covered: Background, Substance Use, Physical Health, Risk Behaviors and Disease Prevention, Mental and Emotional Health, Environment and Living Situation, Legal, and Vocational. Each section contains questions on the recency of problems, breadth of symptoms, and recent prevalence as well as lifetime service utilization, recency of utilization, and frequency of recent utilization. GPRA data are gathered as part of this instrument in support of performance measurement for SAMHSA programs. It is administered at intake into treatment by clinical staff and used as baseline data for the project.

• *Global Appraisal of Individual Needs—Monitoring 90 Days (GAIN–M90 5.6.0 Full).* The GAIN is an evidence-based assessment used with both adolescents and adults and in outpatient, intensive outpatient, partial hospitalization, methadone, short-term residential, long-term residential, therapeutic community, and correctional programs. There are over 500 questions in this follow-up version that are in multiple formats, including multiple choice, yes/no, and open-ended. Eight content areas are covered: Background, Substance Use, Physical Health, Risk Behaviors and Disease Prevention, Mental and Emotional Health, Environment and Living Situation, Legal, and Vocational. Each section contains questions on the recency of problems, breadth of symptoms, and recent prevalence as well as lifetime service utilization, recency of utilization, and frequency of recent utilization. GPRA data are gathered as part of this instrument in support of performance measurement for SAMHSA programs. It is administered by project staff at each of the follow-up timepoints.

• *Supplemental Assessment Form (SAF 0309).* The SAF contains 72 questions that are a combination of multiple choice, yes/no, and open-ended formats. Content areas include: race, happiness with parent or caregiver in several life areas, participation in prosocial activities, receipt of and satisfaction with telephone support services, and usage of and satisfaction with the project's social networking site. It is administered by project staff at each of the follow-up timepoints.

Collateral Participant (parent/guardian)

• *Global Appraisal of Individual Needs—Collateral Monitoring—Initial (GCI).* The GCI contains over 200 items in this initial version that are in multiple formats, including multiple choice, yes/no, and open-ended. The following content areas are covered: relationship to the adolescent respondent, background, and the adolescent's background and substance use, environment and living situation, and vocational information. There are questions on the recency of problems, breadth of symptoms, and recent prevalence as well as lifetime service utilization, recency of utilization, and frequency of recent utilization. It is administered at baseline by project staff.

• *Global Appraisal of Individual Needs—Collateral Monitoring—Monitoring (GCM 5.3.3).* The GCM contains over 200 items in this follow-up version that are in multiple formats, including multiple choice, yes/no, and open-ended. The following content areas are covered: relationship to the adolescent respondent, background, and the adolescent's background and substance use, environment and living situation, and vocational information. There are questions on the recency of problems, breadth of symptoms, and recent prevalence as well as lifetime service utilization, recency of utilization, and frequency of recent utilization. It is administered at each of the follow-up timepoints by project staff

• *Supplemental Assessment Form—Collateral (SAF—Collateral).* The SAF contains 72 questions that are a combination of multiple choice, yes/no, and open-ended formats. Content areas include: knowledge about the adolescent's participation in prosocial activities, receipt of and satisfaction with telephone support services, and usage of and satisfaction with the project's social networking site. It is administered at each of the follow-up timepoints by project staff.

• *Self-Evaluation Questionnaire (SEQ).* The SEQ contains 40 multiple choice items that ask the collateral about feelings and symptoms of anxiety. It is administered at each of the follow-up timepoints by project staff.

• *Family Environment Scale (FES).* The FES contains 18 yes/no items that measure family cohesion and conflict. It is administered at each of the follow-up timepoints by project staff.

• *Relationship Happiness Scale (Caregiver Version).* The Relationship Happiness Scale contains 8 items that ask the collateral about happiness with his/her relationship with the adolescent respondent in various life areas. It is administered at each of the follow-up timepoints by project staff.

Project Coordinator

• *Eligibility Checklist.* The Eligibility Checklist contains 12 yes/no items that are used to determine whether or not an adolescent meets inclusion/exclusion criteria for the project and is eligible to be approached for informed consent. It is completed prior to informed consent by project staff.

• *Telephone Support Volunteer Notification Form.* This form contains a participant's name and contact information. It is completed by project staff and given to volunteers to notify them when someone is assigned to receive telephone support.

• *Family Program Notification Form.* This form contains a participant's name. It is completed by project staff and given to clinicians to notify them when someone is assigned to the family support group.

• *Follow-Up Locator Form—Participant (FLF–P).* The FLF–P contains over 50 items that are a combination of yes/no, multiple choice, and open-ended formats. At the time of informed consent, data are gathered by project staff about an adolescent's contact information, personal contacts, criminal justice contacts, school/job contacts, hang-out information, Internet contacts, and identifying information in order to locate and interview that adolescent over multiple follow-up intervals.

• *Follow-Up Locator Form—Collateral (FLF–C).* The FLF–C contains over 50 items that are a combination of yes/no, multiple choice, and open-ended formats. Data are gathered about a collateral's contact information, personal contacts, and job contacts in order to locate and interview that collateral over multiple follow-up intervals. It is administered at the time of informed consent by project staff.

• *Follow-Up Contact Log.* The Follow-Up Contact Log is open-ended and provides space for all data collected during attempted and completed follow-up contacts, over the phone and in-person, to be recorded. It is completed throughout the follow-up timeperiod.

• *Volunteer/Staff Survey.* The Volunteer/Staff Survey contains 10 items in fill-in-the-blank, yes/no, and multiple choice formats. Items ask about background, demographic information, and role in the project. It is completed once by all volunteers and staff at the start of the project.

Telephone Support Volunteer

• *Telephone Support Case Review Form.* The Telephone Support Case Review Form contains multiple rows that allow a volunteer to record 5 pieces of data about adolescents that they make phone calls to: initials, treatment discharge status/date, weeks since treatment discharge, date of last telephone session, and number of

completed telephone sessions since discharge. This allows the volunteer and supervisor to monitor the progress of active cases. The form is completed by the volunteers every week.

• *Telephone Support Call Log.* The Telephone Support Call Log is open-ended and provides space for all data collected during attempted and completed support contacts to be recorded. The form is completed by the volunteer throughout the period of telephone support.

• *Adolescent Telephone Support Documentation Form.* The Adolescent Telephone Support Documentation Form contains 22 items that are asked of an adolescent during a telephone support contact by a volunteer. The form is used to record yes/no and open-ended responses to questions asking about substance use and recovery-related activities. The volunteers complete the form every time there is a telephone support session with an adolescent.

• *Telephone Support Discharge Form.* The Telephone Support Discharge Form contains 10 fields to record the following information at the end of an adolescent's participation in telephone support: adolescent name, today's date, volunteer name, notification date, telephone support intake date, telephone support discharge date, reason for discharge, number of completed sessions, referral for more intervention, and successful contact for more intervention. This form is completed by volunteers when telephone support ends for each adolescent.

• *Volunteer/Staff Survey (Telephone Support Volunteer)—See Volunteer/Staff Survey (Project Coordinator)* above.

Social Network Site Moderator

• *Social Networking Moderator Log.* The Social Networking Moderator Log contains 11 fields for the moderator to record usage data for the project's social networking site. The moderator tracks number of visits to the site, number of unique visitors, messages posted, chat room attendance, and problems with users. This form is completed weekly by project staff.

• *Volunteer/Staff Survey—See Volunteer/Staff Survey (Project Coordinator)* above.

Family Program Clinician

• *Family Program Progress Notes.* The Family Program Progress Notes form is open-ended and provides space for all data collected during attempted and completed family program contacts to be recorded. This form is completed by the clinician throughout the time family members are active in the family support program.

• *Family Program Attendance Log.* The Family Program Attendance Log is used to record 6 pieces of information about each attempted session: session number, scheduled date, was the session rescheduled (yes/no), was the family member a no-show (yes/no), did the family member attend the session (yes/no), and comments. This form is completed by the clinician throughout the time family members are active in the family support program.

• *Family Program Case Review Report.* The Family Program Case Review Report contains multiple rows that allow a clinician to record information that allows the clinician and supervisor to monitor the progress of active cases. Areas asked about include: family program procedures delivered, date of last session, and weeks in family program. This form is completed by the clinician weekly throughout the time family members are active in the family support program.

• *Family Program Discharge Form.* The Family Program Discharge Form contains 9 fields to record the following information at the end of participation in the family program: caregiver name, today's date, adolescent name, notification date, clinician name, family program intake date, family program discharge date, reason for discharge, and number of completed sessions. This form is completed by the clinician each time family members of a given participant end involvement in the family support program.

• *Volunteer/Staff Survey—See Volunteer/Staff Survey (Project Coordinator)* above.

Support Services Supervisor

• *Adolescent Telephone Support Quality Assurance Checklist.* This checklist contains 43 items that ask the supervisor to rate how well a telephone support volunteer delivered required service components to adolescents. Volunteers are rated on a scale of 1 through 5 in the following areas: substance use since last call (no use), substance use since last call (use), substance use since last call (still using), substance use since last call (stopped using), attendance at 12-step meetings, recovery-related activities, activities related to global health, follow-up since last call, closing the call, overall, general clinical skills, and overall difficulty of session. This form is completed for each reviewed recording of a telephone session by a supervisor.

• *Social Networking Quality Assurance Checklist.* This checklist contains 17 items that ask the supervisor to rate how well a social networking site moderator delivered required service components to adolescents. The moderator is rated on a scale of 1 through 5 in the following areas: group discussions, administrative tasks, overall, and general skills. This form is completed for each review of the social networking site by a supervisor.

• *Family Program QA Checklist.* This checklist contains 72 items that ask the supervisor to rate how well a family program clinician delivered required service components to family members. The clinician is rated on a scale of 1 through 5 in the following areas: initial meeting motivational strategies, domestic violence precautions, functional analysis of substance use, positive communication skills, use of positive reinforcement, time out from positive reinforcement, allowing the identified patient to experience the natural consequences of substance use, helping concerned significant others' enrich their own lives, maintaining the identified patient in recovery-oriented systems of care, and general. This form is completed for each reviewed recording of a family session by a supervisor.

• *Volunteer/Staff Survey—See Volunteer/Staff Survey (Project Coordinator)* above.

The following table is a list of the hour burden of the information collection by form and by respondent:

DETAILED INFORMATION ON FORMS GROUPED BY RESPONDENT

Instrument/form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annualized hour burden per respondent*
Adolescent Participant					
GAIN–I 5.6.0 Full	200	1	200	2	2
GAIN–M90 5.6.0 Full	200	4	800	1	4
SAF	200	5	1000	.25	1.25
Subtotal	200		2000		7.25
Collateral (parent/guardian/concerned other) Participant					
Collateral–I	200	1	200	.25	.25
Collateral–M	200	4	800	.25	1
Collateral SAF	200	5	1000	.25	1.25
Self-Evaluation Questionnaire	200	5	1000	.16	.8
Family Environment Scale (Cohesion and Conflict Scales)	200	5	1000	.08	.4
Relationship Happiness Scale (Caregiver)	200	5	1000	.08	.4
Subtotal	200		5000		4.1
Project Coordinator:					
Eligibility Checklist	4	50	200	.25	12.5
Locator—Participant	4	50	200	.32	16
Locator—Collateral	4	50	200	.25	12.5
Follow-Up Contact Log	4	50	200	.16	8
Telephone Support Volunteer Notification Form	4	50	200	.16	8
Family Program Notification Form	4	50	200	.16	8
Volunteer/Staff Survey	4	1	4	.25	.25
Subtotal	4		1204		65.25
Telephone Support Volunteer:					
Telephone Support Case Review Form	8	450	3600	.25	112.5
Telephone Support Call Log	8	25	200	.16	4
Telephone Support Documentation Form	8	450	3600	.5	225
Telephone Support Discharge Form	8	25	200	.16	4
Volunteer/Staff Survey	8	1	8	.25	.25
Subtotal	8		7608		345.75
Social Network Site Moderator:					
Social Networking Moderator Log	1	52	52	.5	26
Volunteer/Staff Survey	1	1	1	.25	.25
Subtotal	1		53		26.25
Family Program Clinician:					
Family Program Progress Notes	4	650	2600	.16	104
Family Program Attendance Log	4	50	200	.08	4
Family Program Case Review Form	4	650	2600	.25	162.5
Family Program Discharge Form	4	50	200	.16	8
Volunteer/Staff Survey	4	1	4	.25	.25
Subtotal	4		5604		278.75
Support Services Supervisor:					
Telephone Support QA Checklist	1	12	12	1	12
Social Networking QA Checklist	1	12	12	.5	6
Family Program QA Checklist	1	12	12	1	12
Volunteer/Staff Survey	1	1	1	.25	.25
Subtotal	1		37		30.25
Total	418		21,506		757.6

ANNUALIZED SUMMARY TABLE

Respondents	Number of respondents	Total responses	Total annualized hour burden per respondent *
Adolescent	200	2000	7.25
Collateral	200	5000	4.1
Project Coordinator	4	1204	65.25
Telephone Support Volunteer	8	7608	345.75
Social Network Site Moderator	1	53	26.25
Family Program Clinician	4	5604	278.75
Support Services Supervisor	1	37	30.25
Total	418	21,506	757.6

* Total Annualized Hour Burden per Respondent = Responses per Respondent × Hours per.

Written comments and recommendations concerning the proposed information collection should be sent by December 7, 2009 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–5806.

Dated: October 30, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–26803 Filed 11–5–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0319]

Guidance for Industry and Food and Drug Administration Staff; In Vitro Diagnostic 2009 H1N1 Tests for Use in the 2009 H1N1 Emergency; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''In Vitro Diagnostic 2009 H1N1 Tests for Use in the 2009 H1N1 Emergency.'' FDA is issuing this guidance to inform industry and agency staff of its recommendations for the type of information and data FDA believes needs to be included in an Emergency Use Authorization Request (EUA) for in vitro diagnostic (IVD) devices intended for use in diagnosing 2009 H1N1 Influenza virus infections during the emergency involving Swine Influenza A[1]. The Secretary of the Department of Health and Human Services (HHS) declared the emergency on April 26, 2009, in accordance with the Federal Food, Drug, and Cosmetics Act (the Act).

DATES: Submit written or electronic comments on this guidance at any time. General comments on agency guidelines are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''In Vitro Diagnostic 2009 H1N1 Tests for Use in the 2009 H1N1 Emergency'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Sally Hojvat, Center for Devices and Radiological Health WO/66, rm. 5552, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–5455.

SUPPLEMENTARY INFORMATION:

I. Background

This guidance document provides recommendations on the types of information and data that FDA believes needs to be included in an Emergency Use Authorization Request (EUA) for in vitro diagnostic (IVD) devices intended for use in diagnosing 2009 H1N1 Influenza virus infections during the emergency involving Swine Influenza A. While FDA encourages the submission of premarket notifications (510(k)s) for all 2009 H1N1 tests, the agency is aware that during a declared emergency, it may not be possible for manufacturers of 2009 H1N1 tests to submit a 510(k) prior to distributing or offering a test. For example, during the initial phase of the emergency, positive clinical specimens may not be readily available for use in device evaluations. The identification of acute test capacity need may limit the ability to test the usual number of specimens needed for a 510(k). Additionally, appropriate validation specimens may not be available in certain areas at the time the test is needed. If manufacturers of 2009 H1N1 tests are unable to submit a premarket notification and there is a continued public health need for 2009 H1N1 tests during this declared emergency, manufacturers should submit an EUA request to FDA. Public participation is not feasible or appropriate since the agency must act immediately to protect the public health during the declared emergency concerning 2009 H1N1 Influenza. This guidance applies to 2009 H1N1 tests during the time that the declaration of emergency concerning 2009 H1N1 Influenza is in effect.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on *in vitro diagnostic 2009 H1N1 tests for use in the 2009 H1N1 emergency*. It does not create or confer any rights for or on any person and does not operate to bind FDA or the

[1] Swine Influenza A is now known as 2009 H1N1 Influenza (2009 H1N1).

public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. To receive ''*In Vitro Diagnostic 2009 H1N1 Tests for Use in the 2009 H1N1 Emergency*,'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1706 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available at *http://www.regulations.gov*.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations and guidance documents. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 814 have been approved under OMB Control No. 0910–0231; the collections of information in 21 CFR part 807 Subpart E have been approved under OMB Control No. 0910–0120; the collections of information in 21 U.S.C. 360bbb–3(b) have been approved under OMB Control No. 0910–0584; the collections of information in 21 CFR part 812 have been approved under OMB Control No. 0910–0078; the collections in 21 CFR 493.17 have been approved under OMB Control No. 0910–0607; the collections of information in 21 CFR part 56 have been approved under OMB Control No. 0910–0130; the collections of information in Section 564(b)(1) of the FD&C Act have been approved under OMB Control No. 0910–0595; the collections of information in 21 CFR part 820 have been approved under OMB Control No. 0910–0073; and the collections of information in 21 CFR 809.10 have been approved under OMB Control No. 0910–0485.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 2, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–26737 Filed 11–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Mandatory Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc.).

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little

Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).
Clendo Reference Laboratory, Avenue Santa Cruz #58, Bayamon, Puerto Rico 00959, 787–620–9095.
Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.
Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.
DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.
DynaLIFE Dx *, 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876, (Formerly: Dynacare Kasper Medical Laboratories).
ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.
Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.
Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.), Kroll Laboratory Specialists, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).
Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).
Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).
Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).
LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).
Maxxam Analytics*, 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700, (Formerly: Maxxam Analytics Inc., NOVAMANN (Ontario), Inc.).
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.
MetroLab-Legacy Laboratory Services, 1225 NE. 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.
Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 866–370–6699/818–989–2521, (Formerly: SmithKline Beecham Clinical Laboratories).
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x1276.
Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.
STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438.
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.
Toxicology Testing Service, Inc., 5426 NW. 79th Ave., Miami, FL 33166, 305–593–2260.
U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

Elaine Parry,

Director, Office of Program Services, SAMHSA.

[FR Doc. E9–26796 Filed 11–5–09; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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,

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register,** July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

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 Allergy and Infectious Diseases Special Emphasis Panel, Clinical Trial Applications.
Date: November 30, 2009.
Time: 11 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call.)
Contact Person: Kenneth E. Santora, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIH/NIAID/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. 301–496–2550. *ks216i@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 2, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–26856 Filed 11–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; 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 Biomedical Imaging and Bioengineering Special Emphasis, Panel—Research on the International Space Station.
Date: January 21, 2010.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Ruth Grossman, DDS, Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 960, Bethesda, MD 20892, 301–496–8775, *grossmanrs@mail.nih.gov*.

Dated: November 2, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–26855 Filed 11–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public, 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.

Name of Committee: AIDS Research Advisory Committee, NIAID, AIDS Vaccine Research Subcommittee.
Date: February 2–3, 2010.
Time: 8:30 a.m. to 5 p.m.
Agenda: To discuss the results of the recently completed AIDS vaccine efficacy trial in Thailand (RV144) and to discuss future plans related to the test vaccines.
Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.
Contact Person: James A. Bradac, PhD, Program Official, Preclinical Research and Development Branch, Division of AIDS, Room 5116, National Institutes of Health/NIAID, 6700B Rockledge Drive, Bethesda, MD 20892–7628, 301–435–3754, *jbradac@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 2, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–26854 Filed 11–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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 Dental and Craniofacial Research Special Emphasis Panel, NIDCR Review of R34 (PAR–08–195) and R01 (PA–07–070) Applications.
Date: December 2, 2009.
Time: 1 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.
Contact Person: Rebecca Wagenaar Miller, PhD, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 6701 Democracy, Rm 666, Bethesda, MD 20892. 301–594–0652. *rwagenaa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: November 2, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–26853 Filed 11–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center on Minority Health and Health Disparities; 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 Center on Minority Health and Health Disparities Special Emphasis Panel; Exploratory Center of Excellence (P20) Review Meeting.

Date: December 1–3, 2009.

Time: 5 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Prabha L. Atreya, PhD, Chief, Office of Scientific Review, National Center on Minority Health and Health Disparities, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892, (301) 594–8696, *atreyapr@mail.nih.gov.*

Dated: November 2, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–26851 Filed 11–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel; Postdoctoral IDD Training.

Date: November 30, 2009.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call)

Contact Person: Norman Chang, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 2, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–26858 Filed 11–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Coordinating Office for Terrorism Preparedness and Emergency Response (BSC, COTPER)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Time and Date: 3 p.m.–5 p.m., December 8, 2009.

Place: Web Conference. Please contact the BSC Coordinator (see Contact Person for More Information) to obtain further instructions on how to participate by phone and online.

Status: Open to the public, teleconference access limited only by availability of telephone ports.

Purpose: This Board is charged with advising the Secretary of HHS and Director of CDC concerning strategies and goals for the programs and research within COTPER, monitoring the strategic direction and focus of the Divisions, and conducting peer review of scientific programs. For additional information about the BSC, COTPER please visit: *http://emergency.cdc.gov/cotper/science/counselors.asp.*

Matters to be Discussed: The teleconference agenda will include a discussion of the findings from an external peer review of COTPER's Division of State and Local Readiness that was conducted by an ad hoc BSC workgroup. BSC members will vote on recommendations following the discussion. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Matthew Jennings, BSC Coordinator, COTPER, CDC, 1600 Clifton Rd NE., Mailstop D–44, Atlanta, GA 30333, Telephone: (404)639–7357; Facsimile: (404)639–7977; E-mail: *COTPER.BSC.Questions@cdc.gov.*

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 27, 2009.

Elaine L. Baker,

Director, Management Analysis and Service Office, Centers for Disease Control and Prevention.

[FR Doc. E9–26801 Filed 11–5–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Intertek USA, Inc., 230 Crescent Ave., Chelsea, MA 02150, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.*http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/.*

DATES: The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective

on June 25, 2009. The next triennial inspection date will be scheduled for June 2012.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: October 29, 2009.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E9–26709 Filed 11–5–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Proposed Collection; Comment Request, OMB No. 1660–NEW

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form 111, Radiological Emergency Preparedness Program Alert and Notification Phone Survey.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed new information collection. In accordance with the Paperwork Reduction Act of 1995, this Notice seeks comments concerning a collection of information that will occur after activation of a commercial nuclear power plant's alert and notification system. FEMA will conduct a telephone survey of a sample of residents within that plant's 10-mile Emergency Planning Zone (EPZ) following the alert.

DATES: Comments must be submitted on or before January 5, 2010.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under docket ID FEMA–2009–0001. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Office of Chief Counsel, Regulation and Policy Team, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA–POLICY@dhs.gov.* Include docket ID FEMA–2009–0001 in the subject line.

All submissions received must include the agency name and docket ID. 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, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Russ Gates, Engineer, Radiological Emergency Preparedness Program, Technological Hazards Division, National Preparedness Directorate, FEMA at (703) 605–1535 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA–Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION: Title 44 CFR part 350 creates the framework by which FEMA evaluates and approves State and local emergency plans and preparedness. This telephone survey collection, as part of the Alert and Notification (A&N) System review for all commercial nuclear power plant facilities in the United States, is used by FEMA to confirm that: (1) The siren operability standard of 90% (required in FEMA–REP–10) has been achieved based on the most recent 12 months of test results before the system is approved; (2) alert and notification system testing results have been completed in accordance with approved procedures; and, (3) that the siren operability remains at or above 90% (part of the periodic requirements stipulated in GM PR–1). Telephone surveys are used periodically during scheduled radiological emergency preparedness exercises to estimate the proportion of households within the 10-mile EPZ alerted by a nuclear power plant's alert and notification system.

Collection of Information

Title: Radiological Emergency Preparedness Program Alert and Notification Phone Survey.

Type of Information Collection: New information collection.

OMB Number: OMB No. 1660–NEW.

Form Titles and Numbers: FEMA Form 111, Radiological Emergency Preparedness Program Alert and Notification Phone Survey.

Abstract: Immediately following activation of a commercial nuclear power plant's alert and notification system, FEMA will conduct a telephone survey of a sample of residents within that plant's Emergency Planning Zone.

Affected Public: Individuals or households.

Estimated Total Annual Burden Hours: 338 hours.

ANNUAL HOUR BURDEN

Data collection activity/instrument	Number of respondents	Frequency of responses	Hour burden per response	Annual responses	Total annual burden hours
	(A)	(B)	(C)	(D) = (A × B)	(C × D)
FEMA Form 111, FEMA Nuclear Power Plant Alerting And Notification System: Public Telephone Survey.	338	1	10 minutes (0.1667 hours)	338	56
Total	338	.....	.....	338	56

Estimated Cost: None.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Larry Gray,

Director, Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–2005–0005]

Z–RIN 1660–ZA01

Disaster Assistance Directorate Policy Numbers 9100.1 and 9523.1 Snow Assistance and Severe Winter Storm Policy

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of final policy.

SUMMARY: The Federal Emergency Management Agency (FEMA) has revised its Snow Assistance and Severe Winter Storm Policy. The Snow Assistance and Severe Winter Storm Policy provides the procedures and criteria FEMA uses to make its recommendations to the President after a State Governor requests a declaration following a snowstorm. The criteria in the Snow Assistance and Severe Winter Storm Policy are used by FEMA solely for consideration in making its recommendations to the President and do not limit the ability of the President, in his discretion, to declare emergencies or major disasters.

DATES: This final policy is effective November 2, 2009.

FOR FURTHER INFORMATION CONTACT: James Walke, Director, Public Assistance Division, DHS/FEMA, 500 C Street, SW., Room 406, Washington, DC 20472–3100, 202–646–3848; (facsimile) 202–646–3304; or (e-mail) *James.Walke@dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (Stafford Act), FEMA coordinates Federal actions to provide supplemental aid to States and communities to assist in the response and recovery from emergencies and major disasters. *See* 44 CFR 206.62. Federal assistance authorized by a Presidential emergency or major disaster declaration provides immediate and short-term assistance that is essential to save lives, protect property, and safeguard the public health and safety. After a Governor requests that the President declare an emergency or major disaster, FEMA makes a recommendation to the President for use in his decision to grant or deny the Governor's request. To make its recommendation, FEMA follows its regulations in title 44 of the Code of Federal Regulations and, for snowstorms, it additionally follows the Snow Assistance and Severe Winter Storm Policy (the ''Snow Assistance Policy''). The parameters set forth in the Snow Assistance Policy are used by FEMA solely for consideration in making recommendations to the President under the Stafford Act and do not limit the ability of the President, in his discretion, to declare emergencies or major disasters.

Under the Stafford Act, FEMA is required to provide public notice and an opportunity to comment before amending any policy that could result in a significant reduction of assistance. 42 U.S.C. 5165c. This revision of the Snow Assistance Policy is expected to result in a reduction in assistance. Therefore, on September 17, 2002, FEMA published a proposed revision to its December 28, 1999 Snow Assistance Policy in the **Federal Register** for comment. 67 FR 58608. On July 24, 2008, in response to the comments received and to address additional changes to the policy, FEMA published a second proposed revision of the Snow Assistance Policy for comment. 73 FR 43243.

In the revised policy, FEMA makes three major changes. First, FEMA's 1999 Snow Assistance Policy evaluated requests for snow assistance under both the criteria for an ''emergency'' declaration under 44 CFR 206.35, as well as a request for a ''major disaster'' declaration under 44 CFR 206.36. However, the Stafford Act, 42 U.S.C. 5122, and FEMA regulations, 44 CFR 206.2(a)(17), expressly include ''snowstorm'' in the definition of a ''major disaster.'' By comparison, FEMA regulations define ''emergencies'' as those types of events that *do not* qualify under the definition of a major disaster. In this revised policy, snowstorm events will be considered by FEMA for major disaster declarations under 44 CFR 206.36, consistent with the Stafford Act and FEMA regulations. As discussed below, in response to comments received on the July 2008 proposed policy, this final Snow Assistance Policy does not include the limitation proposed in 2008 that FEMA would only make recommendations for major disaster declarations for snow events.

Second, under FEMA regulations, FEMA may find that a State or community is eligible for financial assistance for snow or blizzard conditions only where the storm results in ''record or near record'' snowfall for that area, as determined by official government records. *See* 44 CFR 206.227. Under the prior policy, for a county to have ''record or near record'' snowfall, at least one National Oceanic and Atmospheric Administration (NOAA) station within that county was required to receive a snowfall at a historical record or a near record (within 10 percent of record) snowfall level. Because most counties have multiple NOAA stations, the station with the lowest historical snowfall record was compared to the highest event snowfall to determine the county's eligibility for a snow assistance emergency declaration. Under this revised policy, FEMA compares the highest current event snowfall reported by the National Weather Service (NWS) to the highest National Climatic Data Center (NCDC) historical record in a county to determine if the snowfall event exceeds or is near a true record for a county.

Finally, under this revised policy, States are now required to submit an estimate of eligible Public Assistance costs (estimate of Public Assistance divided by county and State populations, respectively) including snow assistance costs for a 48-hour period that meet or exceed the county and statewide per capita cost threshold. Snow assistance costs are included only

for those areas that meet the record, near record, or contiguous county criteria of this revised policy. For major disaster declarations, per capita costs are used as an indicator of the State or county capability of responding to the event. This information was not required under the previous snow policy. While this requirement is new to FEMA's Snow Assistance Policy, an estimate of damages is a normal requirement for all States requesting a major disaster declaration. *See* 44 CFR 206.36 and 44 CFR 206.48. The Governor must also direct the execution of the State emergency plan and the State must demonstrate that the capabilities of the State to effectively respond to the event are or will be exceeded. *Id.*

II. Discussion of Comments Received on the July 24, 2008 Proposed Snow Assistance Policy

On July 24, 2008, FEMA published a second proposed revision to its Snow Assistance Policy in the **Federal Register** at 73 FR 43243 for a 30-day public comment period. FEMA received 13 comments, including comments from the U.S. Senate Committee on Homeland Security and Governmental Affairs, the U.S. House of Representatives Committee on Transportation and Infrastructure, an individual Senator, an individual, and Emergency Management Offices. The following is a summary of the substantive comments received and FEMA's responses thereto.

A. Impact Criteria

One commenter requested that FEMA adopt reasonable ''local impact'' criteria to allow a State to contend that it has exceeded its capability and that supplemental assistance is necessary. In 2002, FEMA published its first proposed revisions to the Snow Assistance Policy, and received several comments that were critical of its proposed addition of ''local impact'' criteria. After considering those comments, FEMA agreed and removed this criterion from the proposed policy. As discussed in the 2008 proposed Snow Assistance Policy, FEMA determined that with the exception of record or near-record snowfall, which is required by 44 CFR 206.227, the criteria for major disaster declarations for snowstorms should be consistent with all other major disaster events. As there are no specific types of local impacts required under the Stafford Act or FEMA's regulations for other types of events, specific local impact criteria is not included in this final policy.

B. Definition of Severe Winter Storm

A commenter stated that blizzards are not acknowledged under the proposed policy unless it is a record or near record snowfall. A lesser snowfall combined with extreme cold, ice, and/or significant wind, could exceed the impact of a record event. The commenter suggested that FEMA expand the eligibility for Federal assistance to include NWS-verified blizzard conditions, or similar exacerbating factors.

FEMA made no change as a result of this comment. In a blizzard situation, a Governor has the option of requesting a major disaster declaration as a result of a severe winter storm. FEMA's definition of ''severe winter storm'' includes blizzards as one of the potential conditions that cause substantial physical damage or loss to improved property. If a major disaster is declared for a severe winter storm, a limited level of snow removal incidental to disaster response may be eligible for assistance. Generally, snow removal that is necessary to perform otherwise eligible emergency work is eligible. For example, snow removal necessary to access debris or to repair downed power lines is eligible, while normal clearance of snow from roads is not eligible.

C. Use of Record or Near Record Snowfall

There were several comments related to the requirement for record and near-record snowfall to qualify for a snowstorm declaration. Several comments recommended eliminating the requirement in order to remove the administrative burden and confusion involved in determining record and near record snowfall and to consider the full range of costs associated with severe winter storms, including snow removal, when evaluating snow assistance requests. Several comments suggested that defining near record snowfall as within 10 percent of the record amount would not provide adequate flexibility. One commenter recommended using 25 percent. One commenter suggested that the use of record or near record snowfall is not a good measure for a snowstorm declaration since a disaster can have more profound effects today than it did in the past.

As established by 44 CFR 206.227, which went into effect in 1997, record or near record snowfall is the criteria FEMA uses to evaluate the need for Federal assistance for a snow event. In addition to record or near record snowfall, FEMA will now also consider the factors for evaluating a major disaster declaration listed under 44 CFR 206.48, including the estimated cost of assistance, localized impacts, and recent multiple disasters. FEMA will maintain the record or near record snowfall criteria because it is an indicator of the impact of a snowstorm. Unlike other major disaster events, snowstorms typically cause minimal infrastructure damage. Therefore, FEMA must rely on information in addition to the estimate of damages to judge the impact.

Most State and local governments that experience snowstorms anticipate and routinely budget for snow removal every year. As budgets can vary significantly, it is difficult to consistently and fairly judge the impact of a snowstorm across multiple jurisdictions based only on the costs of snow removal operations. Therefore, FEMA asserts that evaluating both snowfall and costs in addition to the other factors described at 44 CFR 206.48 provides the most consistent and fair method for determining if the effects of a snowstorm warrant a major disaster declaration.

With respect to the comments regarding near record snowfall, it has been FEMA's longstanding practice to define near record snowfall as within 10 percent of the record snowfall amount. FEMA has not found this percentage to be inflexible or inadequate.

D. Snowstorm Declaration Criteria

Several comments requested that FEMA retain the option to request an emergency declaration for a snow event. Several commenters asserted that although snowstorms are specifically referenced in the definition of ''major disaster'' in section 102(2) of the Stafford Act, the Stafford Act's definition of ''emergency'' provides no list of covered events so it does not specifically exclude snowstorms from consideration for an emergency declaration.

FEMA interprets the Stafford Act's specificity in its definition of ''major disaster'' to denote that those natural catastrophes specifically listed are to be considered only for major disaster declarations. Further, FEMA's regulations state that ''[w]hen an incident occurs or threatens to occur in a State, which would not qualify under the definition of a major disaster, the Governor * * * may request that the President declare an emergency.'' *See* 44 CFR 206.35(a). Since snowstorms are the type of incident that could qualify for a major disaster declaration, FEMA will evaluate requests from States for snow assistance using criteria for a major declaration. However, as indicated by commenters, there is no specific listing in FEMA regulations for incidents that are considered for

emergency declarations. FEMA is therefore removing the proposed provision that indicated FEMA would only make recommendations for major disaster declarations with respect to snowstorms.

Two comments stated that States would have to meet the Public Assistance thresholds, including damage to infrastructure, to request a snow declaration. The commenters found this to be problematic because while snow emergencies typically require emergency protective measures and debris removal, they typically do not require repairs to public infrastructure. As an example, a commenter stated that States may require snow removal assistance and assistance to remove dead animals rather than requiring assistance for damaged infrastructure. Further, one commenter stated that the majority of work associated with snow events relates to emergency work. Another commenter stated that the burden to prove that a snowfall emergency caused sufficient damage to warrant a major disaster declaration would likely encourage States to apply for the full array of assistance available under the Stafford Act, which could cost the Federal Government more over time than if less expensive categories of assistance were more readily accessible.

FEMA agrees that the majority of work associated with snow events relates to emergency work and that snowstorms do not typically cause significant infrastructure damage. However, there are instances where the weight of snow and ice causes roofs to collapse and power lines to fall. Further, storms may have wind gusts strong enough to damage facilities. Dead animals or debris caused by a snowstorm may be a threat to public health and safety. FEMA asserts that a major disaster declaration is the appropriate mechanism to evaluate and provide assistance for the costs of debris removal and infrastructure damage.

A major disaster declaration will expand the categories of assistance to include debris removal and infrastructure restoration, which would not be eligible under an emergency declaration. Emergency work is eligible under both an emergency or major disaster declaration. Under this policy, the costs for emergency work will be considered in making a recommendation for a major disaster declaration.

Several comments stated that the proposed policy's focus on individual snow events does not consider the burden of a record snow season. One commenter recommended allowing a record or near record snow season as criteria for a major disaster declaration.

Section 102(2) of the Stafford Act uses the singular term ''snowstorm'' in its definition of ''major disaster.'' Therefore, consistent with the Stafford Act, declarations are based on specific, singular events, and not seasons or multiple events over an extended period of time. Making declaration recommendations based on the burden of an entire snow season would, therefore, be inconsistent with the Stafford Act and FEMA regulations.

A commenter stated that if FEMA decides to use record and near record snowfalls as criterion for discrete storms, FEMA should use NWS long-term averages to evaluate whether a discrete storm is statistically significant (similar to the evaluation of floods), rather than the single highest historic event. Commenters contend that as written, the proposed policy effectively gives each county only one chance in the future to receive snow assistance and makes one highly aberrant storm form the basis for all future planning. A commenter stated that jurisdictions budget for reasonably expected occurrences and not the absolute ''worst case scenario.'' According to the commenter, FEMA's proposed policy appears to reject the idea of using recurrent intervals as the benchmark for a snow event. The commenter suggested using validated recurrence intervals or accepted NWS long-term averages to determine the relative magnitude of the current event. Another commenter noted that the use of record or near record snowfall tends to increase the threshold over time. Each time a new record is set, the threshold changes, making it increasingly difficult for communities to receive assistance. Finally, another commenter suggested that FEMA should not classify severe winter storms based upon record snowfall because of the impacts of drifting snow.

FEMA agrees that the record and near record snowfall requirement increases the declaration indicator criteria over time. As a result, State and local governments will be required to increase their capability. In accordance with 44 CFR 206.48, FEMA similarly adjusts the major disaster per capita cost indicator each year based on the Consumer Price Index.

Under the previous policy, FEMA has only provided financial assistance for snow emergency declarations. FEMA has not provided direct Federal assistance to address emergency conditions beyond the capability of the State and local governments. Therefore, FEMA asserts that it is not unreasonable for State and local governments to adjust their snow removal budgets accordingly to increase their capability over time.

FEMA asserts that an aberrantly large event will not preclude a State from a future major disaster declaration for an event that does not equal or exceed the new record snowfall. The revised policy contains the near record or contiguous county provisions of the previous policy, which allow counties to qualify for assistance with snowfall totals that do not exceed record amounts. In past snow emergency declarations, a significant number of counties have qualified under these criteria. The contiguous county criteria, in particular, allow counties to qualify with snowfall totals that are sometimes significantly lower than the record amount in their respective county. FEMA also asserts that the contiguous and near record provisions provide enough flexibility in the declaration criteria that the use of NWS recurrence intervals or long-term averages is unnecessary. FEMA has revised language in paragraph (e)(6) of the final policy to clarify the provision on contiguous counties. It does not substantively alter the policy.

E. Snowstorm Declaration Requests

A commenter requested a 60-day post-storm request period. The commenter stated that snow data is generally posted intermittently, and in some cases not within the 30-day request period, which may prevent a State from requesting a declaration within the established 30-day request period. FEMA has made no change with respect to this request. The proposed policy is consistent with FEMA regulations governing requests for major disaster declarations, which require submitting a request for a major disaster declaration within 30 days of the occurrence of the incident. 44 CFR 206.36. Furthermore, 44 CFR 206.36(a) includes a provision for the Governor to request a time extension to submit a disaster declaration request. FEMA's experience with NOAA, through multiple snow emergencies, is that NOAA provides timely snowfall data very soon after snowstorms. In addition, FEMA will accept snowfall data obtained from NWS Cooperative Network monitoring stations, which is typically available during and immediately after a snowfall event. FEMA has not experienced any delays in processing snow emergency requests due to a lack of, or untimely, snowfall data from NOAA or NWS.

One commenter stated that the proposed changes would delay the declaration process because States would be required to assess damages in

the context of local and State Public Assistance thresholds and to conduct a more stringent review and comparison of record snowfall data. Another comment stated that requiring the per capita estimate of statewide costs to meet the threshold in 44 CFR 206.48(a)(1) conflicts with section 320 of the Stafford Act which advises: ''[n]o geographic area shall be precluded from receiving assistance under this Act solely by virtue of an arithmetic formula or sliding scale based on income or population.''

For major disaster declarations, per capita costs are used as an indicator of the State or county's capability to respond to the event. While this would be new to FEMA's Snow Assistance Policy, an estimate of damages is a normal requirement for all States requesting a major disaster declaration. *See* 44 CFR 206.36 and 44 CFR 206.48. Under 44 CFR 206.48, the estimated cost of assistance is not the sole factor used to determine need for assistance. It is one of several factors evaluated under the Public Assistance Program and is consistent with section 320 of the Stafford Act.

FEMA receives approximately six requests from States for snow assistance each season. In terms of snowfall and other supporting information, FEMA has received no indication from those applications that its documentation requirements are significantly burdensome. In fact, the quantity and quality of information provided in the declaration requests from most States already well exceed the information required by this revised Snow Assistance Policy.

F. Use of Official Government Snowfall Data

One commenter remarked that for those States with large counties that have extreme differences in geography, such as Colorado, it is unacceptable to use the highest current event snowfall reported compared to the highest historical snowfall record for that county. Specifically, the commenter suggested comparing the current event snowfall recording station to the historic record for that same recording station. The commenter also stated that it is unacceptable to use an adjacent county's reporting information when there is no NWS or NCDC historical snowfall data. The commenter recommended using geography and distance to determine which nearby county would be used for historical record snowfall data.

FEMA believes that the best method to evaluate event snowfall is to compare it with the NWS station with the highest historical record in a county to determine a true record or near record snowfall event. FEMA acknowledges that variations in geographic areas and features may make it difficult in some instances to compare current and historic values from different locations within a county or political jurisdiction. However, monitoring stations are frequently located in or near populated areas therefore, the use of historical data from such stations should aid in determining the severity and magnitude of the snowstorm event on the given population in the impacted jurisdiction. FEMA asserts that its methodology and criteria are fair and equitable and can be applied consistently throughout the country.

FEMA will use data provided by the NCDC and NWS Cooperative Network Stations for making comparisons to historic snowfall values because doing so ensures a consistent approach to the collection of snowfall data and the application of the Snow Assistance Policy. The policy also states that for counties with no NCDC or NWS historical record snowfall data, the historical record from the nearest NWS Cooperative Network Station in an adjacent county or State may be used for determining historical snowfall records. Geography and distance may be used to determine the nearest NWS Cooperative Network Station.

Several comments were made that there is an inadequate distribution of NOAA COOP stations. One commenter asked what sources of snowfall measurements FEMA will use when no NCDC or NWS Cooperative Network Stations verified data exists.

The NCDC, which is a part of NOAA, provides historical 1-, 2-, and 3-day snowfall data from measurements made by observers who are part of the NWS airport stations and the NWS Cooperative Network. These observers are trained by NOAA experts on proper snowfall measurement techniques and are provided with the proper equipment and guidelines for ensuring accurate observations. According to the NCDC, NOAA collects and distributes snowfall data from these trained, equipped, and supervised observers. To maintain consistency of evaluation data, when determining if a snowstorm reaches record or near record proportions, FEMA accepts event and historical snowfall data from the NCDC.

FEMA's experience with NOAA, through multiple snow emergencies, is that NOAA provides timely snowfall data very soon after snowstorms. In addition, FEMA will accept snowfall data obtained from NWS Cooperative Network Stations, which is typically available during and immediately after a snowfall event. FEMA has not experienced any delays in processing snow emergency requests due to a lack of, or untimely, snowfall data from NCDC or NWS. In the unlikely event that NCDC cannot provide either preliminary or final published NOAA station snowfall data, a State may contact the local NWS Weather Forecast Office (WFO) for information. FEMA will only use data from published NOAA stations in NCDC's monthly Local Climatological Data publication to assess a State's request for snow assistance. Some of NWS's products, like Public Information Statements, can contain reports from non-published sources, which are not used to evaluate requests for assistance.

Several comments recommended using NWS WFO-verified start and end times for storm events. At NOAA Cooperative Network Stations, snowfall totals are measured from 7 a.m. to the following 7 a.m., so that snowstorms occurring from 12 noon to 12 noon are considered 48-hour storms because they cross two reporting periods. The commenter stated that as a result, the snowfall amounts for such storms must meet an unreasonably higher standard.

To ensure consistency, daily and cumulative snowfall totals for the current event must be compared to the historic record snowfall over the same time period. The length of the current event period should be calculated using the same method that the historic record event period is determined. If the available historic data is measured from 7 a.m. to the following 7 a.m., the duration of the current storm will also be measured from 7 a.m. to the following 7 a.m. For example, snowfall from 8 p.m. to 8 a.m. is considered a 2-day storm if the observing period is 12 a.m. to 11:59 p.m. FEMA has determined that this is a reasonable standard.

G. Eligible Period of Assistance

One commenter suggested that the preliminary damage assessment costs should be based on the applicant's total damage costs for the event, not just a 48-hour period. Another commenter asserted that requiring the current event snowfall to exceed the historic record snowfall by at least 50 percent in order to qualify for an extension effectively eliminates the time period extension, thereby limiting snow assistance to 48 hours and circumventing reimbursement of the eligible costs incurred for a major disaster declaration.

As published in the proposed revisions to the policy, each county

included in a Governor's request for a declaration must provide estimated Public Assistance costs including snow assistance costs within a 48-hour period that equal or exceed the county per capita cost threshold required for a major disaster declaration. An applicant may select a 48-hour period for estimating purposes, but use a different 48-hour period when submitting actual costs. Additionally, the FEMA Assistant Administrator of the Disaster Assistance Directorate may extend the eligible time period of assistance by 24 hours in counties where snowfall quantities greatly exceed record amounts. FEMA believes that the 48-hour assistance period, with an extension to 72 hours, is an appropriate assistance period for both short and long duration snowfalls. The assistance is intended to open emergency access and to help restore critical services. It is not intended to cover the entire cost or even a significant portion of the cost of long-term snow removal operations. FEMA determined that event snowfall exceeding 50 percent of the historic record was an appropriate measure of impact that would require extending the time period for assistance. FEMA has provided extensions in past snow emergency declarations.

Another commenter requested that if a near record event is required to exceed the historic record by 10 percent, then it is logical for the time extension for snowfalls greatly exceeding record amounts to also exceed 10 percent.

FEMA does not require near record snowfall to exceed the historic record by 10 percent. FEMA defines near record snowfall as snowfall that approaches, but does not meet or exceed, the historical record snowfall within a county as published by the NCDC. FEMA generally considers snowfall within 10 percent of the record amount to be a near record snowfall. The extension of the eligible time period is intended only for those extremely large storms that prevent emergency access and stop critical services for an unusually long period of time. Therefore, only those limited cases where event snowfall exceeds the historic record by 50 percent will be considered for an extension.

H. Severe Winter Storm Declarations

One comment stated that for a severe winter storm jurisdictions will not be eligible for snow removal unless they meet record snowfall criteria. The commenter recommended that FEMA consider snow removal costs in the context of the appropriate response to the event, not snowfall amounts, for severe winter storms.

FEMA will not include snow removal costs when calculating the per capita cost impacts for a severe winter storm declaration, unless the county meets the record or near record snowfall criteria outlined in the policy. However, a limited level of snow removal incidental to disaster response may be eligible for assistance. Generally, snow removal that is necessary to perform otherwise eligible emergency work is eligible. For example, snow removal necessary to access debris or to repair downed power lines is eligible; while the normal clearance of snow from roads is not eligible.

I. Economic Impact

One commenter asserted that the potential economic impact of the policy may be greater than 10 percent in some areas of the country and suggested breaking out the potential impacts by region.

When the changes to this policy were proposed, FEMA conducted a cost impact analysis. In that analysis, FEMA assessed the potential annual economic impact of the policy and concluded that Public Assistance funding would be reduced by approximately 10 percent per year, which also equals an estimated savings of $5.3 million to the Federal taxpayers. Since most of the snow disasters are already geographically limited to FEMA's Regions I, II, III, V, VII, and VIII it is unnecessary to perform a regional cost analysis.

III. Executive Order 12866 ''Regulatory Planning and Review''

This final policy does not constitute a significant regulatory action under Executive Order 12,866.

IV. Final Policy

For the reasons set forth in the preamble, the Response and Recovery Policy RR9523.1, ''Snow Assistance Policy,'' dated December 28, 1999; the ''Response and Recovery Policy 9523.1, *Snow Assistance Policy* Procedures for Determining Record or Near-Record Snowfall'' Memorandum issued by Carlos J. Castillo on June 30, 2008; the Snow Removal section on page 76 of the ''Public Assistance Guide FEMA 322/ June 2007''; and page 122 of the ''Public Assistance Policy Digest FEMA 321/ January 2008,'' are hereby superseded by the Disaster Assistance Directorate Policy Numbers 9100.1 and 9523.1 ''Snow Assistance and Severe Winter Storm Policy'' by the final policy text below.

Text of Final Policy

Snow Assistance and Severe Winter Storm Policy

(a) Definitions.

Contiguous County means a county in the same State that shares a common border with a core county without geographic separation other than by a minor body of water, typically not exceeding one mile between the land areas of such counties.

Core County means a county that has a record or near record snowfall with public assistance costs that exceed the annually established countywide per capita impact indicator and is designated for snow assistance under a major disaster declaration.

Incident Period means the time span during which the disaster-causing incident occurs, *e.g.*, approximately 6 p.m., January 5, 2007, through 8 a.m., January 7, 2007.

Near Record Snowfall means a snowfall that approaches, but does not meet or exceed, the historical record snowfall within a county as published by the National Climatic Data Center (NCDC). FEMA generally considers snowfall within 10 percent of the record amount to be a near record snowfall.

Record Snowfall means a snowfall that meets or exceeds the highest record snowfall within a county over a 1-, 2-, 3-day or longer period of time, as published by the NCDC.

Snow Assistance means assistance for all eligible activities under Category B, emergency protective measures (*See* Categories of Work in the Public Assistance Guide, FEMA 322, *http://www.fema.gov/pdf/government/grant/pa/paguide07.pdf*) related to a snowstorm, including snow removal, de-icing, salting, snow dumps, and sanding of roads and other eligible facilities, as well as search and rescue, sheltering, and other emergency protective measures.

Snowstorm means an event in which a State has record or near record snowfall in one or more counties, as determined by paragraph (e), and that overwhelms the capability of the affected State and local governments to respond to the event. While snowstorms will normally only receive Snow Assistance, other categories of supplemental Federal assistance may be designated for a snowstorm declaration as warranted.

Severe Winter Storm means an event that occurs during the winter season that includes one or more of the following conditions: snow, ice, high winds, blizzard conditions, and other wintry conditions; and that causes

substantial physical damage or loss to improved property.

(b) Snowstorm Declaration Criteria.

FEMA may recommend the declaration of a major disaster for a snowstorm that meets the following criteria. However, the criteria listed in this policy are solely for use by FEMA in making recommendations to the President and in no manner restricts the ability of the President, in his discretion, to declare emergencies or major disasters pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended.

(1) *County criteria.* Each county included in a Governor's request for a declaration must have a record or near record snowfall, or meet the contiguous county criteria described in this policy, and have estimated public assistance costs including snow assistance costs within a 48-hour period that equal or exceed the county per capita cost threshold required for a major disaster declaration, which is published annually in the **Federal Register**. *See, e.g.*, 74 FR 51296 (October 6, 2009). The State must also demonstrate that the capabilities of the State to effectively respond to the event are or will be exceeded. An applicant may select a 48-hour period for estimating purposes, but use a different 48-hour period when submitting actual costs.

(2) *State criteria.* In addition to the county criteria, a State must also meet the statewide per capita cost threshold required by 44 CFR 206.48(a)(1), based on eligible public assistance costs including the snow assistance costs it incurs within the prescribed 48-hour period.

(c) Snowstorm Declaration Requests.

(1) Within 30-days following a record snowstorm, the Governor shall submit a request for a snowstorm major disaster declaration that addresses the requirements of 44 CFR 206.36, 44 CFR 206.48, and this policy. A Governor's request for a snowstorm major disaster declaration and the Regional Administrator's Regional Summary, Analysis, and Recommendation shall cite ''Snowstorm'' as the incident type in the Governor's request. Furthermore, the Governor's request shall provide the following information:

(i) Overview of the event;

(ii) Core and contiguous counties for which a snowstorm declaration is requested;

(iii) Date(s) of snowfall;

(iv) For each requested county, copies of event daily snowfall totals from the National Weather Service (NWS) stations and historical record snowfall data from the National Climatic Data Center (NCDC), to maintain consistency of evaluation data to determine when a snowstorm reaches record or near record proportions;

(v) A description of State and local resources activated in response to the event;

(vi) The extent of search and rescue operations performed and impacts to State and local government operations;

(vii) Any other localized impacts as described in 44 CFR 206.48(a)(2);

(viii) Total estimated eligible costs for each core and contiguous county, including the estimated snow assistance costs for a 48-hour period. The county per capita estimate of costs, which includes the estimated eligible costs incurred by State agencies working within each county, must meet or exceed the county per capita cost threshold; and

(ix) Total estimated statewide costs, which include the total of estimated eligible costs for all counties requested. The per capita estimate of statewide costs must meet the statewide per capita cost threshold in 44 CFR 206.48(a)(1).

(2) The Regional Administrator of FEMA will evaluate the Governor's request and make appropriate recommendations to the FEMA Assistant Administrator of the Disaster Assistance Directorate. The Regional Summary, Analysis, and Recommendation (*See* Template at *http://declarations.fema.net/*) should include:

(i) An overview of the snowstorm;

(ii) A summary of statewide and localized impacts;

(iii) A summary of State and local resources dedicated to alleviating the emergency, to include shelter information;

(iv) A comparison of actual event snowfall to the highest historical record snowfall for each county for which snow assistance is requested;

(v) An identification of any extenuating circumstances;

(vi) The recommended Incident Period of the event and the Categories of Work recommended (*See* Public Assistance Guide, FEMA 322, page 66 at *http://www.fema.gov/pdf/government/grant/pa/paguide07.pdf*);

(vii) Confirmation that the Governor has taken appropriate action under State law and directed the execution of the State emergency plan, and that the Governor's request meets all statutory requirements;

(viii) An evaluation of statewide and localized impacts;

(ix) The type of assistance needed;

(x) A recommendation on the Governor's declaration request based on the criteria in this policy; and

(xi) A list of the recommended counties that met the requirements for a declaration for snow assistance under this policy.

(3) The FEMA Administrator may add counties to a snowstorm declaration after the President has issued the declaration. Requests for additional counties should meet the criteria for designation under paragraph (b) of this policy and include the documentation required under paragraph (c) of this policy. Such requests may be made within 30-days of the declaration, or the end of the incident period, whichever is later.

(d) Use of Official Government Snowfall Data.

(1) *Current Snowfall Data.* A Governor's request for a snowstorm major disaster declaration shall include snowfall amounts measured and published by the National Oceanic and Atmospheric Administration (NOAA) for the current snowstorm for each county for which snow assistance is requested. The NCDC, which is a part of NOAA, publishes snowfall data from measurements made by observers who are part of the NWS, airport stations, and the NWS Cooperative Network. FEMA will rely primarily on snowfall measurements taken at NWS Cooperative Network Stations, but in cases where Cooperative Network Stations do not exist or do not report, FEMA will accept snowfall measurements from other sources that have been verified by the NCDC or NWS. A Governor's request for a snowstorm major disaster declaration must include copies of all NCDC or NWS Cooperative Network Station reports published for the counties for which snow assistance is requested.

(2) *Historical Snowfall Records.* FEMA accepts historical snowfall records maintained by NCDC. NCDC's Web site (*See http://www.ncdc.noaa.gov/oa/ncdc.html*) provides snowfall amounts recorded at NWS Cooperative Network Stations for single and multiple day events. If NCDC data are not available or do not reflect snowfall records through the previous year's snow season, such data should be obtained from regional NWS offices and provided as part of the Regional Summary, Analysis, and Recommendation.

(e) Determining Record and Near Record Snowfalls.

The following criteria will be used by FEMA to determine record or near record snowfalls:

(1) Current snowfall amounts under paragraph (d)(1) of this policy will be compared with the historical record snowfall amounts under paragraph (d)(2) of this policy for a like number of days without regard for the month in

which the record snowfall or current event occurred.

(2) For multiple day snowstorms, a county that meets the 1-day record or near record requirement on any one day, or the 2-day record or near record over two consecutive days, or the 3-day record or near record over three consecutive days, etc., will have met the record or near record criteria for that county.

(3) When data from multiple NWS Cooperative Network Stations exist within a county, the highest current event snowfall reported by the NWS within that county will be compared to the highest historical snowfall record for that county.

(4) For counties that do not have NCDC or NWS historical record snowfall data, the historical record from the nearest NWS Cooperative Network Station in an adjacent county, even if located in an adjacent State, may be used for determining historical snowfall records.

(5) If current event snowfall data under paragraph (d)(1) of this policy are not available from the NWS for a county, the nearest NWS Cooperative Network Station data from an adjacent county, even if located in an adjacent State, may be used.

(6) A county that does not receive a record or near record snowfall, but is contiguous to a county that does receive a record or near record snowfall, may be designated for snow assistance if the county has current event snowfall that meets or exceeds the current event snowfall of a county, to which it is contiguous, that has a record or near record snowfall. This comparison is based on the highest current event snowfall received by each county as reported by the NWS under paragraph (d)(1) of this policy.

(7) Counties that experience snowfalls occurring over a period exceeding three consecutive days that do not reach record or near record snowfalls during a 3-day period, and for which there are no historical snowfall records for a period exceeding 3 days with NCDC or NWS, will be considered for a major disaster declaration on a case-by-case basis.

(f) Eligible Period of Assistance.

(1) Snow assistance is available for all eligible costs incurred over a continuous 48-hour period. Applicants may select a 48-hour period during which the highest eligible costs were incurred. Once costs are submitted for the chosen 48-hour period, that selected 48-hour period cannot be changed.

(2) The FEMA Assistant Administrator of the Disaster Assistance Directorate may extend the eligible time period of assistance by 24 hours in counties where snowfall quantities greatly exceed record amounts. To be eligible for a time extension, the current event snowfall must exceed the historical record snowfall by at least 50 percent. The time period will be extended 24 hours for each designated county that meets this 50 percent criterion.

(3) Different applicants in the same designated county may use different 48-hour periods. However, all agencies or instrumentalities of a local government must use the same 48-hour time period.

(4) A State agency, such as a Department of Transportation, that provides snow assistance in multiple locations throughout the State, may use different 48-hour periods.

(g) *Eligible Applicants*. Entities that meet the applicant eligibility, 44 CFR 206.222, and are performing work that meets the requirements of general work eligibility, 44 CFR 206.223, are eligible for snow assistance.

(h) *Eligible Work*. Eligible work, under Category B, emergency protective measures, as described in the Public Assistance Guide, FEMA 322, (*http://www.fema.gov/pdf/government/grant/pa/paguide07.pdf*) includes snow removal, snow dumps, de-icing, salting, and sanding of roads and other facilities essential to eliminate or lessen immediate threats to life, public health, and safety. In addition, activities related to the snowstorm such as search and rescue, sheltering, and other emergency protective measures are eligible work. Other categories of work may be eligible under a snowstorm declaration where appropriate.

(i) *Eligible Costs*. FEMA will provide snow assistance during the 48-hour period for the overtime but not the straight time cost of the applicant's regularly-employed personnel. The cost of contract labor (including temporary hires who perform eligible emergency work) is an eligible cost, as are the costs for equipment and materials used in the performance of eligible work. If applicants award contracts for periods greater than the eligible period of assistance, eligible funding will be limited to the costs incurred during the eligible period of assistance. The same pro-rata method for calculating eligible funding applies to all other eligible snow assistance costs.

(j) *Insurance*. It is the responsibility of an applicant to notify the Regional Administrator of FEMA, through the State, of any actual or anticipated proceeds from insurance covering snow removal or other snow assistance costs. FEMA will deduct the actual or anticipated amount of snow removal or other snow assistance cost insurance proceeds from policies in force at the time of the snowfall.

(k) Severe Winter Storm Declarations.

(1) Severe Winter Storm declaration requests must satisfy the requirements of 44 CFR 206.36 and 44 CFR 206.48, but are not required to meet the record or near record snowfall requirements described under paragraph (e) of this policy. However, FEMA will not include snow removal costs when calculating the per capita cost impacts for a severe winter storm declaration unless the county qualifies for snow assistance under paragraph (e) of this policy.

(2) In a major disaster declaration for a Severe Winter Storm, snow removal costs are not eligible for FEMA assistance if the county does not meet the requirements for snow assistance under paragraph (b) of this policy. A limited level of snow removal incidental to disaster response may be eligible for assistance. Generally, snow removal that is necessary to perform otherwise eligible emergency work is eligible. For example, snow removal necessary to access debris or to repair downed power lines is eligible, while normal clearance of snow from roads is not eligible.

(3) A Governor's request for a major disaster declaration as a result of a Severe Winter Storm, and the Regional Administrator's Regional Summary, Analysis, and Recommendation, shall cite ''Severe Winter Storm'' as the incident type.

(4) The procedures for requesting and evaluating a Severe Winter Storm declaration will follow the same process as any request for a major disaster declaration as outlined in 44 CFR part 206 subpart B.

(5) The evaluation of current and historical snowfall data for the designation of snow assistance, if warranted, will follow the same procedures as described for snow assistance in this policy.

Dated: November 2, 2009.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. E9–26817 Filed 11–5–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5281–N–85]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request Public Housing Capital Fund Recovery Act Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: November 13, 2009.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number and should be sent to: Mr. Ross A. Rutledge, HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail: *Ross A. Rutledge@omb.eop.gov;* fax: (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail: *Lillian.L.Deitzer@hud.gov;* telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a proposed information collection on status reports for Public Housing Capital Fund Recovery Act grants, which are authorized under the American Recovery and Reinvestment Act (ARRA) of 2009. Under the Recovery Act, HUD was allocated $4 billion of additional Capital Funds to be made available to PHAs. Per the Recovery Act, $3 billion was to be distributed by the same formula used for amounts made available in fiscal year 2008. $1 billion was to be distributed by competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments.

This Notice also lists the following information:

Title of Proposal: Public Housing Capital Fund Recovery Act Reporting.

Description of Information Collection: This is a new information collection. The Department of Housing and Urban Development is seeking emergency review of the Paperwork Reduction Act requirements associated with the Public Housing Capital Fund Recovery Act Reporting. Public Housing Agencies (PHAs) must provide information to HUD for the reporting requirements of Capital Fund American Recovery and Reinvestment Act of 2009 (''Recovery Act'') grants. Section 1512 of the Recovery Act details the reporting requirements for the recipients of recovery Act funding. Recipients are to report on the obligation and expenditure of Recovery Act funds, the projects on which those funds have been obligated and expended, an evaluation of the completion status of projects and the number of jobs created and jobs retained by the project.

OMB Control Number: Pending.

Agency Form Numbers: N/A, an automated electronic Microsoft Excel spreadsheet will be used to collect data.

Members of Affected Public: Business or other for-profit, State, Local Government.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of responses: The estimated number of respondents is 3,496 and the number of respondents is 0.301. The total reporting burden is 2,115 hours.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 29, 2009.

Stephen A. Hill,

Director, Office of Investment Strategies and Policy Management.

[FR Doc. E9–26769 Filed 11–5–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–35]

Notice of Proposed Information Collection: Comment Request; FHA-Cooperative Share Loan Insurance

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: January 5, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202)402–8048.

FOR FURTHER INFORMATION CONTACT: Program Contact, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the

proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Cooperative Share Loan Insurance.

OMB Control Number, if applicable: 2502–XXXX.

Description of the need for the information and proposed use: A new Mortgagee Letter calls for a collection of information and documents related to cooperative projects and the share loan to be insured. The documents and

information to be collected will identify components of the cooperative corporation for analysis, in order to protect the interests of the share-owner occupant, the lender, and FHA's Mutual Mortgage Insurance fund. Further, the guidance in the Mortgagee Letter aligns with current protections, practices, and standards used by cooperative corporations and industry partners.

Agency form numbers, if applicable: HUD–92270, HUD–92271, and HUD–92270–G

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of annual burden hours is 2000. The number of respondents is 12,670, the number of responses is 1,000, the frequency of response is on occasion, and the burden hour per response is 2.

Status of the proposed information collection: This is a new collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 19, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. E9–26770 Filed 11–5–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–34]

Notice of Proposed Information Collection: Comment Request; Utility Allowance Adjustments

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: January 5, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number (2502–0352) and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048.

FOR FURTHER INFORMATION CONTACT: Harry Messner, Office of Asset Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *harry.messner@hud.gov* or telephone (202) 402–2626 (this is not a toll-free number). Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://hlannwp031.hud.gov/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Utility Allowance Adjustments.

OMB Control Number, if applicable: 2502–0352.

Description of the need for the information and proposed use: Multifamily project owners are required to advise the Secretary of the need for and request approval of a new utility allowance for tenants.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 2,411. The number of respondents is 4,821, the frequency of response is on occasion, and the burden hour per response is 0.5 hours.

Status of the proposed information collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 19, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E9–26771 Filed 11–5–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–33]

Notice of Proposed Information Collection: Comment Request; FHA-Insured Section 232 Mortgage Loan Origination and Underwriting

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 5, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048.

FOR FURTHER INFORMATION CONTACT: John Whitehead, Office of Insured Health Care Facilities, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–5790 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of

information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Insured Healthcare Facilities 232 Loan Application.

OMB Control Number, if applicable: 2502–New.

Description of the need for the information and proposed use: This information is being collected under Public Law 101–625, which requires the Department of Housing and Urban Development to implement a system for mortgage insurance for mortgages insured under Section 232, of the National Housing Act. The information will be used by HUD to approve rents, property appraisals, and determine the initial feasibility and acceptability for a proposed residential care facility to obtain FHA mortgage insurance.

Agency form numbers, if applicable: HUD 92013–NHICF, 92264–T, 92264–HCF.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 53,410. The number of respondents is 300, the number of responses is 1, the frequency of response is on occasion, and the burden hour per response is 178 for 290 respondents and 179 for 10 respondents.

Status of the proposed information collection: This is a new collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 19, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E9–26773 Filed 11–5–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTB07900 09 L10100000.PH0000 LXAMANMS0000]

Notice of Public Meeting, Western Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), the Western Montana Resource Advisory Council will meet as indicated below.

DATES: The Western Montana RAC will meet Dec. 2, 2009 at 9 a.m. The public comment period for the meeting will begin at 11:30 a.m. and the meeting is expected to adjourn at approximately 3 p.m.

ADDRESSES: The meeting will be held at the Missoula Field Office, 3255 Fort Missoula Road, Missoula, Montana.

FOR FURTHER INFORMATION CONTACT: David Abrams, Western Montana Resource Advisory Council Coordinator, Butte Field Office, 106 North Parkmont, Butte, Montana 59701, telephone 406–533–7617.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in western Montana. At the December meeting, topics we plan to discuss include: watershed planning, stream restoration, the BLM's Access Manager Program, Mountain Pine Beetle mitigation efforts, and a review of Forest Service fee proposals.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM as provided below.

Richard M. Hotaling,

District Manager, Western Montana District.

[FR Doc. E9–26800 Filed 11–5–09; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Weekly Listing of Historic Properties

Pursuant to (36 CFR 60.13(b,c)) and (36 CFR 63.5), this notice, through publication of the information included herein, is to apprise the public as well as governmental agencies, associations and all other organizations and individuals interested in historic preservation, of the properties added to, or determined eligible for listing in, the National Register of Historic Places from August 31, to September 4, 2009.

For further information, please contact Edson Beall via: United States Postal Service mail, at the National Register of Historic Places, 2280, National Park Service, 1849 C St. NW., Washington, DC 20240; in person (by appointment), 1201 Eye St., NW., 8th floor, Washington DC 20005; by fax, 202–371–2229; by phone, 202–354–2255; or by e-mail, *Edson_Beall@nps.gov.*

Dated: November 3, 2009.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

Key: State, County, Property Name, Address/Boundary, City, Vicinity, Reference Number, Action, Date, Multiple Name.

ARIZONA

Pima County

Steam Pump Ranch, 10901 Oracle Rd., Oro Valley, 09000668, LISTED, 9/02/09. (Cattle Ranching in Arizona MPS.)

COLORADO

Montrose County

Denver & Rio Grande Western Railroad Boxcar No. 3132, Approx. 1 mi. N. by NE. of U.S. 50 at Cimarron, near Marrow Point Dam Rd., Curecanti National Recreation Center, Cimarron, 09000669, LISTED, 9/02/09.

FLORIDA

Lee County

Menge-Hansen Marine Ways, 5605 Palm Beach Blvd., Fort Myers, 09000670, LISTED, 9/02/09.

Manatee County

Helm, Johnson, House, 2104 53rd St., Bradenton, 09000671, LISTED, 9/02/09.

Orange County

Atha, S. Howard, House, 1101 W. Princeton St., Orlando, 09000672, LISTED, 9/02/09.

ILLINOIS

Cook County

Castlewood Terrace, 819–959 W. Castlewood Terr., Chicago, 09000232, LISTED, 9/03/09.

KANSAS

Dickinson County

Abilene Downtown Historic District, Roughly bounded by NE 4th, W. 1st, S. Walnut, and N. Olive St., Abilene, 09000673, LISTED, 9/01/09.

Douglas County

Plymouth Congregational Church, 925 Vermont St., Lawrence, 09000674, LISTED, 9/02/09. (Lawrence, Kansas MPS.)

Sedgwick County

Newbern-Gore House, 400 S. Roosevelt, Wichita, 09000675, LISTED, 9/02/09.

(Residential Resources of Wichita, Sedgwick County Kansas 1870–1957.)

Woodburn House, 574 N. Brookfield, Wichita, 09000677, LISTED, 9/02/09. (Residential Resources of Wichita, Sedgwick County Kansas 1870–1957.)

MICHIGAN

Berrien County

Buchanan Downtown Historic District, Front St., between 117 W. and 256 E.; parts of Main St., between 108 and 210–212; Oak St. between 114 N., Buchanan, 09000678, LISTED, 9/02/09.

Wayne County

Dry Dock Engine Works—Detroit Dry Dock Company Complex, 1801–1803 Atwater St. and 1900 Atwater St., Detroit, 09000680, LISTED, 9/03/09.

MISSOURI

Howard County

Fayette Residential Historic District, Roughly bounded by Church St., W. Morrison St. and Cleveland Ave., Fayette, 09000681, LISTED, 9/03/09. (Historic and Architectural Resources of Fayette, Missouri.)

Jackson County

Dean, O.H., Building, 3625–3635 Main St., Kansas City, 09000682, LISTED, 9/03/09.

MONTANA

Mineral County

Point of Rocks Historic Transportation Corridor, 2 mi. W. of Alberton, Alberton vicinity, 09000683, LISTED, 9/04/09.

NORTH CAROLINA

Lenoir County

Kennedy Memorial Home Historic District, 2557 Ceder Dell La., Kinston vicinity, 09000684, LISTED, 9/03/09.

McDowell County

Brown, Henry Seawell, and Mary Jane English, Farmstead, 15956 US 221 N., Ashford vicinity, 09000685, LISTED, 9/03/09.

Rowan County

Sherrill, John Carlyle and Anita, House, 14175 NC 801, Mount Ulla, 09000704, LISTED, 9/01/09.

OKLAHOMA

Oklahoma County

Jewel Theater, 904 NE 4th St., Oklahoma City, 09000686, LISTED, 9/03/09.

Tulsa County

Sixth Street Commercial/Residential Historic District, Roughly along E. 6th St. from S. Peoria Ave. to the N./S. Alley between Quaker and Quincy Aves., Tulsa, 09000687, LISTED, 9/03/09.

RHODE ISLAND

Newport County

Stonybrook Estate Historic District, 501–521 Indian Ave. and 75 Vaucluse Ave., Middletown, 09000708, LISTED, 9/01/09.

SOUTH CAROLINA

Horry County

Conway Post Office, 428 Main St., Conway, 08000758, LISTED, 9/02/09. (Conway MRA.)

SOUTH CAROLINA

Richland County

Veterans Hospital, William Jennings Bryan Dorn Veterans Affairs Medical Center, University of South Carolina School of Medicine, Columbia, 09000062, LISTED, 9/02/09.

VIRGINIA

Arlington County

Arlington Ridge Park, NW corner of N. Meade St. and Marshall Dr., Arlington, 09000688, LISTED, 9/04/09. (Parkways of the National Capital Region MPS.)

King and Queen County

Providence Plantation and Farm, 1302 Roundabout Rte., Newtown, 09000689, LISTED, 9/03/09.

Norfolk Independent City

American Cigar Company, 1148 E. Princess Anne Rd., Norfolk, 09000690, LISTED, 9/03/09.

WASHINGTON

King County

Snoqualmie Falls, Snoqualmie R. below crossing of WA 522, Snoqualmie, 92000784, LISTED, 9/02/09.

[FR Doc. E9–26844 Filed 11–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation and are new, modified, discontinued, or completed since the last publication of this notice on August 4, 2009. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Michelle Kelly, Water and Environmental Resources Office, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2888.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939 and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be

facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Frequently Used in This Document

ARRA American Recovery and Reinvestment Act of 2009
BCP Boulder Canyon Project
Reclamation Bureau of Reclamation
CAP Central Arizona Project
CVP Central Valley Project
CRSP Colorado River Storage Project
FR Federal Register
IDD Irrigation and Drainage District
ID Irrigation District
M&I Municipal and Industrial
NMISC New Mexico Interstate Stream Commission
O&M Operation and Maintenance
P–SMBP Pick-Sloan Missouri Basin Program
PPR Present Perfected Right
RRA Reclamation Reform Act of 1982
SOD Safety of Dams
SRPA Small Reclamation Projects Act of 1956
USACE U.S. Army Corps of Engineers
WD Water District

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

New contract action:

16. Prineville Reservoir water users, Crooked River Project, Oregon: Irrigation water service contracts for up to 2,500 acre-feet of project water.

Modified contract actions:

1. Irrigation, M&I, and miscellaneous water users; Idaho, Oregon, Washington, Montana, and Wyoming: Temporary or interim irrigation and M&I water service, water storage, water right settlement, exchange, miscellaneous use, or water replacement contracts to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

8. Greenberry ID, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 14,000 acre-feet of project water.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

Modified contract action:

35. Colusa County WD, CVP, California: Execution of a long-term Warren Act contract for conveyance of up to 40,000 acre-feet of groundwater per year through the use of the Tehama-Colusa Canal.

Lower Colorado Region: Bureau of Reclamation, PO Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

The Lower Colorado Region has no updates to report for this quarter.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

Completed contract action:

1.(g) Charles Weaver, Aspinall Storage Unit, CRSP: Mr. Weaver has requested a 40-year water service contract for 1 acre-foot of M&I water out of Blue Mesa Reservoir, which requires Mr. Weaver to present a Plan of Augmentation to the Division 4 Water Court. Contract executed June 18, 2009.

Great Plains Region: Bureau of Reclamation, PO Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59101, telephone 406–247–7752.

New contract actions:

52. Fryingpan-Arkansas Project, Colorado: Consideration of repayment contract for the Arkansas Valley Conduit.

53. North Havre County WD, Milk River Project, Montana: Reclamation is contemplating a contract amendment for a change in the point of delivery of a portion of the district's water under contract.

54. Milk River Irrigation Project Joint Board of Control, Milk River Project, Montana: Reclamation is contemplating a new contract for transferring O&M responsibilities of the Fresno and Nelson Reservoirs.

55. State of Wyoming, Pathfinder Dam and Reservoir, North Platte Project, Wyoming: The state of Wyoming has requested a water service contract for water to be stored in Pathfinder Reservoir associated with the implementation of the Pathfinder Modification Project.

56. Loup Valleys Rural Public Power District; North Loup Division, P–SMBP; Nebraska: Proposed sale of Reclamation's share in joint-owned power line to the co-owner of the line.

57. Individual irrigators; Cambridge Unit, P–SMBP; Nebraska: Request for a Warren Act contract for use of Reclamation facilities for transportation of nonproject irrigation water under a highway and railroad for irrigation purposes.

Modified contract actions:

3. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Water sales from the regulatory capacity of Ruedi Reservoir. Water service and repayment contracts for up to 17,000 acre-feet annually.

16. ExxonMobil Corporation, Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Consideration of ExxonMobil Corporation's request to amend its Ruedi Round I contract to include additional locations and uses of the water.

Completed contract actions:

5. Dickinson-Heart River Mutual Aid Corporation; Dickinson Unit, P–SMBP; North Dakota: Negotiate renewal of water service contract for irrigation of lands below Dickinson Dam in western North Dakota. Contract executed June 24, 2009.

21. Glendo Unit, P–SMBP, Wyoming: Contract renewal for long-term water service contracts with Burbank Ditch, New Grattan Ditch Company, Torrington ID, Lucerne Canal and Power Company, and Wright and Murphy Ditch Company. Contracts executed July 22, 2009.

22. Glendo Unit, P–SMBP, Nebraska: Contract renewal for long-term water

service contracts with Bridgeport, Enterprise, and Mitchell IDs. Contracts executed July 22, 2009.

28. Turtle Lake ID, Garrison Diversion Unit, North Dakota: Turtle Lake ID, water users, and individual irrigators have requested water service contracts, which may be short- or long-term under the Dakota Water Resources Act of 2000. Contracts executed July 2, 2009.

31. LU Sheet Company, Boysen Unit, P–SMBP, Wyoming: Contract renewal of long-term water service contract. Contract executed August 10, 2009.

32. Busch Farms, Inc., Boysen Unit, P–SMBP, Wyoming: Contract renewal of long-term water service contract. Contract executed August 10, 2009.

33. Gorst Ranch, Boysen Unit, P–SMBP, Wyoming: Contract renewal of long-term water service contract. Contract executed August 10, 2009.

36. Central Nebraska Public Power and ID, Glendo Unit, P–SMBP, Nebraska: Request to amend current repayment contract. Contract executed August 10, 2009.

40. Pryor Creek Land and Development Company, Huntley Project, Montana: Request for a long-term water service contract for M&I purposes for up to 200 acre-feet of water per year. Contract executed August 16, 2009.

41. Grandview Cemetery Association of Saco, Milk River Project, Montana: Contract renewal for a long-term water service contract for up to 14 acre-feet of water per year. Contract executed June 24, 2009.

Dated: October 13, 2009.

Roseann Gonzales,

Director, Policy and Administration, Denver Office.

[FR Doc. E9–26797 Filed 11–5–09; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–469 and 731–TA–1168 (Preliminary)]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of certain seamless carbon and alloy steel standard, line, and pressure pipe, provided for in subheadings 7304.19, 7304.31, 7304.39, 7304.51, and 7304.59 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of China and sold in the United States at less than fair value (LTFV).

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in these investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in these investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigations is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On September 16, 2009, counsel on behalf of U.S. Steel Corp., Pittsburgh, PA and V&M Star L.P., Houston, TX, filed a countervailing duty and antidumping petition with both the Commission and the Department of Commerce.[2] The petition alleges that an industry in the United States is materially injured and threatened with material injury by reason of imports of certain seamless carbon and alloy steel standard, line, and pressure pipe allegedly subsidized by the Government of China and sold at less than fair value. Accordingly, effective September 16, 2009, the Commission instituted countervailing duty investigation No. 701–TA–469 (Preliminary) and antidumping duty investigation No. 731–TA–1168 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 22, 2009 (74 FR 48292). The conference was held in Washington, DC, on October 7, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on November 2, 2009. The views of the Commission are contained in USITC Publication 4106 (November 2009), entitled *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From China (Preliminary).*

Issued: November 2, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–26788 Filed 11–5–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–09–031]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 13, 2009 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agenda for future meetings: None.

2. Minutes.

3. Ratification List.

4. Inv. Nos. 731–TA–1174–1175 (Preliminary) (Seamless Refined Copper Pipe and Tube from China and Mexico)—briefing and vote. (The Commission is currently scheduled to transmit its determinations to the Secretary of Commerce on or before November 16, 2009; Commissioners' opinions are currently scheduled to be

[1] The record is defined in section 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] On September 25, 2009, the petition was amended to add TMK IPSCO and The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Worker International Union (''USW'') as additional petitioners.

transmitted to the Secretary of Commerce on or before November 23, 2009.)

5. Outstanding action jackets:

(1) Document No. GC–09–241: Concerning Inv. No. 337–TA–640 (Certain Short-Wavelength Light Emitting Diodes, Laser Diodes, and Products Containing Same).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 3, 2009.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E9–26867 Filed 11–4–09; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–09–033]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 19, 2009 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agenda for future meetings: None.

2. Minutes.

3. Ratification List.

4. Inv. No. 731–TA–1046 (Review) (Tetrahydrofurfuryl Alcohol from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before November 30, 2009.)

5. Outstanding action jackets:

(1) Document No. GC–09–241: Concerning Inv. No. 337–TA–640 (Certain Short-Wavelength Light Emitting Diodes, Laser Diodes, and Products Containing Same).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: November 3, 2009.

By order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E9–26869 Filed 11–4–09; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–09–032]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 17, 2009 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agenda for future meetings: None.

2. Minutes.

3. Ratification List.

4. Inv. Nos. 701–TA–459 and 731–TA–1155 (Final) (Commodity Matchbooks from India)—briefing and vote. (The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before November 30, 2009.)

5. Outstanding action jackets:

(1) Document No. GC–09–241: Concerning Inv. No. 337–TA–640 (Certain Short-Wavelength Light Emitting Diodes, Laser Diodes, and Products Containing Same).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 3, 2009.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E9–26868 Filed 11–4–09; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 22, 2009, ISP Freetown Fine Chemicals, 238 South Main Street, Assonet, Massachusetts 02702, made application by renewal to the Drug Enforcement Administration (DEA) as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
2,5-Dimethoxyamphetamine (7396).	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Phenylacetone (8501)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II

The company plans to manufacture bulk API, for distribution to its customers. The bulk 2,5-Dimethoxyamphetamine will be used for conversion into non-controlled substances.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than January 5, 2010.

Dated: October 30, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E9–26744 Filed 11–5–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Notice of Availability of the Draft Environmental Impact Statement for the Criminal Alien Requirement 9

AGENCY: U.S. Department of Justice, Federal Bureau of Prisons.

ACTION: Public comment on Draft Environmental Impact Statement.

SUMMARY: The U.S. Department of Justice, Federal Bureau of Prisons (Bureau) announces the availability of the Draft Environmental Impact Statement (DEIS) for the proposed contract to secure additional inmate bed space for the Bureau's growing inmate population.

As part of a recent initiative known as the Criminal Alien Requirement 9 (CAR 9), the Bureau has identified a specific requirement to confine a population of up to 2,500 low-security adult male inmates, that are primarily criminal aliens. The Bureau is seeking to reduce prison overcrowding by requesting

additional contract beds for low-security male criminal aliens.

Background Information

In accordance with the National Environmental Policy Act (NEPA) of 1969, the Council of Environmental Quality Regulations (40 CFR parts 1500–1508), and the Department of Justice procedures for implementing NEPA (28 CFR part 61), the Bureau has prepared a Draft Environmental Impact Statement for the proposed contract with one or more private contractors to house up to 2,500 federal, low-security, adult male, non-U.S. citizen, criminal aliens at contractor-owned, contractor-operated correctional facilities located in Baldwin, Michigan and/or Lake City, Florida. Inmates housed in these facilities would be aliens from any number of countries who have committed crimes within the U.S. and are being held for trial, or who have been convicted and sentenced to serve time within the federal prison system. Upon completion of their sentences, these inmates would be deported to their country of origin.

Project Information

The Bureau's DEIS evaluates the potential environmental consequences of two action alternatives and the No Action Alternative. Under Alternative 1, the Bureau would contract with the GEO Group to house approximately 1,889 federal, low-security, adult male, non-U.S. citizen, criminal aliens at the North Lake Correctional Facility in Baldwin, Michigan. The Baldwin, Michigan site is located in Lake County, Michigan and consists of approximately 105 acres of which the existing North Lake Correctional Facility comprises 24 acres. Under Alternative 2, the Bureau would contract with Civigenics (also known as Community Education Centers, Inc.) to house up to 1,268 federal inmates. The Lake City, Florida site, located in Columbia County, is comprised of an 80-acre parcel of land which is undeveloped. The property has not yet been developed by the contractor, but the contractor has the option to purchase 53.3 acres of the total 80-acre parcel. The proposed correctional facility would then be developed on approximately 40 acres of the total 53.3 acres, with the most northern 13.3 acres maintained as a natural buffer. The principal function of the correctional facility would be to provide a safe, secure and humane environment for the care and custody of federal inmates. Upon award of the contract, one of the correctional facilities at either alternative site would be activated, and the facility would have staff of approximately 250 full-time employees would provide 24-hour supervision. Under the No Action Alternative, the Bureau would not contract with a contractor-owned, contractor-operated facility to house up to 2,500 inmates currently under the jurisdiction of the Bureau. The No Action Alternative serves as a baseline against which to compare the action alternatives; however, it is not considered a viable alternative.

One Environmental Assessment and Phase I Environmental Site Assessment were prepared for each of the proposed alternative site locations in 2008. The information obtained in these documents was used in preparing the DEIS.

Public Hearing and Open House

The Bureau invites you to learn and comment about the proposed project at the Public Hearing on the proposed contracting action alternatives and the evaluation contained in the DEIS. Public Hearings will be held at 5 p.m. November 17, 2009 at the Columbia County Public Library, West Branch located at 435 NW. Hall of Fame Drive, Lake City, Florida and at 5 p.m., November 24, 2009 at the Webber Township Hall located at 2286 West Springtime Street, Baldwin, Michigan. The public hearing locations, dates, and times will be well publicized and have been arranged to allow for the public, as well as interested agencies and organizations to attend. The Public Hearings are being held to allow interested persons to formally express their views on the DEIS. The Public Hearings will provide for timely public comments and understanding of federal plans and programs with possible environmental consequences as required by NEPA and the National Historic Preservation Act of 1966, as amended.

Request for Comments

The DEIS will be the subject of a 45-day comment period which begins November 6, 2009 and ends December 21, 2009. Comments concerning the DEIS and the proposed action must be received during this time to be assured consideration. All written comments received during this review period will be taken into consideration by the Bureau. Copies of the DEIS are available for public viewing at: Columbia County Public Library, 308 NW. Columbia Avenue, Lake City, Florida 32055; Columbia County Public Library, West Branch, 435 NW. Hall of Fame Drive, Lake City, Florida 32055; Pathfinder Community Library, 812 Michigan Ave., Baldwin, MI 49304; Webber Township Hall, 2286 West Springtime Street, Baldwin, Michigan 49304.

The DEIS and other information regarding this project are available upon request. To request a copy of the DEIS, please contact: Richard A. Cohn, Chief, or Issac J. Gaston, Site Selection Specialist, Capacity Planning and Site Selection Branch, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, Tel: 202–514–6470, Fax: 202–616–6024/E-mail: *rcohn@bop.gov* or *igaston@bop.gov*.

FOR FURTHER INFORMATION CONTACT: Richard A. Cohn, or Issac J. Gaston, Federal Bureau of Prisons.

Dated: October 30, 2009.

Issac J. Gaston,

Site Specialist, Capacity Planning and Site Selection Branch.

[FR Doc. E9–26727 Filed 11–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated June 15, 2009, and published in the **Federal Register** on June 23, 2009, (74 FR 29718), Boehringer Ingelheim Chemicals, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Phenylacetone (8501), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance to bulk manufacture amphetamine.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Boehringer Ingelheim Chemicals, Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Boehringer Ingelheim, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of

the basic class of controlled substance listed.

Dated: October 30, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E9–26756 Filed 11–5–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated June 3, 2009, and published in the **Federal Register** on June 9, 2009, (74 FR 27347), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Coca Leaves (9040), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for the manufacture of bulk controlled substance for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Stepan Company to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Stepan Company to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: October 30, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E9–26755 Filed 11–5–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Senior Executive Service; Appointment of Members to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the Appointment of an individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register**.

The following individuals are hereby appointed to serve on the Department's Performance Review Board:

Permanent Membership

Chair—Deputy Secretary—Seth D. Harris.

Vice-Chair—Assistant Secretary for Administration and Management—T. Michael Kerr.

Executive Secretary—Director, Executive Resources & Personnel Security—Crystal Scott.

Rotating Membership

ASP Kathleen E. Franks, Director, Office of Regulatory and Programmatic Policy—*appointment expires on 09/30/12.*

EBSA Sharon S. Watson, Director, Office of Participant Assistance—*appointment expires on 9/30/12.*

ESA Rachel P. Leiton, Director, Energy Employees' Occupational Illness Compensation, Office of Workers' Compensation Programs—*appointment expires on 09/30/11.*

ESA Nancy M. Flynn, Deputy Director for Office of Workers' Compensation Programs—*appointment expires on 09/30/12.*

ESA Sandra S. Zeigler, Regional Director (Chicago), Office of Federal Contract Compliance Programs—*appointment expires on 9/30/12.*

ETA Grace A. Kilbane, Administrator, Office of Workforce Investment—*appointment expires on 09/30/11.*

ILAB Marcia M. Eugenio, Director, Office of Child Labor, Forced Labor Human Trafficking—*appointment expires on 09/30/12.*

OASAM Maureen Walsh, Deputy Assistant Secretary for Budget and Performance Planning—*appointment expires on 09/20/12.*

OASAM Charlotte A. Hayes, Deputy Assistant Secretary for Policy—*appointment expires on 09/30/12.*

OASAM Milton A. Stewart, Director, Business Operations Center—*appointment expires on 09/30/12.*

OASAM Ramon Suris-Fernandez, Director, Civil Rights Center—*appointment expires on 09/30/11.*

OSEC Deborah Greenfield, Executive Secretary—*appointment expires on 9/30/12.*

OSHA Dean McDaniel, Regional Administrator, Dallas—*appointment expires on 09/30/12.*

SOL Katherine E. Bissell, Associate Solicitor for Civil Rights and Labor Management—*appointment expires on 09/30/11.*

SOL Jeffrey L. Nesvet, Associate Solicitor for Federal Employees' and Energy Workers' Compensation—*appointment expires on 09/30/10.*

VETS John M. McWilliam, Deputy Assistant Secretary for Operations and Management—*appointment expires on 9/30/10.*

VETS Ismael Ortiz, Jr., Deputy Assistant Secretary—*appointment expires on 9/30/12.*

For Further Information Contact: Ms. Crystal Scott, Director, Office of Executive Resources and Personnel Security, Room C5508, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–7628.

Signed at Washington, DC, this 29th day of October, 2009.

Hilda L. Solis,

Secretary of Labor.

[FR Doc. E9–26849 Filed 11–5–09; 8:45 am]

BILLING CODE 4510–23–P

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: Proposal Review Panel for Physics, LIGO Site Visit in Louisiana (1208).

Date and Time:

Tuesday, December 1, 2009; 8 a.m.–6:30 p.m.
Wednesday, December 2, 2009: 8 a.m.–6 p.m.
Thursday, December 3, 2009; 8:30 a.m.–12 p.m.

Place: LIGO Observatory in Livingston, Louisiana.

Type of Meeting: Partially Closed.

Contact Person: Dr. Thomas Carruthers, Program Director for LIGO, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7373.

Purpose of Meeting: To provide an evaluation concerning the proposal submitted to the National Science Foundation.

Agenda:

Tuesday. December 1, 2009

Closed—8:30 a.m.–9 a.m. Executive Session;
Open—9:15 a.m.–10:15 a.m. LIGO status, accomplishments, plans;

Closed—10:30 a.m.–12 p.m. Management topics and status of data; analysis;
Open—1 p.m.–2:30 p.m. Tour and facilities maintenance;
Closed—2:30 p.m.–6:30 p.m. Cybersecurity, EPO, LSC status and Executive Session.

Wednesday, December 2, 2009

Closed—8:30 a.m.–12 p.m. Project overview and Project Management status;
Closed—1:30 p.m.–6 p.m. Technical Progress, Development, R&D support.

Executive Session

Thursday, December 3, 2009

Closed—8:30 a.m.–12 p.m. Executive Session, report writing, Close Out report.

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: November 3, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9–26784 Filed 11–5–09; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0485]

Draft Safety Culture Policy Statement: Request for Public Comments

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Issuance of draft safety culture policy statement and notice of opportunity for public comment.

DATES: Comments are requested 90 days from the date of this **Federal Register** Notice. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information including questions for which the NRC is requesting comment.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2009–0485 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking website Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2009–0485. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov*.

Mail comments to: Michael T. Lesar, Chief, Rulemaking and Directives Branch (RDB), Division of Administrative Services, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RDB at (301) 492–3446.

FOR FURTHER INFORMATION CONTACT: Alexander Sapountzis, Office of Enforcement, Mail Stop O–4 A15A, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by e-mail to *Alexander.Sapountzis@nrc.gov*.

SUMMARY: The NRC is issuing a draft policy statement that sets forth the Commission's expectation that all licensees and certificate holders [1] establish and maintain a positive safety culture that protects public health and safety and the common defense and security when carrying out licensed activities. The Commission defines safety culture as that assembly of characteristics, attitudes, and behaviors in organizations and individuals which establishes that as an overriding priority, nuclear safety and security issues [2] receive the attention warranted by their significance. The Commission also considers nuclear safety and security issues to be equally important in a positive safety culture. The importance of treating safety and security in an equal manner within NRC's regulatory framework is clearly evident in our mission and strategic goals. Experience has shown that certain organizational characteristics and personnel attitudes and behaviors are present in a positive safety culture. These include, but are not limited to, individuals demonstrating ownership and personal responsibility for maintaining safety and security in their day-to-day work activities; the implementation of processes for planning and controlling work activities such that safety and security are maintained; a work environment in which personnel feel free to raise safety and security concerns without fear of retaliation; prompt and thorough identification, evaluation, and resolution of nuclear safety and security issues commensurate with their significance; the availability of the resources needed to ensure that safety and security are maintained; decision-making processes that protect safety and security; clearly defined roles and responsibilities for maintaining safety and security; and the seeking out and implementation of opportunities to improve safety and security. The NRC expects its licensees and certificate holders to foster these characteristics, attitudes, and behaviors in their organizations and among individuals who are overseeing or performing regulated activities commensurate with the safety and security significance of their activities and the nature and complexity of their organization and functions.

The NRC is requesting comments on the draft safety culture policy statement and associated questions.

SUPPLEMENTARY INFORMATION:

(1) Background

The Commission has long expressed its expectations for safety culture in previous policy statements. In 1989, the Commission published its ''Policy Statement on the Conduct of Nuclear Power Plant Operations'' (54 FR 3424; January 24, 1989) to make clear the Commission's expectations of utility management and licensed operators with respect to the conduct of operations. The policy statement stated, ''the phrase safety culture refers to a very general matter, the personal dedication and accountability of all individuals engaged in any activity which has a bearing on the safety of nuclear power plants.'' The policy statement further stated that the Commission issued the policy statement to help foster the development and maintenance of a safety culture at every facility licensed by the NRC.

[1] Throughout this document, the phrase ''licensee and certificate holders'' includes licensees, certificate holders, permit holders, authorization holders, holders of quality assurance program approvals and applicants for a license, certificate, permit, authorization, or quality assurance program approval.

[2] Throughout this document, the terms ''safety'' or ''nuclear safety,'' ''security'' or ''nuclear security,'' and ''safety culture'' are used. These terms refer to matters that are related to NRC-regulated activities, including radiation protection, safeguards, material control and accounting, physical protection, and emergency preparedness.

In 1996, the Commission published a policy statement, ''Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation'' (61 FR 24336; May 14, 1996), to set forth its expectations that licensees and other employers subject to NRC authority will establish and maintain safety-conscious environments in which employees feel free to raise safety concerns, both to their management and to the NRC, without fear of retaliation. This policy statement applied to NRC-regulated activities of all licensees and their contractors and subcontractors. A safety conscious work environment is an important attribute of safety culture and is one of the safety culture characteristics in the draft safety culture policy statement.

The importance of a positive safety culture for activities involving civilian uses of radioactive materials and other potential hazards has been demonstrated by a number of significant, high-visibility events world-wide that have occurred in the 20-year period since the Commission published its 1989 policy statement addressing safety culture in nuclear power plants. The events occurred across multiple industries including at nuclear power plants, fuel cycle facilities, and in other industries such as chemical processing plants and aerospace. Examples of nuclear industry events include those that occurred at the Davis-Besse Nuclear Power Station and the Peach Bottom Atomic Power Station. Workers at the Davis-Besse Nuclear Power Station discovered a cavity in the reactor pressure vessel head caused by boric acid corrosion. The corrosion developed over a period of several years but was not discovered before the cavity developed. The licensee's analysis of the event identified weaknesses in the station's safety culture as the root cause of the event. It particularly noted that management prioritized ''production over safety.'' At the Peach Bottom Atomic Power Station, personnel behaviors adverse to the security of the plant were identified, specifically, inattentiveness by security officers.

Other licensees have had recurring problems resulting in violations of NRC regulations. Through a Commission confirmatory order, a fuel cycle facility licensee committed to having a third-party assessment of its safety culture to determine the causes of its continuing problems in order to establish appropriate corrective actions. The third-party assessment identified weaknesses in areas important to safety culture. In addition, weaknesses in the safety culture of licensees and certificate holders have contributed to unscheduled events or incidents that the Commission has determined to be significant from the standpoint of public health and safety. Examples linked to characteristics and attitudes in organizations and individuals associated with weak safety cultures include inadequate procedures; procedures not being followed; inadequate supervision; decision-making that does not ensure that safety and security are maintained; and ineffective problem identification, evaluation, and resolution. They have included medical misadministrations (such as giving iodine-131 to lactating females that resulted in the uptake by their infants and multiple events associated with prostate brachytherapy treatment) and overexposures arising from the loss of control of radiography or well logging sources.

(2) Statement of Policy

It is the Commission's policy that a strong safety culture is an essential element for individuals, both internal to the NRC and external, performing or overseeing regulated activities. As such, the NRC will include appropriate means to monitor safety culture in its oversight programs and internal management processes. The NRC defines safety culture as that assembly of characteristics, attitudes, and behaviors in organizations and individuals, which establishes that as an overriding priority, nuclear safety and security issues receive the attention warranted by their significance. Further, it is important for all organizations to provide personnel in the safety and security sectors with an appreciation for the importance of each, emphasizing the need for integration and balance to achieve optimized protection. Safety and security activities are closely intertwined, and it is critical that consideration of these activities be integrated so as not to diminish or adversely affect either safety or security. A safety culture that accomplishes this would include all nuclear safety and security issues associated with NRC-regulated activities including radiation protection, safeguards, material control and accounting, physical protection, and emergency preparedness issues among the issues that receive attention as a matter of priority.

The Commission's regulations are designed to protect both the public and workers against radiation hazards from the use of radioactive materials. The Commission's scope of responsibility includes regulation of commercial nuclear power plants; research, test, and training reactors; nuclear fuel cycle facilities; medical, academic, and industrial uses of radioactive materials; and the transport, storage, and disposal of radioactive materials and wastes. The Commission carries out these responsibilities in numerous ways including through such regulatory activities as inspecting licensed and certified facilities and activities; collecting, analyzing, and disseminating information about operational safety and security; investigating nuclear incidents; and developing policy and providing direction on safety and security issues.

The Commission believes that, because licensees and certificate holders use or provide services related to the use of radioactive material, they bear the primary responsibility for safely handling and securing these materials. It is, therefore, each licensee's and certificate holder's responsibility to develop and maintain a positive safety culture which establishes that nuclear safety issues and nuclear security issues, as an overriding priority, receive the attention warranted by their significance. Therefore, licensees and certificate holders should foster a positive safety culture in their organizations and among individuals who are overseeing or performing regulated activities. However, as the regulatory agency, the Commission has an independent oversight role (through inspection and assessment processes) including addressing licensees' and certificate holders' performance related to areas important to safety culture.

(3) Safety Culture Concept

In 1991, as a result of the 1986 Chernobyl accident, the International Nuclear Safety Group (INSAG) emphasized the concept of safety culture for the nuclear industry in its report, INSAG–4, ''Safety Culture.'' INSAG is an advisory group to the International Atomic Energy Agency (IAEA). The INSAG–4 definition of safety culture is, ''that assembly of characteristics and attitudes in organizations and individuals which establishes that, as an overriding priority, nuclear plant safety issues receive the attention warranted by their significance.''

Implied in the INSAG definition of safety culture is the recognition that every organization is continually faced with resolving conflicts among its goals for cost, schedule, and quality (or safety). The organization's members (groups and individuals) also face conflicts among different goals in performing their jobs. Management establishes the framework (management systems, programs, processes) and communicates its priorities for resolving

conflicts among different goals. Members of the organization work within that framework and are influenced by management's priorities, but they have their own beliefs and attitudes about what is important and make individual choices on how to proceed when faced with multiple competing goals. The INSAG definition emphasizes that in a positive safety culture, the goal of maintaining nuclear safety receives the highest priority in the organization's and individuals' decision-making and actions when faced with a conflict with other organizational or individual goals.

The Commission modified the INSAG definition of safety culture which refers to ''nuclear plant safety.'' The Commission is strongly committed to promoting positive safety cultures among its nuclear reactor licensees; however, the Commission regulates many other organizations and processes involving civilian uses of radioactive materials. These regulated activities include industrial radiography services; hospitals, clinics and individual practitioners involved in medical uses of radioactive materials; research and test reactors; large-scale fuel fabrication facilities; as well as nuclear power plants. The Commission also regulates the construction of new facilities where operations will involve radioactive materials with the potential to affect public health and safety and the common defense and security. Therefore, by revising the INSAG definition of safety culture to replace ''nuclear plant safety'' with ''nuclear safety,'' the Commission is emphasizing that it expects all of its licensees and certificate holders to place the highest priority on nuclear safety commensurate with the risks inherent in the regulated activities.

The Commission also modified the INSAG definition to adequately capture or communicate the equal importance of nuclear security and nuclear safety in a positive safety culture. Following the terrorist attacks of September 11, 2001, the Commission increased its attention to the important role of security in regulated facilities whose operations can have an impact on public health and safety. The Commission issued orders enhancing security at its NRC-regulated facilities to further ensure public health and safety and the common defense and security. One of the insights gained from the greater emphasis on security is the importance of incorporating security considerations into a safety culture and effectively managing the safety and security interface. In general, the safety and security interface refers to the organizational and individual awareness that the functions and goals of safety and security must be considered together so that actions to achieve either set of functions and goals do not inadvertently compromise the other. Therefore, to emphasize the equal importance of nuclear security and nuclear safety in a positive safety culture, the Commission has added ''nuclear security'' to the safety culture definition. The NRC's modified INSAG definition is provided in the Statement of Policy section above.

(4) Stakeholder Outreach

The Commission's February 28, 2009, Staff Requirements Memorandum (SRM)–COMGBJ–08–0001, ''A Commission Policy Statement on Safety Culture,'' (ML080560476) stated in part that the staff should, as part of its public stakeholder outreach, reach out to all types of licensees and certificate holders. In the development of the draft policy statement, the NRC staff sought insights and feedback from stakeholders. This was accomplished by providing information in a variety of forums such as stakeholder organization meetings, newsletters, and teleconferences and by publishing questions in **Federal Register** Notices entitled ''Safety Culture Policy Statement: Public Meeting and Request for Public Comments'' (ML090260709) that were related to the Commission's SRM. In addition, a significant stakeholder outreach activity was accomplished by a public workshop held on February 3, 2009, at NRC Headquarters in Rockville, Maryland. The staff reviewed and considered the stakeholder feedback derived from these different forums and incorporated it into the development of the draft policy statement and recommendations.

(5) Safety and Security Culture

In SRM–COMGJB–08–0001, the Commission also considered whether publishing the NRC's expectations for safety and security culture is best accomplished in one safety/security culture statement or in two separate statements, one each for safety and security, while still considering the safety and security interface.

Based on a variety of sources including document reviews and stakeholder feedback, the Commission concluded there is no one definitive view of this issue, but the results weighed heavily toward a single policy statement to be titled a ''Safety Culture Policy Statement.'' Document reviews and stakeholder feedback suggested that a single policy statement (1) builds on the fact that safety and security have the same ultimate purpose of protecting people and the environment from unintended radiation exposure and (2) encourages attention to the ways safety and security interface. For these reasons, the Commission determined that the term ''safety culture'' should include both safety and security.

Safety and security have been the primary pillars of NRC's regulatory programs. However, in the current heightened threat environment, there has been a renewed focus on security, and the staff has implemented a number of efforts to enhance security and strengthen the safety and security interface. It is important to understand that both safety and security share a common purpose of protecting public health and safety. In today's environment, safety and security activities are closely intertwined, and it is critical that consideration of these activities be integrated so as to complement each other and not diminish or adversely impact either safety or security. Further, it is important for licensees and certificate holders to provide personnel in the safety and security sectors with an appreciation for the importance of each, emphasizing the need for integration and balance to achieve optimized protection. The importance of both safety and security in an equal and balanced manner within NRC's regulatory framework is clearly evident in the Commission's mission and strategic goals.

While many safety and security activities complement each other or are synergistic, there remain areas where potential conflicts may arise. It is then imperative that mechanisms be established to resolve these potential conflicts to assure the adequate protection of public health and safety and promote the common defense and security. Hence, safety and security have implications for each other in connection with all aspects of nuclear activities.

One potential challenge is the way in which individuals involved in safety and security activities approach the goal of risk mitigation and protection of public health and safety. The safety staff is typically focused on preventing errors that would result in an inadvertent accident while the security staff is focused on preventing deliberate attacks or diversion of certain materials that could cause harm. Another challenge is that the organization/facility must ensure that the existence of motivated and capable persons with ill intent is recognized and that the importance of nuclear security to prevent such persons from unauthorized access is understood.

To manage these potential conflicts of challenges, the Agency has recently issued regulations on the safety/security interface. An overarching safety culture policy statement which encompasses security supports and further enhances those regulations.

Based on the above considerations, the Commission concluded that a single policy statement would accomplish its goal that, as an overriding priority, safety issues and security issues receive the attention warranted by their significance. Although, in some cases, issues relating to security might be handled differently than issues related to safety. A single policy statement recognizes there is one overarching culture in an organization; however, safety and security functions and goals must be treated equally within that overarching safety culture.

(6) Characteristics of a Positive Safety Culture

Experience has shown that certain organizational attributes and personnel attitudes and behaviors are present in a positive safety culture. Therefore, in 2006, when the NRC implemented an enhanced reactor oversight process (ROP) that more fully addressed safety culture, it identified and incorporated safety culture components that are overarching characteristics of a positive safety culture. The NRC based its development of the safety culture components on a review of a variety of sources of information including the Institute of Nuclear Power Operations; the IAEA; the Nuclear Energy Agency; the regulatory approaches of other domestic and international organizations; and the organizational behavior, safety culture, and safety climate research literature. The Commission presented drafts of the safety culture components and aspects in frequent public meetings and modified them in response to stakeholder feedback.

For the purpose of this policy statement, the NRC modified the ROP safety culture components (termed ''safety culture characteristics'') to explicitly address security in the safety culture characteristics descriptions, create a more generic description for each safety culture characteristic that would apply to the range of NRC licensees and certificate holders, and maintain all the safety culture concepts in the safety culture components. The staff presented the draft safety culture characteristics for stakeholder comment in a February 3, 2009, public workshop and on the NRC's public safety culture Web site (*http://www.nrc.gov/about-nrc/regulatory/enforcement/safety-culture.html*).

Although the safety culture characteristics themselves are applicable to all licensees and certificate holders, there may be other examples that more specifically address the unique characteristics of a licensee's or certificate holder's environment (i.e., unique for medical and industrial applications, operating reactors, research and test reactors, fuel cycle facilities, and new reactor construction environments). Hence, the Commission recognizes that these safety culture characteristics are not all inclusive; other characteristics and attitudes in organizations and individuals may be indicative of a positive safety culture. However, the Commission expects its licensees and certificate holders to consider the extent to which these characteristics and attitudes are present in their organizations and among individuals who are overseeing or performing regulated activities and to take steps, if necessary, to foster a positive safety culture commensurate with the safety and security significance of activities and the nature and complexity of the licensee's or certificate holder's organization and functions.

The following characteristics that are indicative of a positive safety culture, are relevant across the broad range of activities carried out by the nuclear industry, the Agreement States and the NRC, and address the importance of nuclear safety and security:

- Personnel demonstrate ownership for nuclear safety and security in their day-to-day work activities by, for example, ensuring that their day-to-day work activities and products meet professional standards commensurate with the potential impacts of their work on safety and security. They proceed with caution when making safety- or security-related decisions and question their assumptions, especially when faced with uncertain or unexpected conditions, to ensure that safety and security are maintained.
- Processes for planning and controlling work ensure that individual contributors, supervisors, and work groups communicate, coordinate, and execute their work activities in a manner that supports safety and security. For example, individuals and work groups communicate and cooperate during work projects and activities to ensure their actions do not interact with those of others to adversely affect safety or security. In addition, managers and supervisors are accessible to oversee work activities, including those of contractors or vendors, and they challenge work activities and work products that do not meet their standards.
- The organization maintains a safety conscious work environment in which personnel feel free to raise safety and security concerns without fear of retaliation. For example, claims of harassment, intimidation, retaliation, and discrimination are investigated consistent with the regulations regarding employee protection. If an instance of harassment, intimidation, retaliation, or discrimination for raising a safety or security concern is identified, corrective actions are taken in a timely manner.
- The organization ensures that issues potentially impacting safety or security are promptly identified, fully evaluated, and promptly addressed and corrected, commensurate with their significance.
- The organization ensures that the personnel, equipment, tools, procedures, and other resources needed to assure safety and security are available. For example, training is developed and implemented or accessed to ensure personnel competence. Procedures, work instructions, design documentation, drawings, databases, and other job aids and reference materials are complete, accurate, and up-to-date.
- The organization's decisions ensure that safety and security are maintained. For example, production, cost, and schedule goals are developed, communicated, and implemented in a manner which demonstrates that safety and security are overriding priorities.
- Roles, responsibilities, and authorities for safety and security are clearly defined and reinforced. For example, personnel understand their roles and responsibilities in maintaining safety and security. Programs, processes, procedures, and organizational interfaces are clearly defined and implemented as designed. Leaders at all levels of the organization consistently demonstrate that safety and security are overriding priorities.
- The organization maintains a continuous learning environment in which opportunities to improve safety and security are sought out and implemented. For example, individuals are encouraged to develop and maintain current their professional and technical knowledge, skills, and abilities and to remain knowledgeable of industry standards and innovative practices. Personnel seek out and implement opportunities to improve safety and security performance.

(7) Implementation of Policy

This policy statement describes areas important to safety culture, but it does not address how the nuclear industry, the Agreement States, and the NRC should establish and maintain a positive safety culture in their organizations. The nuclear industry, the Agreement States, and the NRC differ in their size and complexity, infrastructure, and organizational frameworks. Therefore, a single approach for establishing and maintaining a positive safety culture is not possible. Nevertheless, the Commission expects that nuclear safety and security issues receive the attention warranted by their significance, and all organizations consider and foster the safety culture characteristics (commensurate with the safety and security significance of activities and the nature and complexity of their organization and functions) in carrying out their day-to-day work activities and decisions.

Questions for Which NRC Is Seeking Input

(1) The draft policy statement provides a description of areas important to safety culture, (i.e., safety culture characteristics). Are there any characteristics relevant to a particular type of licensee or certificate holder (if so, please specify which type) that do not appear to be addressed?

(2) Are there safety culture characteristics as described in the draft policy statement that you believe do not contribute to safety culture and, therefore, should not be included?

(3) Regarding the understanding of what the Commission means by a ''positive safety culture,'' would it help to include the safety culture characteristics in the Statement of Policy section in the policy statement?

(4) The draft policy statement includes the following definition of safety culture: ''Safety culture is that assembly of characteristics, attitudes, and behaviors in organizations and individuals which establishes that as an overriding priority, nuclear safety and security issues receive the attention warranted by their significance.'' Does this definition need further clarification to be useful?

(5) The draft policy statement states, ''All licensees and certificate holders should consider and foster the safety culture characteristics (commensurate with the safety and security significance of activities and the nature and complexity of their organization and functions) in carrying out their day-to-day work activities and decisions.'' Given the diversity among the licensees and certificate holders regulated by the NRC and the Agreement States, does this statement need further clarification?

(6) How well does the draft safety culture policy statement enhance licensees' and certificate holders' understanding of the NRC's expectations that they maintain a safety culture that includes issues related to security?

(7) In addition to issuing a safety culture policy statement, what might the NRC consider doing, or doing differently, to increase licensees' and certificate holders' attention to safety culture in the materials area?

(8) How can the NRC better involve stakeholders to address safety culture, including security, for all NRC and Agreement State licensees and certificate holders?

To ensure efficient consideration of your comments, please identify the specific question numbers with your comments when applicable. When commenting, please exercise caution with regard to site-specific security-related information. Comments will be made available to the public in their entirety. Personal information such as your name, address, telephone number, and e-mail address will not be removed from your submission.

Dated at Rockville, Maryland, this *30th* day of October 2009.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Director, Office of Enforcement.

[FR Doc. E9–26816 Filed 11–5–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0192; Docket No. 50–244; Renewed License No. DPR–18]

In the Matter of EDF Development, Inc.; Constellation Energy Nuclear Group, LLC; R.E. Ginna Nuclear Power Plant, LLC (R.E. Ginna Nuclear Power Plant); Order Superseding Order of October 9, 2009, Approving Application Regarding Proposed Corporate Restructuring

I

R.E. Ginna Nuclear Power Plant, LLC (Ginna, LLC or the licensee) is the holder of Renewed Facility Operating License No. DPR–18 which authorizes the possession, use, and operation of the R.E. Ginna Nuclear Power Plant (Ginna). The facility is located at the licensee's site in Ontario, New York. The operating license authorizes the licensee to possess, use, and operate Ginna.

II

By letter dated January 22, 2009, as supplemented on February 26, April 8, June 25, July 27, October 15, October 19, October 25 (two letters), October 26, and October 28, 2009 (together, the Application), Constellation Energy Nuclear Group, LLC (CENG), on behalf of the licensee and EDF Development, Inc. (EDF Development) (together, the applicants), requested that the Nuclear Regulatory Commission (NRC, the Commission), pursuant to Title 10 of the Code of Federal Regulations (10 CFR) 50.80, consent to the indirect license transfers that would be effected by the indirect transfer of control of CENG's ownership and operating interests in Ginna. The actions being sought are a result of certain proposed corporate restructuring actions in connection with a planned investment by EDF Development whereby it would acquire a 49.99% ownership interest in CENG from Constellation Energy Group, Inc. (CEG), the current 100% owner of CENG. EDF Development is a U.S. corporation organized under the laws of the State of Delaware and a wholly-owned subsidiary of E.D.F. International S.A., a public limited company organized under the laws of France, which is in turn a wholly-owned subsidiary of Électricité de France S.A., a French limited company.

Following the closing of the transfer of ownership interests in CENG to EDF Development, EDF Development will hold a 49.99% ownership interest in CENG; CEG will hold a 50.01% ownership interest in CENG through two new intermediate parent companies, Constellation Nuclear, LLC and CE Nuclear, LLC, formed for non-operational purposes. In addition, Constellation Nuclear Power Plants, Inc., which is currently an intermediate holding company between CENG and Ginna, LLC and Nine Mile Point Nuclear Station, LLC, will convert to a Delaware limited liability company by operation of law and become Constellation Nuclear Power Plants, LLC, and will exist as an intermediate holding company between CENG and Ginna, LLC, Nine Mile Point Nuclear Station, LLC, and Calvert Cliffs Nuclear Power Plant, LLC by merger. No physical changes to the facilities or operational changes are being proposed in the application.

Approval of the transfer of the license is requested by the applicants pursuant to 10 CFR 50.80. Notice of the request for approval and opportunity for a hearing was published in the **Federal Register** on May 6, 2009 (74 FR 21013). No hearing requests or petitions to

intervene were received. The NRC received comments from a member of the public in Seattle, Washington, in an e-mail dated May 22, 2009. The comments did not provide any information additional to that in the application, nor did they provide any information contradictory to that provided in the Application.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that the proposed indirect license transfer of control of the subject license held by the licensee to the extent such will result from the proposed corporate restructuring actions and the planned investment by EDF Development whereby it will acquire a 49.99% ownership interest in CENG, to the extent affected by the proposed transaction as described in the application, is otherwise consistent with applicable provisions of law, regulations, and Orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the Application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied.

On October 9, 2009, the Commission issued, ''Order Approving Application Regarding Proposed Corporate Restructuring and Approving Conforming Amendments.''

By letter dated October 19, 2009, CENG explained that its January 22, 2009, application for the license transfers had anticipated nearly concurrent completion of the proposed internal corporate restructuring of the CEG subsidiaries and the proposed EDF acquisition of 44.99% of CENG. After it filed its January application, CENG learned that the restructuring activities for the CEG subsidiaries will be completed at least 8 days prior to closing the transaction involving EDF. In letters dated October 25 (two letters), 26, and 28, 2009, CENG provided revised financial arrangements that will apply during the period between the completion of the internal restructuring activities and the acquisition of 44.99% of CENG by EDF and a revised operating agreement that will apply after the EDF closing.

The NRC concluded that modifications were needed to the cover letter, the October 9, 2009, Order, and the safety evaluations in light of the new information provided in CENG's letters of October 19 through 28, 2009. This Order contains those modifications and supersedes the Order issued October 9, 2009.

The findings set forth above are supported by a modified NRC safety evaluation (SE) dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the Application regarding the indirect license transfers related to the proposed corporate restructuring actions and the planned investment by EDF Development, as described herein, is approved, subject to the following conditions:

A. With regard to the direct and indirect transfers resulting from the restructuring of the CEG subsidiaries:

(1) The financial arrangements resulting from the corporate restructuring activities of the CEG subsidiaries are subject to the following:

(a) The Inter-Company Credit Agreements (ICA) described in the October 25, 2009, supplement to the Application shall be effective as of the date of the direct and indirect transfers (whichever occurs first) resulting from the restructuring of CEG subsidiaries and shall be consistent with the representations contained in the Application. CENG and Ginna, LLC shall take no action to cause CEG, or their successors and assigns, to void, cancel or materially modify the ICA as submitted without the prior written consent of the NRC staff. CENG shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, no later than 10 days after any funds are provided to CENG or any of the licensees by CEG or EDF Development under any Support Agreement.

(b) The Master Demand Notes described in the October 26, 2009, supplement to the Application shall be effective as of the date of the direct and indirect transfers (whichever occurs first) resulting from the restructuring of CEG subsidiaries and shall be consistent with the representations contained in the Application. CENG and Ginna, LLC, shall take no action to cause CEG, or their successors and assigns, to void, cancel or materially modify the Master Demand Notes without the prior written consent of the NRC staff.

B. With regard to the indirect transfers resulting from the acquisition of 44.99% of CENG by EDF Development (EDF Closing):

(1) The ownership and governance arrangements in effect as of the date of the indirect transfers to EDF Development are subject to the following:

(a) The Operating Agreement included with the supplement dated October 25, 2009, may not be modified in any material respect concerning decisionmaking authority over ''safety issues'' as defined therein without the prior written consent of the Director, Office of Nuclear Reactor Regulation.

(b) At least half the members of CENG's Board of Directors must be U.S. citizens.

(c) The Chief Executive Officer (CEO), Chief Nuclear Officer (CNO) and Chairman of the Board of Directors of CENG must be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CENG with respect to the Calvert Cliffs, Unit Nos. 1 and 2, Calvert Cliffs ISFSI, Nine Mile Point, Unit Nos. 1 and 2, and R.E. Ginna licenses are at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.

(d) CENG will establish a Nuclear Advisory Committee (NAC) composed of U.S. citizens who are not officers, directors, or employees of CENG, CEG or EDF Development. The NAC will report to and provide transparency to the NRC and other U.S. governmental agencies regarding foreign ownership and control of nuclear operations.

(e) CENG shall cause to be transmitted to the Director, Office of Nuclear Reactor Regulation, within 30 days of knowledge of a filing with the U.S. Securities and Exchange Commission, any Schedules 13D or 13G filed

pursuant to the Securities and Exchange Act of 1934 that disclose beneficial ownership of any registered classes of CEG stock.

(2) The financial arrangements applicable to the indirect transfers resulting from the EDF Closing are subject to the following:

(a) The working capital and cash pooling arrangements described in Article IV of the Operating Agreement included with the October 25, 2009 supplement to the Application, shall be effective as of the date of the indirect transfers to EDF Development and shall be consistent with the representations contained in the Application. CENG and Ginna, LLC shall take no action to cause CEG and/or EDF Development, or their successors and assigns, to void, cancel or materially modify the working capital and cash pooling arrangements in the Operating Agreement without the prior written consent of the NRC staff.

(b) The Support Agreements described in the February 26, 2009 supplement to the Application shall be effective as of the date of the indirect transfers to EDF Development; shall supersede the Inter-Company Credit Agreements provided by CEG, Inc.; and shall be consistent with the representations contained in the Application. CENG and Ginna, LLC shall take no action to cause CEG and/or EDF Development, or their successors and assigns, to void, cancel or materially modify the Support Agreements as submitted without the prior written consent of the NRC staff. CENG shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, no later than 10 days after any funds are provided to CENG or any of the licensees by CEG or EDF Development under any Support Agreement.

(c) The Master Demand Notes described in the October 28, 2009 supplement to the Application, shall be effective as of the date of the indirect transfers to EDF Development; shall supersede the Master Demand Notes provided by CEG, Inc.; and shall be consistent with the representations contained in the Application. CENG and Ginna, LLC, shall take no action to cause CEG and/or EDF Development, or their successors and assigns, to void, cancel or materially modify the Master Demand Notes without the prior written consent of the NRC staff.

It is further ordered that CENG shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of the date of closing of the transfer of EDF Development's ownership and operating interests in CENG at least 1 business day before the closing. Should the transfer of the license not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order supersedes the Order issued on October 9, 2009, and is effective upon issuance.

For further details with respect to this Order, see the initial application dated January 22, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090290101), as supplemented by letters dated February 26 (ML090630426), April 8 (ML091000665), June 25 (ML091811094), and July 27, 2009 (ML092150712), October 15 (ML092920168), October 19 (ML092990101), October 25 (ML093000127 and ML093000141), October 26 (ML093000506), and October 28, 2009 (ML092150712), and the SE (ML093010003) with the same date as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Room O–1 F21 (First Floor), Rockville, Maryland, and accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail at *pdr.resource@nrc.gov*.

Dated at Rockville, Maryland, this 30th day of October 2009.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E9–26805 Filed 11–5–09; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC–2009–0193; Docket Nos. 50–220 and 50–410; Renewed License No. DPR–63; Renewed License No. NPF–69]

In the Matter of EDF Development, Inc.; Constellation Energy Nuclear Group, LLC; Nine Mile Point Nuclear Station, LLC (Nine Mile Point Nuclear Station Unit Nos. 1 and 2); Order Superseding Order of October 9, 2009, Approving Application Regarding Proposed Corporate Restructuring

I

Nine Mile Point Nuclear Station, LLC (NMPNS, LLC or the licensee) is the holder of Renewed Facility Operating License Nos. DPR–63 and NPF–69, which authorize the possession, use, and operation of the Nine Mile Point Nuclear Station, Unit Nos. 1 and 2 (NMP 1 and 2). The facility is located at the licensee's site in Oswego, New York.

II

By letter dated January 22, 2009, as supplemented on February 26, April 8, June 25, and July 27, October 15, October 19, October 25 (two letters), October 26, and October 28, 2009 (together, the Application), Constellation Energy Nuclear Group, LLC (CENG), on behalf of the licensee and EDF Development, Inc. (EDF Development) (together, the applicants), requested that the Nuclear Regulatory Commission (NRC, the Commission), pursuant to Title 10 of the Code of Federal Regulations (10 CFR) 50.80, consent to the indirect license transfers that would be effected by the indirect transfer of control of CENG's ownership and operating interests in NMP 1 and 2. The actions being sought are a result of certain proposed corporate restructuring actions in connection with a planned investment by EDF Development whereby it would acquire a 49.99% ownership interest in CENG from Constellation Energy Group, Inc. (CEG), the current 100% owner of CENG. EDF Development is a U.S. corporation organized under the laws of the State of Delaware and a wholly-owned subsidiary of E.D.F. International S.A., a public limited company organized under the laws of France, which is in turn a wholly-owned subsidiary of Électricité de France S.A., a French limited company.

Following closing of the transfer of ownership interests in CENG to EDF Development, EDF Development will hold a 49.99% ownership interest in CENG; CEG will hold a 50.01% ownership interest in CENG through

two new intermediate parent companies, Constellation Nuclear, LLC and CE Nuclear, LLC, formed for non-operational purposes. In addition, Constellation Nuclear Power Plants, Inc., which is currently an intermediate holding company between CENG and NMPNS, LLC and R.E. Ginna Nuclear Power Plant, LLC, will convert to a Delaware limited liability company by operation of law and become Constellation Nuclear Power Plants, LLC, and will exist as an intermediate holding company between CENG and NMPNS, LLC, R.E. Ginna Nuclear Power Plant, LLC, and Calvert Cliffs Nuclear Power Plant, LLC by merger. No physical changes to the facilities or operational changes are being proposed in the application.

Approval of the transfer of the license is requested by the applicants pursuant to 10 CFR 50.80. Notice of the request for approval and opportunity for a hearing was published in the **Federal Register** on May 6, 2009 (74 FR 21015). No hearing requests or petitions to intervene were received. The NRC received comments from a member of the public in Seattle, Washington, in an e-mail dated May 22, 2009. The comments did not provide any information additional to that in the application, nor did they provide any information contradictory to that provided in the application.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that the proposed indirect license transfer of control of the subject license held by the licensee to the extent such will result from the proposed corporate restructuring actions in connection with the planned investment by EDF Development whereby it will acquire a 49.99% ownership interest in CENG, to the extent affected by the proposed transaction as described in the application, is otherwise consistent with applicable provisions of law, regulations, and Orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the Application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

On October 9, 2009, the Commission issued, ''Order Approving Application Regarding Proposed Corporate Restructuring and Approving Conforming Amendments.''

By letter dated October 19, 2009, CENG explained that its January 22, 2009, application for the license transfers had anticipated nearly concurrent completion of the proposed internal corporate restructuring of the CEG subsidiaries and the proposed EDF acquisition of 44.99% of CENG. After it filed its January 22, 2009, application, CENG learned that the restructuring activities for the CEG subsidiaries will be completed at least 8 days prior to closing the transaction involving EDF and a revised operating agreement that will apply after the EDF closing. In letters dated October 25 (two letters), 26, and 28, 2009, CENG provided revised financial arrangements that will apply during the period between the completion of the internal restructuring activities and the acquisition of 44.99% of CENG by EDF.

The NRC concluded that modifications were needed to the cover letter, the October 9, 2009, Order, and the safety evaluations in light of the new information provided in CENG's letters of October 19 through 28, 2009. This Order contains those modifications and supersedes the Order issued October 9, 2009.

The findings set forth above are supported by a modified NRC safety evaluation (SE) dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the Application regarding the indirect license transfers related to the proposed corporate restructuring actions and the planned investment by EDF Development, as described herein, is approved, subject to the following conditions:

A. With regard to the direct and indirect transfers resulting from the restructuring of the CEG subsidiaries:

(1) The financial arrangements resulting from the corporate restructuring activities of the CEG subsidiaries are subject to the following:

(a) The Inter-Company Credit Agreements (ICA) described in the October 25, 2009, supplement to the Application shall be effective as of the date of the direct and indirect transfers (whichever occurs first) resulting from the restructuring of CEG subsidiaries and shall be consistent with the representations contained in the Application. CENG and NMPNS, LLC shall take no action to cause CEG, or their successors and assigns, to void, cancel or materially modify the ICA as submitted without the prior written consent of the NRC staff. CENG shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, no later than 10 days after any funds are provided to CENG or any of the licensees by CEG or EDF Development under any Support Agreement.

(b) The Master Demand Notes described in the October 26, 2009, supplement to the Application shall be effective as of the date of the direct and indirect transfers (whichever occurs first) resulting from the restructuring of CEG subsidiaries and shall be consistent with the representations contained in the Application. CENG and NMPNS, LLC, shall take no action to cause CEG, or their successors and assigns, to void, cancel or materially modify the Master Demand Notes without the prior written consent of the NRC staff.

B. With regard to the indirect transfers resulting from the acquisition of 44.99% of CENG by EDF Development (EDF Closing):

(1) The ownership and governance arrangements in effect as of the date of the indirect transfers to EDF Development are subject to the following:

(a) The Operating Agreement included with the supplement dated October 25, 2009, may not be modified in any material respect concerning decisionmaking authority over ''safety issues'' as defined therein without the prior written consent of the Director, Office of Nuclear Reactor Regulation.

(b) At least half the members of CENG's Board of Directors must be U.S. citizens.

(c) The Chief Executive Officer (CEO), Chief Nuclear Officer (CNO) and

Chairman of the Board of Directors of CENG must be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CENG with respect to the Calvert Cliffs, Unit Nos. 1 and 2, Calvert Cliffs ISFSI, Nine Mile Point, Unit Nos. 1 and 2, and R.E. Ginna licenses are at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.

(d) CENG will establish a Nuclear Advisory Committee (NAC) composed of U.S. citizens who are not officers, directors, or employees of CENG, CEG or EDF Development. The NAC will report to and provide transparency to the NRC and other U.S. governmental agencies regarding foreign ownership and control of nuclear operations.

(e) CENG shall cause to be transmitted to the Director, Office of Nuclear Reactor Regulation, within 30 days of knowledge of a filing with the U.S. Securities and Exchange Commission, any Schedules 13D or 13G filed pursuant to the Securities and Exchange Act of 1934 that disclose beneficial ownership of any registered classes of CEG stock.

(2) The financial arrangements applicable to the indirect transfers resulting from the EDF Closing are subject to the following:

(a) The working capital and cash pooling arrangements described in Article IV of the Operating Agreement included with the October 25, 2009 supplement to the Application, shall be effective as of the date of the indirect transfers to EDF Development and shall be consistent with the representations contained in the Application. CENG and NMPNS, LLC shall take no action to cause CEG and/or EDF Development, or their successors and assigns, to void, cancel or materially modify the working capital and cash pooling arrangements in the Operating Agreement without the prior written consent of the NRC staff.

(b) The Support Agreements described in the February 26, 2009 supplement to the Application shall be effective as of the date of the indirect transfers to EDF Development; shall supersede the Inter-Company Credit Agreements provided by CEG, Inc.; and shall be consistent with the representations contained in the Application. CENG and NMPNS, LLC shall take no action to cause CEG and/or EDF Development, or their successors and assigns, to void, cancel or materially modify the Support Agreements as submitted without the prior written consent of the NRC staff. CENG shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, no later than ten days after any funds are provided to CENG or any of the licensees by CEG or EDF Development under any Support Agreement.

(c) The Master Demand Notes described in the October 28, 2009 supplement to the Application, shall be effective as of the date of the indirect transfers to EDF Development; shall supersede the Master Demand Notes provided by CEG, Inc.; and shall be consistent with the representations contained in the Application. CENG and NMPNS, LLC, shall take no action to cause CEG and/or EDF Development, or their successors and assigns, to void, cancel or materially modify the Master Demand Notes without the prior written consent of the NRC staff.

It is further ordered that CENG shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of the date of closing of the transfer of EDF Development's ownership and operating interests in CENG at least 1 business day before the closing. Should the transfers of the licenses not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order supersedes the Order issued on October 9, 2009, and is effective upon issuance.

For further details with respect to this Order, see the initial application dated January 22, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090290101), as supplemented by letters dated February 26 (ML090630426), April 8 (ML091000665), June 25 (ML091811094), and July 27, 2009 (ML092150712), October 15 (ML092920168), October 19 (ML092990101), October 25 (ML093000127 and ML093000141), October 26 (ML093000506), and October 28, 2009 (ML092150712) and the SE (ML093010003) with the same date as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Room O–1 F21 (First Floor), Rockville, Maryland, and accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail at *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 30th day of October 2009.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E9–26793 Filed 11–5–09; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC–2009–0194; Docket Nos. 50–317, 50–318, 72–8; Renewed License No. DPR–53; Renewed License No. DPR–69; License No. SNM–2505]

In the Matter of: Constellation Energy Nuclear Group, LLC; EDF Development, Inc.; Calvert Cliffs Nuclear Power Plant, Inc.; Calvert Cliffs Nuclear Power Plant, LLC (Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, and Calvert Cliffs Independent Spent Fuel Storage Installation); Order Superseding Order of October 9, 2009, Approving Application Regarding Proposed Corporate Restructuring and Approving Conforming Amendments

I

Calvert Cliffs Nuclear Power Plant, Inc. (CCNPP, Inc. or the licensee) is the holder of Renewed Facility Operating License Nos. DPR–53 and DPR–69, which authorize the possession, use, and operation of Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 (CCNPP 1 and 2), and of Materials License No. SNM–2505, which authorizes the possession, use, and operation of the Calvert Cliffs Independent Spent Fuel Storage Installation (Calvert Cliffs ISFSI), and authorizes CCNPP, Inc. to receive, possess, transfer, and store power reactor spent fuel at the Calvert Cliffs ISFSI. The facilities are located at the licensee's site in Calvert County, Maryland.

II

By letter dated January 22, 2009, as supplemented on February 26, April 8, June 25, July 27, October 15, October 19, October 25 (two letters), October 26, and October 28, 2009 (together, the Application), Constellation Energy Nuclear Group, LLC (CENG), on behalf of the licensee and EDF Development, Inc. (EDF Development) (together, the applicants), requested that the Nuclear Regulatory Commission (NRC, the Commission), pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR)

50.80, consent to the indirect license transfers that would be effected by the indirect transfer of control of CENG's ownership and operating interests in CCNPP, Inc. The actions being sought are a result of certain proposed corporate restructuring actions in connection with a planned investment by EDF Development whereby it would acquire a 49.99% ownership interest in CENG from Constellation Energy Group, Inc. (CEG), the current 100% owner of CENG. EDF Development is a U.S. corporation organized under the laws of the State of Delaware and a wholly-owned subsidiary of E.D.F. International S.A., a public limited company organized under the laws of France, which is in turn a wholly-owned subsidiary of Électricité de France S.A., a French limited company. The applicants also requested approval of the proposed direct transfer of licenses held under CCNPP, Inc. to a new legal entity, Calvert Cliffs Nuclear Power Plant, LLC (CCNPP, LLC) and approval of conforming license amendments that would replace references to CCNPP, Inc. in the license with references to CCNPP, LLC to reflect the transfer of ownership and operating authority, specifically, to possess, use, and operate CCNPP 1 and 2 and to receive, possess, or use related licensed materials under the applicable conditions and authorizations in the CCNPP 1 and 2 licenses and for the ISFSI license.

Following the closing of the transfer of ownership interests in CENG to EDF Development, EDF Development will hold a 49.99% ownership interest in CENG; CEG will hold a 50.01% ownership interest in CENG through two new intermediate parent companies, Constellation Nuclear, LLC and CE Nuclear, LLC, formed for non-operational purposes. In addition, Constellation Nuclear Power Plants, Inc., which is currently an intermediate holding company between CENG and Nine Mile Point Nuclear Station, LLC and R.E. Ginna Nuclear Power Plant, LLC, will convert to a Delaware limited liability company by operation of law and become Constellation Nuclear Power Plants, LLC, and will exist as an intermediate holding company between CENG and CCNPP, LLC, Nine Mile Point Nuclear Station, LLC, and R.E. Ginna Nuclear Power Plant, LLC. CCNPP, Inc. will convert to CCNPP, LLC by merger.

No physical changes to the facilities or operational changes are being proposed in the application. The proposed conforming license amendment would replace references to CCNPP, Inc. in the license with references to CCNPP, LLC to reflect the proposed direct transfer of the licenses.

Approval of the transfer of the license and the conforming license amendment is requested by the applicants pursuant to 10 CFR 50.80, 10 CFR 50.90, and 10 CFR 72.50. Notice of the request for approval and opportunity for a hearing was published in the **Federal Register** on May 7, 2009 (74 FR 21413). No hearing requests or petitions to intervene were received. The NRC received comments from a member of the public in Seattle, Washington, in an e-mail dated May 22, 2009. The comments did not provide any information additional to that in the application, nor did they provide any information contradictory to that provided in the application.

Pursuant to 10 CFR 50.80 and 10 CFR 72.50, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that the proposed indirect license transfer of control of the subject licenses held by the licensee to the extent such will result from the proposed corporate restructuring actions and the planned investment by EDF Development whereby it will acquire a 49.99% ownership interest in CENG, and that the direct transfer of CCNPP, Inc. to CCNPP, LLC as described in the Application, are otherwise consistent with applicable provisions of law, regulations, and Orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the Application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the Application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

On October 9, 2009, the Commission issued, ''Order Approving Application Regarding Proposed Corporate Restructuring and Approving Conforming Amendments.''

By letter dated October 19, 2009, CENG explained that its January 22, 2009, application for the license transfers had anticipated nearly concurrent completion of the proposed internal corporate restructuring of the CEG subsidiaries and the proposed EDF acquisition of 44.99% of CENG. After it filed its January 22, 2009, application, CENG learned that the restructuring activities for the CEG subsidiaries will be completed at least 8 days prior to closing the transaction involving EDF. In letters dated October 25 (two letters), 26, and 28, 2009, CENG provided revised financial arrangements that will apply during the period between the completion of the internal restructuring activities and the acquisition of 44.99% of CENG by EDF and a revised operating agreement that will apply after the EDF closing.

The NRC concluded that modifications were needed to the cover letter, the October 9, 2009, Order, and the safety evaluations in light of the new information provided in CENG's letters of October 19 through 28, 2009. This Order contains those modifications and supersedes the Order issued October 9, 2009.

The findings set forth above are supported by a modified NRC safety evaluation (SE) dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80 and 10 CFR 72.50, it is hereby ordered that the Application regarding the indirect license transfers and direct license transfers related to the proposed corporate restructuring actions and the planned investment by EDF Development, as described herein, is approved, subject to the following conditions:

A. With regard to the direct and indirect transfers resulting from the restructuring of the CEG subsidiaries:

(1) Before completion of the direct transfer of the CNPP license, CENG shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that CCNPP, LLC has obtained the appropriate amount of

insurance required of licensees under 10 CFR part 140 of the Commission's regulations.

(2) CCNPP, LLC may no longer rely exclusively on an external sinking fund as its decommissioning funding assurance mechanism and will be required to implement an alternate decommissioning funding assurance mechanism, acceptable per NRC requirements outlined in 10 CFR 50.75(e)(1), which will be used to provide decommissioning funding assurance.

(3) The financial arrangements resulting from the corporate restructuring activities of the CEG subsidiaries are subject to the following:

(a) The Inter-Company Credit Agreements (ICA) described in the October 25, 2009, supplement to the Application shall be effective as of the date of the direct and indirect transfers (whichever occurs first) resulting from the restructuring of CEG subsidiaries and shall be consistent with the representations contained in the Application. CENG and CCNPP, LLC shall take no action to cause CEG, or their successors and assigns, to void, cancel or materially modify the ICA as submitted without the prior written consent of the NRC staff. CENG shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, no later than 10 days after any funds are provided to CENG or any of the licensees by CEG or EDF Development under any Support Agreement.

(b) The Master Demand Notes described in the October 26, 2009, supplement to the Application shall be effective as of the date of the direct and indirect transfers (whichever occurs first) resulting from the restructuring of CEG subsidiaries and shall be consistent with the representations contained in the Application. CENG and CCNPP, LLC, shall take no action to cause CEG, or their successors and assigns, to void, cancel or materially modify the Master Demand Notes without the prior written consent of the NRC staff.

B. With regard to the indirect transfers resulting from the acquisition of 44.99% of CENG by EDF Development (EDF Closing):

(1) Before completion of the EDF Closing, Conditions A.(1) and A.(2) above must be fulfilled.

(2) The ownership and governance arrangements in effect as of the date of the indirect transfers to EDF Development are subject to the following:

(a) The Operating Agreement included with the supplement dated October 25, 2009, may not be modified in any material respect concerning decisionmaking authority over ''safety issues'' as defined therein without the prior written consent of the Director, Office of Nuclear Reactor Regulation.

(b) At least half the members of CENG's Board of Directors must be U.S. citizens.

(c) The Chief Executive Officer (CEO), Chief Nuclear Officer (CNO) and Chairman of the Board of Directors of CENG must be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CENG with respect to the Calvert Cliffs, Unit Nos. 1 and 2, Calvert Cliffs ISFSI, Nine Mile Point, Unit Nos. 1 and 2, and R.E. Ginna licenses are at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.

(d) CENG will establish a Nuclear Advisory Committee (NAC) composed of U.S. citizens who are not officers, directors, or employees of CENG, CEG or EDF Development. The NAC will report to and provide transparency to the NRC and other U.S. governmental agencies regarding foreign ownership and control of nuclear operations.

(e) CENG shall cause to be transmitted to the Director, Office of Nuclear Reactor Regulation, within 30 days of knowledge of a filing with the U.S. Securities and Exchange Commission, any Schedules 13D or 13G filed pursuant to the Securities and Exchange Act of 1934 that disclose beneficial ownership of any registered classes of CEG stock.

(3) The financial arrangements applicable to the indirect transfers resulting from the EDF Closing are subject to the following:

(a) The working capital and cash pooling arrangements described in Article IV of the Operating Agreement included with the October 25, 2009 supplement to the Application, shall be effective as of the date of the indirect transfers to EDF Development and shall be consistent with the representations contained in the Application. CENG and CCNPP, LLC shall take no action to cause CEG and/or EDF Development, or their successors and assigns, to void, cancel or materially modify the working capital and cash pooling arrangements in the Operating Agreement without the prior written consent of the NRC staff.

(b) The Support Agreements described in the February 26, 2009 supplement to the Application shall be effective as of the date of the indirect transfers to EDF Development; shall supersede the Inter-Company Credit Agreements provided by CEG, Inc.; and shall be consistent with the representations contained in the Application. CENG and CCNPP, LLC shall take no action to cause CEG and/or EDF Development, or their successors and assigns, to void, cancel or materially modify the Support Agreements as submitted without the prior written consent of the NRC staff. CENG shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, no later than 10 days after any funds are provided to CENG or any of the licensees by CEG or EDF Development under any Support Agreement.

(c) The Master Demand Notes described in the October 28, 2009 supplement to the Application, shall be effective as of the date of the indirect transfers to EDF Development; shall supersede the Master Demand Notes provided by CEG, Inc.; and shall be consistent with the representations contained in the Application. CENG and CCNPP, LLC, shall take no action to cause CEG and/or EDF Development, or their successors and assigns, to void, cancel or materially modify the Master Demand Notes without the prior written consent of the NRC staff.

It is further ordered that, consistent with 10 CFR 2.1315(b), the license amendment that makes changes to conform the license to reflect the subject direct license transfer is approved. The amendment shall be issued and made effective at the time the proposed direct license transfer is completed.

It is further ordered that CENG shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of the date of closing of the transfer of EDF Development's ownership and operating interests in CENG at least 1 business day before the closing. Should the transfers of the licenses not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by Order.

This Order supersedes the Order issued on October 9, 2009, and is effective upon issuance.

For further details with respect to this Order, see the initial application dated January 22, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090290101), as supplemented by letters dated February 26 (ML090630426), April 8 (ML091000665), June 25 (ML091811094), and July 27, 2009 (ML092150712), October 15 (ML092920168), October 19 (ML092990101), October 25 (ML093000127 and ML093000141),

October 26 (ML093000506), and October 28, and the SE (ML093010003) with the same date as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Room O–1 F21 (First Floor), Rockville, Maryland, and accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail at *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 30th day of October 2009.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

Michael F. Weber,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E9–26813 Filed 11–5–09; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2010–5 and CP2010–5; Order No. 329]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Express Mail Contract 5 to the Competitive Product List. The Postal Service has also filed a related contract. This notice addresses procedural steps associated with these filings.

DATES: Comments are due November 9, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

Pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Express Mail Contract 5 to the Competitive Product List.[1] The Postal Service asserts that Express Mail Contract 5 is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). The Postal Service states that prices and classification underlying this contract are supported by Governors' Decision No. 09–14. *Id.* at 1. The Request has been assigned Docket No. MC2010–5.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2010–5.

Request. In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors' Decision authorizing certain Express Mail contracts;[2] (2) a redacted version of the contract;[3] (3) a requested change in the Competitive Product List;[4] (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;[5] (5) a certification of compliance with 39 U.S.C. 3633(a);[6] and (6) an application for non-public treatment of the materials filed under seal.[7]

In the Statement of Supporting Justification, Mary Prince Anderson, Acting Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.,* Attachment D. Thus, Ms. Anderson contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

Related contract. A redacted version of the specific Express Mail Contract 5 is included with the Request. The contract will become effective on the day that the Commission provides all necessary regulatory approvals. It is terminable upon 30 days' notice by a party, but could continue for 3 years with annual adjustments. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a)(1). *See id.,* Attachment D. The Postal Service will provide the shipper with Express Mail packaging for eligible Express Mail items mailed by the shipper.

The Postal Service filed much of the supporting materials, including the specific Express Mail Contract 5, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, cost data, and financial projections should remain under seal. *Id.* at 2. It also requests that the Commission order that the duration of such treatment of all customer identifying information be extended indefinitely, instead of ending after 10 years. *Id.,* Attachment F, at 1 and 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2010–5 and CP2010–5 for consideration of the Request pertaining to the proposed Express Mail Contract 5 product and the related contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020 subpart B. Comments are due no later than November 9, 2009. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2010–5 and CP2010–5 for consideration of the matter raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the

[1] Notice of Establishment of Rates and Class Not of General Applicability, Request of the United States Postal Service to Add Express Mail Contract 5 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract and Supporting Data, October 28, 2009 (Request). On October 29, 2009, the Postal Service filed errata to its Request. *See* Notice of the United States Postal Service of Filing Errata to Request and Notice, October 29, 2009. Accordingly, the filing of the entire set of documents related to this Request was not completed until October 29, 2009.

[2] Attachment A to the Request, reflecting Governors' Decision No. 09–14, October 26, 2009.

[3] Attachment B to the Request.

[4] Attachment C to the Request.

[5] Attachment D to the Request.

[6] Attachment E to the Request.

[7] Attachment F to the Request.

interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than November 9, 2009.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. E9–26806 Filed 11–5–09; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2010–6 and CP2010–6; Order No. 330]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Express Mail Contract 6 to the Competitive Product List. The Postal Service has also filed a related contract. This notice addresses procedural steps associated with these filings.

DATES: Comments are due November 9, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

Pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Express Mail Contract 6 to the Competitive Product List.[1] The Postal Service asserts that Express Mail Contract 6 is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). The Postal Service states that prices and classification underlying this contract are supported by Governors' Decision No. 09–14 in Docket No. MC2010–5. *Id.* at 1. The Request has been assigned Docket No. MC2010–6.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2010–6.

Request. In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors' Decision, originally filed in Docket No. MC2010–5, authorizing certain Express Mail contracts;[2] (2) a redacted version of the contract;[3] (3) a requested change in the Competitive Product List;[4] (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;[5] (5) a certification of compliance with 39 U.S.C. 3633(a);[6] and (6) an application for non-public treatment of the materials filed under seal.[7]

In the Statement of Supporting Justification, Mary Prince Anderson, Acting Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.,* Attachment D. Thus, Ms. Anderson contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

Related contract. A redacted version of the specific Express Mail Contract 6 is included with the Request. The contract will become effective on the day that the Commission provides all necessary regulatory approvals. It is terminable upon 30 days' notice by a party, but could continue for 3 years with annual adjustments. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a)(1). *See id.,* Attachment D.

The Postal Service filed much of the supporting materials, including the specific Express Mail Contract 6, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, cost data, and financial projections should remain under seal. *Id.* at 2. It also requests that the Commission order that the duration of such treatment of all customer identifying information be extended indefinitely, instead of ending after 10 years. *Id.,* Attachment F at 1 and 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2010–6 and CP2010–6 for consideration of the Request pertaining to the proposed Express Mail Contract 6 product and the related contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020 subpart B. Comments are due no later than November 9, 2009. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2010–6 and CP2010–6 for consideration of the matter raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than November 9, 2009.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. E9–26809 Filed 11–5–09; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Express Mail Contract 6 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, October 28, 2009 (Request). On October 29, 2009, the Postal Service filed errata to its Request. *See* Notice of the United States Postal Service of Filing Errata to Request and Notice, October 29, 2009. Accordingly, the filing of the entire set of documents related to this Request was not completed until October 29, 2009.

[2] Attachment A to the Request, reflecting Governors' Decision No. 09–14, October 26, 2009.

[3] Attachment B to the Request.

[4] Attachment C to the Request.

[5] Attachment D to the Request.

[6] Attachment E to the Request.

[7] Attachment F to the Request.

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2010–7 and CP2010–7; Order No. 331]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Express Mail Contract 7 to the Competitive Product List. The Postal Service has also filed a related contract. This notice addresses procedural steps associated with these filings.

DATES: Comments are due November 9, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

Pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Express Mail Contract 7 to the Competitive Product List.[1] The Postal Service asserts that Express Mail Contract 7 is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). The Postal Service states that prices and classification underlying this contract are supported by Governors' Decision No. 09–14 in Docket No. MC2010–5. *Id.* at 1. The Request has been assigned Docket No. MC2010–7.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2010–7.

Request. In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors' Decision, originally filed in Docket No. MC2010–5, authorizing certain Express Mail contracts;[2] (2) a redacted version of the contract;[3] (3) a requested change in the Competitive Product List;[4] (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;[5] (5) a certification of compliance with 39 U.S.C. 3633(a);[6] and (6) an application for non-public treatment of the materials filed under seal.[7]

In the Statement of Supporting Justification, Mary Prince Anderson, Acting Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.,* Attachment D. Thus, Ms. Anderson contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

Related contract. A redacted version of the specific Express Mail Contract 7 is included with the Request. The contract will become effective on the day that the Commission provides all necessary regulatory approvals. It is terminable upon 30 days' notice by a party, but could continue for 3 years with annual adjustments. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a)(1). *See id.,* Attachment D. The Postal Service will not provide the shipper with Express Mail packaging for eligible Express Mail items mailed by the shipper. Insurance up to $100 and tracking service is provided to the shipper under this contract for no additional charge.

The Postal Service filed much of the supporting materials, including the specific Express Mail Contract 7, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, cost data, and financial projections should remain under seal. *Id.* at 2. It also requests that the Commission order that the duration of such treatment of all customer identifying information be extended indefinitely, instead of ending after 10 years. *Id.,* Attachment F, at 1 and 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2010–7 and CP2010–7 for consideration of the Request pertaining to the proposed Express Mail Contract 7 product and the related contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020 subpart B. Comments are due no later than November 9, 2009. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2010–7 and CP2010–7 for consideration of the matter raised in each docket.
2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than November 9, 2009.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. E9–26811 Filed 11–5–09; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Express Mail Contract 7 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, October 28–29, 2009 (Request). Due to filing errors, the filing of the entire set of documents related to this Request was not completed until October 29, 2009. *See* Notice of the United States Postal Service of Filing Errata to Request and Notice, October 29, 2009. Accordingly, the filing of the entire set of documents related to this Request was not completed until October 29, 2009.

[2] Attachment A to the Request, reflecting Governors' Decision No. 09–14, October 26, 2009.

[3] Attachment B to the Request.

[4] Attachment C to the Request.

[5] Attachment D to the Request.

[6] Attachment E to the Request.

[7] Attachment F to the Request.

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11922 and #11923]

Kentucky Disaster #KY–00031

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Kentucky dated 10/29/2009.

Incident: Tornado and Severe Storms.

Incident Period: 10/09/2009.

Effective Date: 10/29/2009.

Physical Loan Application Deadline Date: 12/28/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 07/29/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Casey.

Contiguous Counties:

Kentucky:

Adair, Boyle, Lincoln, Marion, Pulaski, Russell, Taylor.

The Interest Rates are:

	Percent
Homeowners with Credit Available Elsewhere	5.500
Homeowners without Credit Available Elsewhere	2.750
Businesses with Credit Available Elsewhere	6.000
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) with Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11922 C and for economic injury is 11923 O.

The State which received an EIDL Declaration Number is Kentucky.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: October 29, 2009.

Karen G. Mills,

Administrator.

[FR Doc. E9–26766 Filed 11–5–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11880 and # 11881]

California Disaster # CA–00142

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Administrative declaration of disaster for the State of California dated 09/14/2009.

Incident: Station Fire.

Incident Period: 08/26/2009 through 09/25/2009.

Effective Date: 10/29/2009.

Physical Loan Application Deadline Date: 11/13/2009.

EIDL Loan Application Deadline Date: 06/14/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Administrator's disaster declaration for the State of California, dated 09/14/2009 is hereby amended to establish the incident period for this disaster as beginning 08/26/2009 and continuing through 09/25/2009.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: October 29, 2009.

Karen G. Mills,

Administrator.

[FR Doc. E9–26768 Filed 11–5–09; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rule 17Ad–11; SEC File No. 270–261; OMB Control No. 3235–0274]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17Ad–11 (17 CFR 240.17Ad–11) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17Ad–11 requires all registered transfer agents to report to issuers and the appropriate regulatory agency in the event that aged record differences exceed certain dollar value thresholds. An aged record difference occurs when an issuer's records do not agree with those of securityowners as indicated, for instance, on certificates presented to the transfer agent for purchase, redemption or transfer. In addition, the rule requires transfer agents to report to the appropriate regulatory agency in the event of a failure to post certificate detail to the master securityholder file within 5 business days of the time required by Rule 17Ad–10 (17 CFR 240.10). Also, transfer agents must maintain a copy of each report prepared under Rule 17Ad–11 for a period of three years following the date of the report. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule.

Because the information required by Rule 17Ad–11 is already available to transfer agents, any collection burden for small transfer agents is minimal. Based on a review of the number of Rule 17Ad–11 reports the Commission, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation received since 2006, the Commission estimates that 25 respondents will file a total of approximately 30 reports annually. The Commission estimates that each report can be completed in 30 minutes. Therefore, the total annual hourly burden to the entire transfer agent industry is approximately 15 hours (30 minutes multiplied by 30 reports). Assuming an average hourly rate of a transfer agent staff employee of $25, the average total cost of the report is $12.50. The total cost for the approximate 25 respondents is approximately $750.

Written comments are invited on: (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 estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity

of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: October 23, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26751 Filed 11–5–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17Ad–13; SEC File No. 270–263; OMB Control No. 3235–0275.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17Ad–13 (17 CFR 240.17Ad–13) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17Ad–13 requires approximately 150 registered transfer agents to obtain an annual report on the adequacy of internal accounting controls. In addition, transfer agents must maintain copies of any reports prepared pursuant to Rule 17Ad–13 plus any documents prepared to notify the Commission and appropriate regulatory agencies in the event that the transfer agent is required to take any corrective action. The retention period for the report is three years following the date of the report. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. Small transfer agents are exempt from Rule 17Ad–13.

The staff estimates that the average number of hours necessary for each transfer agent to comply with Rule 17Ad–13 is one-hundred fifty hours annually. The total burden is 18,000 hours annually for transfer agents, based upon past submissions. The staff estimates that the average cost per hour is approximately $60. Therefore, the total cost of compliance for transfer agents is $1,080,000.

Written comments are invited on: (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 estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: October 23, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26753 Filed 11–5–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form N–8B–2; SEC File No. 270–186; OMB Control No. 3235–0186.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form N–8B–2 (17 CFR 274.12) is the form used by unit investment trusts (''UITs'') other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor, to comply with the filing and disclosure requirements imposed by section 8(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(b)). Form N–8B–2 requires disclosure about the organization of a UIT, its securities, the personnel and affiliated persons of the depositor, the distribution and redemption of securities, the trustee or custodian, and financial statements. The Commission uses the information provided in the collection of information to determine compliance with section 8(b) of the Investment Company Act.

Based on the Commission's industry statistics, the Commission estimates that there would be approximately two initial filings on Form N–8B–2 and 14 post-effective amendment filings to the Form annually. The Commission estimates that each registrant filing an initial Form N–8B–2 would spend 44 hours in preparing and filing the Form and that the total hour burden for all initial Form N–8B–2 filings would be 88 hours. Also, the Commission estimates that each UIT filing a post-effective amendment to Form N–8B–2 would spend 16 hours in preparing and filing the amendment and that the total hour burden for all post-effective amendments to the Form would be 224 hours. By combining the total hour burdens estimated for initial Form N–8B–2 filings and post-effective amendments filings to the Form, the Commission estimates that the total annual burden hours for all registrants on Form N–8B–2 would be 312. Estimates of the burden hours are made solely for the purposes of the PRA, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

The information provided on Form N–8B–2 is mandatory. The information provided on Form N–8B–2 will not be kept confidential. 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.

Written 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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Boucher, Director/CIO, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: October 29, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26752 Filed 11–5–09; 8:45 am]

BILLING CODE 8011–01–P

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 its annual forum on small business capital formation on November 19, 2009 beginning at 9 a.m.

The forum will include roundtables focusing on the state of small business capital formation and the SEC's accredited investor definition for private and limited offerings.

The roundtables will take place in the Auditorium of the Commission's headquarters at 100 F Street, NE., Washington, DC and will be open to the public with seating on a first-come, first-served basis. Doors will open at 8:30 a.m. Visitors will be subject to security checks.

For further information, please contact Anthony Barone at 202–551–3261.

Dated: November 3, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–26894 Filed 11–4–09; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Minecore International, Inc.; Order of Suspension of Trading

November 4, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Minecore International, Inc. (''Minecore'') because it has not filed a periodic report since its 10–KSB for the fiscal year ending December 31, 2001, filed on June 30, 2004.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Minecore. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of Minecore is suspended for the period from 9:30 a.m. EST on November 4, 2009, through 11:59 p.m. EST on November 17, 2009.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E9–26896 Filed 11–4–09; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60908; File No. SR–NYSEAmex–2009–77]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex, LLC Amending Its Schedule of Fees and Charges for Exchange Services

October 30, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 27, 2009, NYSE Amex LLC (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to its Schedule of Fees and Charges for Exchange Services (''Schedule'') by waiving the Cancellation Fee until February 1, 2010. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Cancellation Fee is currently waived until November 1, 2009.[4] Due to competitive concerns in the options marketplace and customer feedback, the Exchange hereby proposes to continue to waive the Cancellation Fee until February 1, 2010. At that time, the Exchange will reevaluate its need to implement the fee, in light of current market conditions.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and Section 6(b)(4),[6] in particular, in that it provides for the equitable allocation of dues, fees and other charges among its members and other market participants that use the trading facilities of NYSE Amex Options. Under this proposal, all similarly situated members and other Exchange participants of NYSE Amex

[4] *See* Securities Exchange Act Release No. 34–60452 (August 5, 2009), 74 FR 40861 (August 13, 2009) (SR–AMEX–2009–54).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

Options will be charged the same reasonable dues, fees, and other charges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[7] of the Act and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Amex.

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–NYSEAmex–2009–77 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–NYSEAmex–2009–77. 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 onlyinformation that you wish to make publicly available. All submissions should refer to File Number SR–NYSEAmex–2009–77 and should be submitted on or before November 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26750 Filed 11–5–09; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60907; File No. SR–NYSEAmex–2009–73]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Commentary .04 to Rule 904C

October 30, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that, on October 19, 2009, NYSE Amex LLC (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add Commentary .04 to Rule 904C to clarify position limits on reduced-value index options. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to define and clarify the treatment of positions in reduced-value index options. NYSE Amex Rule 904C describes Position Limits for both Broad Stock Index Groups and Stock Index Industry Groups. Rule 904C does not describe aggregation requirements for reduced-value index options, nor does it describe the relationship of a position in a reduced-value index option to a position in a full-value index option.

Occasionally, when an index level is high it becomes less desirable for trading options because of the large amount of capital involved in maintaining margin. Additionally, because of the linear nature of options premiums, the premium for an at-the-money call on an index level of 500 will be ten times the premium for an at-the-money call at an index level of 50, and thus more expensive to trade. To

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

address this situation, the Exchange may list options on a reduced-value index, in which the full index value is divided by a set amount, and the new, reduced-value index becomes the underlyer for a class of options.

NYSE Amex is proposing to add Commentary .04 to Rule 904C to require positions in reduced-value index options to be aggregated with any positions in options on the full-value of the same index. Additionally, Commentary .04 will explicitly state that the positions in reduced-value index options will be treated in the same ratio to a full-value index option position as the ratio between the reduced value index and the full value index. The Commentary is based on similar rule provisions of the Chicago Board Options Exchange, Inc. (''CBOE''), NASDAQ OMX PHLX (''PHLX''), and NYSE Arca, Inc.[3]

As an example, suppose that the Exchange listed options on the XXX narrow based index, and that the index had a position limit determined by Rule 904C of 31,500 contracts. If the Exchange then listed options on a one-fifth reduced-value of XXX, and designated it as XXR, then the position of one contract in XXR would be treated as the equivalent to one-fifth of a contract in XXX. The resultant position limit for XXR would be 157,500 contracts ($5 \times 31{,}500$).

Positions in XXX and XXR would be aggregated such that the combination of XXX contracts and one-fifth of XXR contracts could not exceed 31,500.

The Exchange believes that definition and clarification of the requirements for the treatment of positions in reduced value index options will reduce confusion regarding the application of the Rules and ensure compliance with position limit requirements.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[4] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5)[5] in particular in that it is designed to promote just and equitable principles if 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, by requiring positions in reduced–value index options to be aggregated with any positions in full-value index options, and to clarify how contracts in reduced-value index options are counted.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[8] However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange notes that the proposal is substantially similar to the rules of other options exchanges[10] and serves to treat NYSE Amex users with positions in reduced-value index options in the same manner as they would be treated on the other options exchanges. In addition, the Exchange notes that waiving the 30-day operative delay will allow it to immediately offer market participants options in reduced value index products on the same basis as they are offered on other exchanges. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and hereby designates the proposal as operative upon filing with the Commission.[11]

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEAmex–2009–73 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–NYSEAmex-2009–73. 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

[3] *See* CBOE Rule 24.4(d) and 24.4A(c); PHLX Rule 1001A (e); and NYSE Arca Rule 5.15(c).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission 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 satisfied this requirement.

[9] *Id.*

[10] *See supra* note 3.

[11] For the 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).

available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–73 and should be submitted on or before November 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26749 Filed 11–5–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60905; File No. SR–NASDAQ–2009–093]

Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Opening of Trading on the NASDAQ Options Market

October 30, 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 26, 2009, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''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 is filing a proposal for the NASDAQ Options Market (''NOM'' or ''Exchange'') to modify Chapter VI, Section 8 of the Exchange's rules, dealing with the Nasdaq Opening Cross. The Exchange proposes to implement this change on or about November 23, 2009.

The text of the proposed rule change is available from Nasdaq's Web site at *http://nasdaq.cchwallstreet.com,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

Nasdaq proposes to modify Chapter VI, Section 8 of the rules governing NOM, and in particular governing the opening of trading in that market. Since NOM was launched on March 31, 2008, Nasdaq has monitored the operation of the market to identify instances where market efficiency can be enhanced.[3] Nasdaq believes that the opening of the market, while currently quite effective, can be further enhanced.

Currently, pursuant to Chapter VI, Section 8(b) of NOM's rules, the Nasdaq Opening Cross occurs at 9:30 a.m., unless the Opening Cross is delayed pursuant to Section 8(b)(5) of Chapter VI in order to avoid opening at a price that is away from the prevailing market. Pursuant to that provision, the opening is delayed if the Nasdaq BBO after execution of the opening print would be wider than pre-determined authorized trading thresholds. In the event that no Opening Cross occurs due to insufficient interest, Nasdaq systematically delays the opening of trading if the NBBO (which includes the non-firm Nasdaq BBO) is wider than certain spread requirements set from time to time by Nasdaq management. Thus, both the NBBO and the Nasdaq BBO are currently analyzed by NOM when determining to open trading, in order to ensure opening the market in an orderly fashion. If a delay occurs pursuant to Section 8(b)(5) of Chapter VI, the Opening Cross (and thus regular market trading) does not commence until such time as it is determined that the width requirements can be met.[4]

The Exchange is proposing to alter its methodology for opening trading by deleting the delay provisions of Section 8(b)(5) of Chapter VI, and instead requiring certain other preconditions to be met. Additionally, Section 8(b)(2)(A) of Chapter VI would be amended to require the Nasdaq Opening Cross to occur at the price that maximizes the number of contracts of Eligible Interest[5] in NOM to be executed at or within the NBBO.

In order to improve the opening process on NOM by streamlining the opening timeline and providing further price protection to orders received prior to market open, Nasdaq is proposing to revise Section 8(b) of Chapter VI to permit the Opening Cross to occur at or after 9:30 if there is no Imbalance,[6] if the dissemination of a quote or trade by the Market for the Underlying Security[7] has occurred (or, in the case of index options, the Exchange has received the opening price of the underlying index) and if a certain number (as the Exchange may determine from time to time) of other options exchanges have disseminated a firm quote on the Options Price Reporting Authority (''OPRA''). If all the conditions specified

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For instance, in May 2008 Nasdaq filed a proposed rule change to enhance its opening process by (1) delaying the Opening Cross in the event that after the execution of the Opening Cross the NOM best bid and offer would be outside certain pre-determined threshold amounts, and (2) delaying the opening of trading if after the opening print the NOM best bid and offer would be outside the same pre-determined threshold amounts in instances where there is insufficient interest available to initiate the Opening Cross. *See* Securities Exchange Act Release No. 57822 (May 15, 2008), 73 FR 29800 (May 22, 2008) (SR–NASDAQ–2008–045). In June 2008 Nasdaq filed a proposed rule change to allow the opening of trading in those instances where trading interest at the National Best Bid and Offer (''NBBO''), which includes the non-firm Nasdaq Best Bid and Offer (Nasdaq BBO), is within the currently authorized trading thresholds. *See* Securities Exchange Act Release No. 57977 (June 17, 2008), 73 FR 35429 (June 23, 2008) (SR–NASDAQ–2008–052).

[4] Except for executions arising from the Opening Cross, executions are only permitted if they will not result in a trade-through violation of the NBBO as described in Chapter VI, Sec. 7(b)(3)(C) of the NOM rules.

[5] ''Eligible Interest'' is defined in Section 8(a)(1) [sic] of Chapter VI as any quotation or any order that may be entered into the system and designated with a time-in-force of IOC, DAY, GTC, or EXPR.

[6] ''Imbalance'' is defined in Section 8(a)(1) of Chapter VI as the number of contracts of Eligible Interest that may not be matched with other order contracts at a particular price at any given time.

[7] New Section 8(a)(5) of Chapter VI would define ''Market for the Underlying Security'' as meaning either the primary listing market, the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), or the first market to open the underlying security, as determined by the Exchange on an issue-by-issue basis and announced to the membership on the Exchange's Web site.

in Section 8(b) of Chapter VI have been met except that there is an Imbalance, Section 8(b)(5) would require one additional Order Imbalance Indicator message to be disseminated, after which the Opening Cross would occur, executing the maximum number of contracts. Any remaining Imbalance that is not executable in the Opening Cross would be canceled.

By amending the NOM rules as explained above, Nasdaq accomplishes two main objectives. First, relying on a quote or trade of the underlying asset upon which a particular option is based aligns the NOM rules with accepted practices on various other options exchanges.[8] Second, waiting for the dissemination of firm quotes from other options exchanges allows NOM to build an NBBO upon which it can bound the Opening Cross. This adds an additional layer of protection to customers entering orders into the market and assists in creating an orderly opening to trading.[9]

Proposed Section 8(c) of Chapter VI governs situations in which the requisite number of firm quotes have not been disseminated for an option by other options exchanges. No Opening Cross will occur if firm quotes are not disseminated for an option by the predetermined number of options exchanges by a specific time during the day that the Exchange determines. In that case, provided dissemination of a quote or trade by the Market for the Underlying Security has occurred (or, in the case of index options, the Exchange has received the opening price of the underlying index), the option will open for trading. However, if there is interest in the Opening Cross, the option will not open for trading in that option until the orders that would be executed in the Opening Cross are resolved through the cancellation or modification of the orders by the entering party or parties.

In connection with the Opening Cross, pursuant to Section 8(b)(1) of Chapter VI Nasdaq disseminates an Order Imbalance Indicator beginning at 9:25 a.m. The Order Imbalance Indicator for the Opening Cross includes, among other information, a Current Reference Price, which generally is the single price at which the maximum number of contracts of Eligible Interest can be paired. Section 8(a)(2)(A)(i) of Chapter VI is proposed to be amended so that the definition of ''Current Reference Price'' is limited to the single price at which the maximum number of contracts of Eligible Interest can be paired at or within the NBBO. The Exchange believes that limiting the opening execution price to be at or within the NBBO will provide customers with prices that are more aligned with prices available across the national option exchange system. If there is more than one such price, Sections 8(a)(2)(A)(ii)—(iv) provide certain ''tie-breaker'' rules to determine the Current Reference Price. The ''tie-breaker'' rule of Section 8(a)(2)(A)(iv) is proposed to be amended such that the Current Reference Price provided for in that rule would be the price that is closest to the midpoint of the NBBO (as opposed to the current rule which would result in the price that is closest to the midpoint price of the interest available in NOM the time of the Opening Cross).

Finally, references to the ''Nasdaq Opening/Halt Cross'' are being replaced in Chapter VI, Section 8 with references to the ''Nasdaq Opening Cross''. This housekeeping change is necessary to reflect that following a trading halt, trading resumes as specified in Chapter V, Section 4 (Resumption of Trading After a Halt) rather than as specified in Chapter VI, Section 8.[10]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5) of the Act [12] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. Nasdaq believes that the proposal is consistent with this standard because the proposed rule change is designed to improve execution quality at the critical opening of the market. By waiting for the Market for the Underlying Security to be open, liquidity providers on the Exchange will have better information on which to base their quotes and will thus provide better markets for investor orders. Additionally, the Exchange believes that limiting the opening execution price to be at or within the NBBO will provide customers with prices that are better aligned with the national option exchange system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange believes that the foregoing proposed rule change effects a change in an existing order-entry or trading system pursuant to Section 19(b)(3)(A) [13] of the Act, and Rule 19b-4(f)(5) [14] thereunder, which renders the proposal effective upon filing with the Commission. The Exchange believes that the proposed rule change effects a change in an existing order-entry or trading system that does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and does not have the effect of limiting the access to or availability of the system. Specifically, the proposed rule change will benefit the protection of investors and the public interest by enhancing market quality and protecting investors and market participants from executions that are away from the prevailing market. The proposed rule change does not place a burden on competition but rather enhances competition among the markets. The proposed rule change does not limit access to or availability of the system. To the contrary, Nasdaq believes that the proposed rule change will prompt additional market participants to utilize the system at the opening of trading. NOM's participants will not need to make systems changes relating to the changes proposed by NOM in this proposed rule change.

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

[8] *See, e.g.,* Section (j) of NASDAQ OMX PHLX Rule 1017, Openings in Options, and Chicago Board Options Exchange Chapter VI, Rule 6.2B, Hybrid Opening System (''HOSS''), Section (b).

[9] NASDAQ OMX PHLX has a similar process in which it considers the NBBO before executing. *See* NASDAQ PHLX Rule 1017(l)(ii)(C).

[10] When Nasdaq first proposed its options trading rules, it planned to resume trading by operating a ''Halt Cross,'' which it originally described in Chapter VI, Section 8. Nasdaq later amended the proposed rules to remove the Halt Cross and to make clear that trading after a halt would ''resume'' rather than ''open.'' *See* Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approval order regarding NOM Rules including Chapters III and XIV).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C.78s(b)(3)(A).

[14] 17 CFR 240.19b-4(f)(5).

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–2009–093 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–2009–093. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2009–093 and should be submitted on or before November 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–26748 Filed 11–5–09; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6802]

Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

DATES: *Effective Date:* As shown on each of the 20 letters.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Kovac, Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2861.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

September 18, 2009 (Transmittal No. DDTC 005–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to Oman and the United Arab Emirates to support maintenance and reconstitution of Prepositioned War Reserve Material on behalf of U.S. Air Force Central Command (USCENTAF) within its Area of Responsibility in Southwest Asia.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

September 23, 2009 (Transmittal No. DDTC 026–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services for the upgrade and expansion of the Saudi Arabia National Guard Tactical Communications Systems for end-use by the Saudi Arabia Ministry of Defense.

The United States Government is prepared to license the transfer of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

September 23, 2009 (Transmittal No. DDTC 045–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and defense articles, including technical data,

related to the design, manufacture, test, and delivery of the New Dawn commercial communication satellite, ground system equipment and associated software, and the Dynamic Satellite Simulator for Mauritius.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 18, 2009 (Transmittal No. DDTC 064–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, as amended, I am transmitting, herewith, certification of an application for the export of defense articles or defense services to be sold under a contract in the amount of $50,000,000 or more.

The transactions contained in the attached certification concern future commercial activities with Russia, Denmark, Ukraine, and Norway related to the launch of all commercial and foreign non-commercial satellites from the Pacific Ocean utilizing a modified oil platform.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 18, 2009 (Transmittal No. DDTC 066–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services, to Israel for the manufacture of various F–16 components for end use by the governments of Bahrain, Belgium, Chile, Denmark, Egypt, Greece, Israel, Italy, Jordan, Morocco, The Netherlands, Norway, Oman, Pakistan, Poland, Portugal, the Republic of Korea, Singapore, Taiwan, Thailand, Turkey, the United Arab Emirates, and the United States.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 22, 2009 (Transmittal No. DDTC 070–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed agreement for the export of defense articles or defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Saudi Arabia to provide support for the maintenance of the S–92A helicopter, SA–92 Ground Based Trainer, and night vision goggles owned and operated by the Government of Saudi Arabia—Ministry of the Interior (MOI).

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 22, 2009 (Transmittal No. DDTC 079–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction described in the attached certification involves the transfer of defense articles, including technical data, and defense services to support the assembly in Canada of 25mm HEI–T and TP–T Ammunition for end use by the Canadian Armed Forces.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 18, 2009 (Transmittal No. DDTC 081–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of hardware, technical data, and defense services to Italy for the manufacture of T700/T6A aircraft engine parts and assembly of these engines for the Italian EH–101 helicopter program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains

business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 18, 2009 (Transmittal No. DDTC 086–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of Inertial Systems derived from the H–423 Ring Laser Gyro based Inertial Navigation System for end-use by the Ministry of Defense of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 18, 2009 (Transmittal No. DDTC 089–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles related to firearms in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, technical data, and defense services related to raw aluminum forgings for use in the manufacture of firearms for end-use by firearms manufacturers located in the countries or governments of the United States, United Kingdom, NATO, Japan, Australia, New Zealand, and Switzerland.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 29, 2009 (Transmittal No. DDTC 096–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of MK 32 MOD 9 Surface Vessel Torpedo Tubes for end use by the Commonwealth of Australia, Department of Defence.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 22, 2009 (Transmittal No. DDTC 097–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transport of defense articles, including technical data, and defense services to the Republic of Korea to support the manufacture of AH–64D fuselages and fuselage parts for [company name deleted].

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 22, 2009 (Transmittal No. DDTC 100–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to support the Australian F/A–18 Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 22, 2009 (Transmittal No. DDTC 101–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military

equipment abroad and the export of defense articles and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan for the manufacture of J79 engine parts for end use by the Japanese Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 22, 2009 (Transmittal No. DDTC 102–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of sixteen CH–47F Chinook Helicopters for the Italian Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 23, 2009 (Transmittal No. DDTC 106–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, including technical data, and defense services for design, manufacture and delivery of the JCSAT–13 Commercial Communications Satellite Program to Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 24, 2009 (Transmittal No. DDTC 108–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, including technical data, and defense services to support the Proton launch of the W7 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 29, 2009 (Transmittal No. DDTC 114–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles, to include technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services to Japan to support the manufacture of F100 Air Turbine Engines and Parts for the Ministry of Defense of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 23, 2009 (Transmittal No. DDTC 116–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, to include technical data, and defense services for the manufacture of the Mini-Pointer/Tracker, a component of the Mini-Pointer/Tracker Assembly, for the Large Aircraft Infrared Countermeasure System for end-use by the U.S. Department of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

September 22, 2009 (Transmittal No. DDTC 126–09)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the transfer of defense articles, technical data, and defense services to Russia for the RD–180 Liquid Propellant Rocket Engine Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

Dated: October 14, 2009.

Robert S. Kovac,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. E9–26819 Filed 11–5–09; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Availability of a Record of Decision (ROD) for Streamlining the Processing of Experimental Permit Applications

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

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.),* Council on Environmental Quality NEPA implementing regulations (40 CFR parts 1500–1508), and FAA Order 1050.1E, Change 1, the FAA is announcing the availability of the ROD for streamlining the environmental review of experimental permit applications for the launch and/or reentry of reusable suborbital rockets. The Federal action selected in the ROD is the FAA's issuance of experimental permits for the launch and reentry of reusable suborbital rockets from both FAA-licensed and non-licensed launch sites using the *Final Programmatic Environmental Impact Statement for Streamlining the Processing of Experimental Permit Applications* (PEIS), to the maximum extent feasible, as the basis for determining the environmental consequences of issuing the permits.

The ROD provides a description of the Proposed Action, which was FAA's Preferred Alternative and the environmentally preferable alternative, and the No Action Alternative. It includes a discussion of environmental impacts associated with the Proposed Action for each resource area, as analyzed in the PEIS. The ROD does not propose site-specific mitigation measures. Rather, launch operators would be expected to implement site-specific mitigation measures that are consistent with those currently employed by the eight launch facilities addressed in the PEIS. Additional site-specific mitigation measures could be developed and presented in the site-specific NEPA documents that would tier from the PEIS.

The PEIS serves as the primary reference and basis for preparation of the ROD. The FAA prepared the PEIS with cooperation from the National Aeronautics and Space Administration (NASA) and the U.S. Air Force. The PEIS documents the analysis of the environmental consequences associated with the above referenced Proposed Action and No Action Alternative.

The FAA has posted the ROD and PEIS on the FAA Web site at: *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/review/documents_completed/.*

Based on the potential environmental impacts identified in the PEIS, applicable regulatory requirements, public and agency comments, and the FAA's responsibilities to support the continued growth and expansion of the U.S. space transportation industry, the FAA has decided to implement the Proposed Action (Preferred Alternative) as presented in the PEIS.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Czelusniak, Environmental Specialist, FAA/AST–100, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–5924; or e-mail *Daniel.Czelusniak@faa.gov.*

Issued in Washington, DC on October 15, 2009.

Michael McElligott,

Manager, Space Systems Development Division.

[FR Doc. E9–26781 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 693]

Oral Argument

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of oral argument.

SUMMARY: By a decision served on November 3, 2009, the Board announced that it will hold oral arguments in two cases: STB Finance Docket No. 35225, *San Benito Railroad LLC–Acquisition Exemption–Certain Assets of Union Pacific Railroad Company* (*San Benito RR*); and STB Docket No. 42114, *US Magnesium, L.L.C.* v. *Union Pacific Railroad Company* (*USM* v. *UP*).

Dates/Location: The oral arguments will take place on Monday, November 23, 2009, at 9:30 a.m., in the Board's hearing room at the Board's headquarters located at 395 E Street, SW., Washington, DC. By November 19, 2009, the parties should submit to the Board the name of the counsel who will be presenting argument, the party counsel will be representing, and the requested time reserved for rebuttal if the party is the movant or complainant.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn, (202) 245–0382.

Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: In STB Finance Docket No. 35225, San Benito Railroad LLC (San Benito), a noncarrier, has filed a verified notice of exemption to acquire from Union Pacific Railroad Company (UP) certain railroad assets, including approximately 12.43 miles of rail line extending between approximately milepost 0.7 (near Hollister, CA) and approximately milepost 12.50 (near Carnadero, CA) in San Benito County. San Benito simultaneously filed a motion to dismiss the notice of exemption. San Benito seeks a determination from the Board that it would not become a common carrier and that the Board would not have jurisdiction over the proposed acquisition because the parties have structured the transaction pursuant to the terms and conditions of the Interstate Commerce Commission's decision in *State of Maine–Acq. and Op. Exempt.,* 8 I.C.C. 2d 935 (1991) (*State of Maine*), and subsequent Board decisions addressing *State of Maine.*

The Brotherhood of Maintenance of Way Employees Division/IBT and the Brotherhood of Railroad Signalmen (collectively ''Unions'') filed a response in opposition to San Benito's motion to dismiss. The Unions argue that *State of Maine* was wrongly decided and must be overturned because it is contrary to the Interstate Commerce Act. The Board will hear argument on the motion to dismiss the notice of exemption.

In STB Docket No. 42114, US Magnesium, L.L.C. (USM), has filed a complaint challenging the reasonableness of rates charged by Union Pacific Railroad Company (UP) for the movement of chlorine by tank car from: (1) Rowley, UT, to Eloy, AZ; and (2) Rowley to Sahuarita, AZ. USM seeks relief pursuant to the simplified procedures set forth in *Simplified Standards for Rail Rate Cases,* STB Ex Parte No. 646 (Sub-No. 1) (STB served Sept. 5, 2007). USM has elected to utilize the Three-Benchmark method, under which the total available rate relief is limited to $1 million over a 5-year period. UP has answered the complaint and both parties have submitted their evidence. The Board will hold an oral argument on this rate complaint.

The STB requests that all persons attending the hearing use the Patriots Plaza Building's main entrance at 395 E Street, SW. (closest to the northeast corner of the intersection of 4th and E Streets). There will be no reserved seating, except for those scheduled to present oral arguments. The building will be open to the public at 7 a.m., and participants are encouraged to arrive early. There is no public parking in the building. The oral arguments will be open for public observation, but only counsel for the parties will be permitted to present argument. A video broadcast of the oral argument will be available via the Board's Web site at *http://www.stb.dot.gov,* under ''Information Center''/''Webcast''/''Live Video'' on the home page.

Additional information is contained in the Board's decision. A copy of the Board's decision is available for inspection or copying at the Board's Public Docket Room, Room 131, 395 E Street, SW., Washington, DC 20423–0001, and is posted on the Board's Web site, *http://www.stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: November 3, 2009.

By the Board, Anne K. Quinlan, Acting Secretary.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–26799 Filed 11–5–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket ID. FMCSA–2009–0206]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 27 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective November 6, 2009. The exemptions expire on November 7, 2011.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at *http://Docketsinfo.dot.gov.*

Background

On August 26, 2009, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (74 FR 43217). That notice listed 27 applicants' case histories. The 27 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 27 applications on their merits and made a determination to grant exemptions to all of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 27 exemption applicants listed in this notice are in this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, enucleation, toxoplasmosis, bullus keratopathy, retinal vein occlusion, prosthesis, retinal detachment, retinal lesion, macular degeneration, cataract, optic nerve damage, diabetic retinopathy, myopic degeneration, and loss of vision due to trauma. In most cases, their eye conditions were not recently developed. All but 6 of the applicants were either born with their vision impairments or have had them since childhood. The 6 individuals who sustained their vision conditions as adults have had them for periods ranging from 3 to 55 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. While possessing a valid CDL or non-CDL, these 27 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 36 years. In the past 3 years, two of the drivers had convictions for traffic violations and one of the drivers was involved in a crash.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the August 26, 2009 notice (74 FR 43217).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at docket number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of the American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 27 applicants, one of the applicants had a traffic violation for speeding, one of the applicants had a traffic violation for failure to obey a traffic sign, and one applicant was involved in a crash. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian

and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 27 applicants listed in the notice of August 26, 2009 (74 FR 43217).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 40 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

The Pennsylvania Department of Transportation expressed that it had reviewed the driving records for Benjamin Sauder and was in favor of granting a Federal vision exemption to him.

Conclusion

Based upon its evaluation of the 27 exemption applications, FMCSA exempts: Martin Anaya, Gregory G. Barthell, Donald R. Beauchesne, John E. Bell, Richard J. Decker, James E. Fix, Dean A. Gary, James P. Greene, Larry L. Harris, Roger D. Kloss, Steven R. Lechtenberg, Oscar N. Lefferts, David C. Lyles, Jesse R. McClary, Sr., Ignar L. Meyer, James C. Miller, Norman V. Myers, Steven D. O'Donnell, Benjamin R. Sauder, Mark L. Simmons, Don W. Smith, Robert E. Smith, Robert E. Soto, Jerry W. Stanfill, Charles M. Thomas, Roger L. Unser, and Virgil E. Walker from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: October 30, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9–26779 Filed 11–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5578; FMCSA–2005–21711; FMCSA–2007–27897; FMCSA–2007–28695; FMCSA–2007–29019]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 23 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective November 28, 2009. Comments must be received on or before December 7, 2009.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–1999–5578; FMCSA–2005–21711; FMCSA–2007–27897; FMCSA–2007–28695; FMCSA–2007–29019, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the

comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202)-366–4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 23 individuals who have requested a renewal of their exemption in accordance with FMCSA procedures. FMCSA has evaluated these 23 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Robert W. Bequeaith, William R. Braun, Lloyd K. Brown, Kecia D. Clark-Welch, Tommy R. Crouse, Ben W. Davis, Charles A. DeKnikker, Sr., Earl M. Frederick, Loren H. Geiken, John N. Guilford, John E. Halcomb, Rayford R. Harper, Michael A. Hershberger, Patrick J. Hogan, Todd A. McBrain, Richard K. Mell, Amilton T. Monteiro, David G. Oakley, John S. Olsen, Robert G. Owens, Nathan D. Peterson, Thomas J. Prusik, Glen W. Sterling.

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 23 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 27027; 64 FR 51568; 66 FR 48504; 68 FR 54775; 70 FR 53412; 72 FR 52422; 70 FR 48797; 70 FR 61493; 72 FR 64273; 72 FR 39879; 72 FR 52419; 72 FR 46261; 72 FR 54972; 72 FR 58362; 72 FR 67344). Each of these 23 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by December 7, 2009.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 23 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA.

The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: October 30, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9–26780 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–28695]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement

if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on September 25, 2009.

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 12 renewal applications, FMCSA renews the Federal vision exemptions for Dean N. Brown, Matthew R. Floyd, Christian L. Gremillion, Frank D. Konwinski, Jr., Christian E. Merseth, Kenneth D. Perkins, Terry W. Pope, Daniel T. Rhodes, Stephen E. Shields, Ricky J. Siebels, Don S. Williams, and Robert L. Williams, Jr.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: October 30, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9–26782 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0140]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel USA 9.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0140 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 7, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0140. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel USA 9 is:

Intended Commercial Use of Vessel: ''Sailing instruction and charter.''

Geographic Region: ''California.''

Privacy Act

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

Dated: October 22, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. E9–26776 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009–0141]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MERRYMAKIN.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized

to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0141 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 7, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0141. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MERRYMAKIN is:

Intended Commercial Use of Vessel: ''Carry passengers for hire.''

Geographic Region: ''Washington, Oregon, Alaska (excluding Southeast Alaska), California''.

Privacy Act

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

Dated: October 22, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. E9–26775 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0143]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MINA.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0143 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 7, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0143. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MINA is:

Intended Commercial Use of Vessel: ''It will be used for catamaran sailing courses (A.S.A. equivalent) and third party charter.''

Geographic Region: ''Texas, Louisiana, Alabama, Mississippi, Florida.''

Privacy Act

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

Dated: November 2, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. E9–26777 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0139]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel USA 10.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0139 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 7, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0139. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel USA 10 is:

Intended Commercial Use of Vessel: ''Sailing instruction and charter.''

Geographic Region: ''California''.

Privacy Act

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

Dated: October 22, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. E9–26778 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held on the National Book-Entry System

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury is announcing a new fee schedule applicable to transfers of U.S. Treasury book-entry securities maintained on the National Book-Entry System (NBES) that occur on or after January 4, 2010. The basic fee for the transfer of a Treasury book-entry security will increase from $.30 to $.31. The Federal Reserve funds movement fee will increase from $.05 to $.06, resulting in a combined fee of $.37 for each Treasury securities transfer. In addition to the basic fee, off-line transfers have a surcharge. The surcharge for an off-line Treasury book-entry transfer will remain $33.00.

DATES: *Effective Date:* January 4, 2010.

FOR FURTHER INFORMATION CONTACT: James Sharer, Director of Book-Entry and Program Support, Bureau of the Public Debt, 799 9th Street, NW., Washington, DC 20239, (202) 504–3550; Kristina Yeh, Financial Systems Analyst, Bureau of the Public Debt, 799 9th Street, NW., Washington, DC 20239, (202) 504–3550.

SUPPLEMENTARY INFORMATION: The Department of the Treasury has established a fee structure for the transfer of Treasury book-entry securities maintained on NBES. Treasury reassesses this fee structure periodically, based on our review of the latest book-entry costs and volumes.

For each Treasury securities transfer or reversal sent or received on or after January 4, 2010, the basic fee will increase to $.31 from $.30. The surcharge for an off-line Treasury book-entry transfer will remain $33.00.

The basic transfer fee assessed to both sends and receives is reflective of costs associated with the processing of a security transfer. The off-line surcharge reflects the additional processing costs associated with the manual processing of off-line securities transfers.

The Treasury does not charge a fee for account maintenance, the stripping and reconstitution of Treasury securities, the wires associated with original issues, or interest and redemption payments. The Treasury currently absorbs these costs.

The fees described in this notice apply only to the transfer of Treasury book-entry securities held on NBES. Information concerning fees for book-entry transfers of Government Agency securities, which are priced by the Federal Reserve System, is set out in a separate **Federal Register** notice published by the Board of Governors of the Federal Reserve System.

The following is the Treasury fee schedule that will take effect on January 4, 2010, for the book-entry transfers on NBES:

TREASURY-NBES FEE SCHEDULE[1] EFFECTIVE JANUARY 4, 2010

[In dollars]

Transfer type	Basic fee	Off-line surcharge	Funds[2] movement fee	Total fee
On-line transfer originated	.31	N/A	.06	.37
On-line transfer received	.31	N/A	.06	.37
On-line reversal transfer originated	.31	N/A	.06	.37
On-line reversal transfer received	.31	N/A	.06	.37
Off-line transfer originated	.31	33.00	.06	33.37
Off-line transfer received	.31	33.00	.06	33.37
Off-line account switch received	.31	.00	.06	.37
Off-line reversal transfer originated	.31	33.00	.06	33.37
Off-line reversal transfer received	.31	33.00	.06	33.37

[1] The Treasury does not charge a fee for account maintenance, the stripping and reconstituting of Treasury securities, the wires associated with original issues, or interest and redemption payments. The Treasury currently absorbs these costs.

[2] The funds movement fee is not a Treasury fee, but is charged by the Federal Reserve for the cost of moving funds associated with the transfer of a Treasury book-entry security.

Authority: 31 CFR 357.45

Dated: October 16, 2009.

Richard L. Gregg,

Acting Fiscal Assistant Secretary.

[FR Doc. E9–26738 Filed 11–5–09; 8:45 am]

BILLING CODE 4810–35–P

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