AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

2–3–10 Wednesday
Vol. 75 No. 22 Feb. 3, 2010

Pages 5481–5674

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register**, *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 75 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

Printed on recycled paper.

Contents

Federal Register

Vol. 75, No. 22

Wednesday, February 3, 2010

Agricultural Marketing Service
NOTICES
Funds Availability:
Specialty Crop Block Grant Program–Farm Bill , 5561–5563

Agriculture Department
See Agricultural Marketing Service
See Forest Service
See Rural Utilities Service

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5596–5598

Centers for Medicare & Medicaid Services
NOTICES
Medicare and Medicaid Programs:
Applications from Hospitals Requesting Waiver for Organ Procurement Service Area , 5599–5601

Coast Guard
RULES
Safety Zones:
AICW Closure Safety Zone for Ben Sawyer Bridge Replacement Project, Sullivans Island, SC, 5511–5513

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5565–5566

Commodity Futures Trading Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Proposed Questionnaire to Regulation 30.10 Relief Recipients, 5576–5578

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5641–5642

Consumer Product Safety Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Flammability Standards for Clothing Textiles and Vinyl Plastic Film, 5578

Copyright Royalty Board
RULES
Determinations of Rates and Terms:
Preexisting Subscription Services and Satellite Digital Audio Radio Services, 5513–5514

Defense Department
NOTICES
Disestablishment of Federal Advisory Committee:
Quadrennial Defense Review Independent Panel, 5578–5579
Privacy Act; Systems of Records, 5579–5581

Department of Transportation
See Pipeline and Hazardous Materials Safety Administration

Energy Department
PROPOSED RULES
Energy Conservation Program:
Energy Conservation Standards for Metal Halide Lamp Fixtures; Public Meeting and Availability of Framework Document, 5544

Environmental Protection Agency
RULES
Approval and Promulgation of Air Quality Implementation Plans:
Indiana; Correction, 5514–5515
Pesticide Tolerances for Emergency Exemptions:
Hexythiazox, 5515–5518
Pesticide Tolerances:
Chlorantraniliprole, 5526–5535
Dithianon, 5518–5522
Spiromesifen, 5522–5526
PROPOSED RULES
Proposed Significant New Use Rule for Multi-walled Carbon Nanotubes, 5546–5551
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5581–5582
Amendments to Terminate Uses:
Methyl Bromide, 5582–5583
Product Cancellation Order and Amendment to Terminate Uses:
Fipronil, 5584–5585
Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations, 5644–5674
Regional Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009:
Albany County Sewer District, New York, 5585–5586
West Milford Township Municipal Utilities Authority, New Jersey, 5586–5588
Regional Waiver of Section 1605 (Buy American requirement) of the American Recovery and Reinvestment Act of 2009:
Richland, WA, for the Purchase of Aerostrip Fine Pore [Bubble] Diffusers Manufactured Outside of the United States, etc. , 5588–5589
Request for Public Nominations of Experts to Conduct a Peer Review of EPA Draft Document:
Advisory Value for Conductivity Using Field Data: Adaptation of EPA's Standard Methodology for Deriving Water Quality Criteria, 5589–5590

Executive Office of the President
See Presidential Documents

See Science and Technology Policy Office

Federal Communications Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5590–5594

Federal Maritime Commission
NOTICES
Agreements Filed, 5595

Federal Railroad Administration
NOTICES
Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief from the Requirements, 5638–5639
Petition for Waiver of Compliance:
Petition for Statutory Exemption, 5640

Federal Transit Administration
NOTICES
Establishment of Emergency Relief Docket (Calendar Year 2010), 5639–5640

Foreign Assets Control Office
RULES
Belarus Sanctions Regulations, 5502–5511

Foreign Claims Settlement Commission
NOTICES
Meetings; Sunshine Act, 5629

Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Disposal of Mineral Materials, 5561
Meetings:
Northeast Oregon Forest Resource Advisory Committee, 5563–5564

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
HIT Policy Committee, 5595
HIT Standards Committee, 5595–5596

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5599
Part C Early Intervention Services Grant Under the Ryan White HIV/AIDS Program, 5603–5604
Privacy Act; Systems of Records, 5604–5608

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection
RULES
Privacy Act of 1974; Implementation of Exemptions:
Department of Homeland Security/ U.S. Customs and Border Protection – 006 Automated Targeting System of Records, 5487–5491
Department of Homeland Security/ U.S. Customs and Border Protection – 007 Border Crossing Information System of Records, 5491–5495
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Communications Unit Leader Prerequisite and Evaluation, 5608–5609
Privacy Act; Systems of Records, 5609–5618

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Multifamily Tenant Characteristics Family Reporting, 5621–5622
Public Housing Contracting with Resident–Owned Businesses, 5620–5621

Indian Affairs Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Acknowledgment of Tribes, 5625–5626

Interior Department
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Reclamation Bureau
NOTICES
Meetings:
Cape Cod National Seashore Advisory Commission, 5622–5623

International Trade Administration
NOTICES
Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination:
Certain Woven Electric Blankets from the People's Republic of China, 5567–5575

Justice Department
See Foreign Claims Settlement Commission

Labor Department
See Occupational Safety and Health Administration
See Workers Compensation Programs Office

Land Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5623–5625

Library of Congress
See Copyright Royalty Board

National Aeronautics and Space Administration
NOTICES
Meetings:
NASA Advisory Council, 5629
NASA Advisory Council; Audit, Finance and Analysis Committee, 5629–5630
NASA Advisory Council; Space Operations Committee, 5630

National Highway Traffic Safety Administration
PROPOSED RULES
Federal Motor Vehicle Safety Standards:
Motor Vehicle Brake Fluids, 5553–5560

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 5602–5603
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 5601–5603
National Institute of Diabetes and Digestive and Kidney Diseases, 5602
National Institute of General Medical Sciences, 5601–5602
National Institute on Aging, 5601

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Bering Sea and Aleutian Islands; Final 2009 and 2010 Harvest Specifications for Groundfish; Correction, 5541–5543
Pacific Cod by Vessels Catching Pacific Cod for Processing by Inshore Component in Central Regulatory Area of Gulf of Alaska, 5541
Fisheries of the Northeastern United States:
Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures, 5537–5541
Reporting Requirement for Midwater Trawl Vessels Fishing (Closed Area I), 5498–5499
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Foreign Fishing Vessels Operating in Internal Waters, 5566
NOAA Cooperative Institutes (CIs):
A CI to Support NOAA Research Facilities in the Pacific Northwest, etc.; Extension of Application Deadlines Dates, 5566–5567
Taking and Importing Marine Mammals:
Navy Training Activities Conducted in the Gulf of Alaska, 5575–5576

National Park Service
NOTICES
Inventory Completion:
Denver Museum of Nature and Science, Denver, CO, 5627
National Register of Historic Places:
Pending Nominations and Related Actions, 5628–5629
Weekly Listing of Historic Properties, 5627–5628

Nuclear Regulatory Commission
RULES
Alternate Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock Events; Correction, 5495–5498
NOTICES
Draft Regulatory Guide; Issuance, Availability, 5630–5631
Environmental Impact Statements; Availability, etc.:
Wolf Creek Nuclear Operating Corp., 5631–5632
Interim Staff Guidance:
Review of Nuclear Power Plant Designs Using a Gas Turbine Driven Standby Emergency Alternating Current Power System, 5632–5633
Reliability Analysis Guidelines, Draft Report for Comment; Extension of Comment Period, 5633–5634

Occupational Safety and Health Administration
PROPOSED RULES
Explosives, 5545–5546

Pipeline and Hazardous Materials Safety Administration
RULES
Pipeline Safety:
Control Room Management/Human Factors, Correction, 5536–5537
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5638
Pipeline Safety:
Implementation of Revised Incident/Accident Report Forms for Distribution Systems, Gas Transmission and Gathering Systems, etc., 5640–5641

Postal Regulatory Commission
NOTICES
Meetings; Sunshine Act, 5634

Presidential Documents
EXECUTIVE ORDERS
Committees; Establishment, Renewal, Termination, etc.:
Financial Capability, President's Advisory Council on; Establishment (EO 13530), 5481–5483
ADMINISTRATIVE ORDERS
Committees; Establishment, Renewal, Termination, etc.:
Nuclear Future, Blue Ribbon Commission on America's; Request for Establishment (Memorandum of January 29, 2010), 5485–5486

Reclamation Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Cle Elum Dam Fish Passage Facilities and Fish Reintroduction Project; Kittitas County, WA; Public Meeting, 5626–5627

Rural Utilities Service
NOTICES
Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act (of 2009):
Plymouth Village Water & Sewer District, NH, 5564–5565

Science and Technology Policy Office
NOTICES
Grand Challenges of the 21st Century; Request for Information, 5634–5636

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 5636

Small Business Administration
NOTICES
Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest:
Ironwood Mezzanine Fund II, L.P., 5634

Social Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5636

State Department
NOTICES
Culturally Significant Objects Imported for Exhibition Determinations:
Architecture as Icon; Perception and Representation of Architecture in Byzantine Art, 5637
Secondary School Student Sponsor On-Site Reviews, 5637–5638

Substance Abuse and Mental Health Services Administration

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5598–5599

Transportation Department
See Federal Railroad Administration
See Federal Transit Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration
RULES
Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, 5535–5536
PROPOSED RULES
Participation by Disadvantaged Business Enterprises in Airport Concessions, 5551–5553

Treasury Department
See Comptroller of the Currency
See Foreign Assets Control Office

U.S. Customs and Border Protection
NOTICES
Cancellation of Customs Broker License, 5618
Final Determination Concerning a Certain Alternator, 5618–5620
New Date for April 2010 Customs Brokers License Examination, 5620

Workers Compensation Programs Office
RULES
Claims for Compensation; Death Gratuity Under the Federal Employees' Compensation Act, 5499–5502

Separate Parts In This Issue

Part II
Environmental Protection Agency, 5644–5674

Reader Aids
Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:

13530 5481

Administrative Orders:

Memorandums:

Memo. of January 29, 2010 5485

6 CFR

5 (2 documents) 5487, 5491

10 CFR

50 5495

Proposed Rules:

431 5544

15 CFR

902 5498

20 CFR

10 5499

29 CFR

Proposed Rules:

1910 5545

31 CFR

548 5502

33 CFR

165 5511

37 CFR

382 5513

40 CFR

52 5514

180 (4 documents) 5515, 5518, 5522, 5526

Proposed Rules:

721 5546

49 CFR

26 5535

192 5536

195 5536

Proposed Rules:

23 5551

571 5553

50 CFR

648 (2 documents) 5498, 5537

679 (2 documents) 5541

Federal Register
Vol. 75, No. 22
Wednesday, February 3, 2010

Presidential Documents

Title 3—

The President

Executive Order 13530 of January 29, 2010

President's Advisory Council on Financial Capability

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy.* To help keep America competitive and assist the American people in understanding and addressing financial matters, and thereby contribute to financial stability, it is the policy of the Federal Government to promote and enhance financial capability among the American people. Financial capability is the capacity, based on knowledge, skills, and access, to manage financial resources effectively. In order to develop this capacity, individuals must have appropriate access to and understanding of financial products, services, and concepts. Financial capability empowers individuals to make informed choices, avoid pitfalls, know where to go for help, and take other actions to improve their present and long-term financial well-being.

Sec. 2. *Establishment of the Council.* There is established within the Department of the Treasury the President's Advisory Council on Financial Capability (Council).

Sec. 3. *Membership and Operation of the Council.* (a) The Council shall consist of:

(i) the Secretary of the Treasury and the Secretary of Education, who may designate a senior official from each of their respective departments to perform their Council duties; and

(ii) not more than 22 members appointed by the President from among individuals not employed by the Federal Government, up to three of whom shall be selected by the President on the basis of their experience in academia or similar research experience related to financial education and financial access.

(b) Members of the Council shall include individuals with relevant backgrounds, such as financial services providers, consumers, access advocates, and educators. Members of the Council appointed by the President pursuant to subsection (a)(ii) of this section, may serve as representatives of individual industries, trade groups, public interest groups, or other organizations. The composition of the Council shall reflect the views of diverse stakeholders.

(c) The President shall designate a Chair and a Vice Chair from among the members of the Council appointed pursuant to subsection (a)(ii) of this section.

(d) Subject to the direction of the Secretary of the Treasury (Secretary), the Chair shall convene and preside at meetings of the Council, determine its agenda, direct its work, and, as appropriate to deal with particular subjects, establish and direct the work of subgroups of the Council that shall consist exclusively of members of the Council.

(e) The Vice Chair shall perform:

(i) the duties of the Chair when the position of Chair is vacant; and

(ii) such other functions as the Chair may from time to time assign.

Sec. 4. *Functions of the Council.* To assist in implementing the policy set forth in section 1 of this order, the Council shall:

(a) collect information and views concerning financial capability from:

(i) officers of executive departments and agencies (including members of the Financial Literacy and Education Commission established under title V of the Fair and Accurate Credit Transaction Act, Public Law 108–159);

(ii) State, local, territorial, and tribal officials;

(iii) financial services providers and consumers, financial access advocates, and financial literacy educators;

(iv) experts on matters relating to the policy set forth in section 1 of this order; and

(v) such other individuals as the Secretary may direct;

(b) advise the President and the Secretary on means to implement effectively the policy set forth in section 1 of this order, including means to:

(i) build a culture of financial capability by promoting messages and lessons about sound financial practices as broadly as possible;

(ii) improve financial education efforts directed at youth, young adults, and adults in schools, workplaces, and other settings through innovative approaches;

(iii) promote access to financial services;

(iv) promote the private-sector development of financial products and services benefitting consumers, especially low- and moderate-income consumers;

(v) educate consumers about effective use of such products and services;

(vi) identify the most important basic financial concepts and actions individuals need to understand and perform to be financially capable;

(vii) identify effective financial education approaches and methods for evaluating the effectiveness of financial education approaches; and

(viii) strengthen and enhance coordination between public and private-sector financial education programs;

(c) periodically report to the President, through the Secretary, on:

(i) the status of financial capability in the United States;

(ii) progress made in implementing the policy set forth in section 1 of this order; and

(iii) recommended means to further implement the policy set forth in section 1 of this order, including with respect to the matters set forth in subsection (b) of this section; and

(d) where appropriate in providing advice and recommendations, take into consideration the particular needs of traditionally underserved populations.

Sec. 5. *Administration of the Council.* (a) To the extent permitted by law, the Department of the Treasury shall provide funding and administrative support for the Council, as determined by the Secretary, to implement this order.

(b) The heads of executive departments and agencies shall provide, as appropriate and to the extent permitted by law, such assistance and information to the Council as the Secretary may request to implement this order.

(c) Members of the Council:

(i) shall serve without any compensation for their work on the Council; and

(ii) while engaged in the work of the Council, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707), consistent with the availability of funds.

(d) The Secretary shall designate an official within the Department of the Treasury to serve as an Executive Director to supervise the administrative support for the Council.

Sec. 6. *Termination of the Council.* Unless extended by the President, the Council shall terminate 2 years after the date of this order.

Sec. 7. *General Provisions.* (a) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act"), may apply to the Council, any functions of the President under the Act, except for that of reporting to the Congress, shall be performed by the Secretary in accordance with the guidelines issued by the Administrator of General Services.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
January 29, 2010.

[FR Doc. 2010–2419
Filed 2–2–10; 8:45 am]
Billing code 3195–W0–P

Presidential Documents

Memorandum of January 29, 2010

Blue Ribbon Commission on America's Nuclear Future

Memorandum for the Secretary of Energy

Expanding our Nation's capacity to generate clean nuclear energy is crucial to our ability to combat climate change, enhance energy security, and increase economic prosperity. My Administration is undertaking substantial steps to expand the safe, secure, and responsible use of nuclear energy. These efforts are critical to accomplishing many of my Administration's most significant goals.

An important part of a sound, comprehensive, and long-term domestic nuclear energy strategy is a well-considered policy for managing used nuclear fuel and other aspects of the back end of the nuclear fuel cycle. Yet the Nation's approach, developed more than 20 years ago, to managing materials derived from nuclear activities, including nuclear fuel and nuclear waste, has not proven effective. Fortunately, over the past two decades scientists and engineers in our country and abroad have learned a great deal about effective strategies for managing nuclear material. My Administration is committed to using this advanced knowledge to meet the Government's obligation to dispose of our Nation's used nuclear material.

Accordingly, I request that you establish a Blue Ribbon Commission on America's Nuclear Future (Commission) and appoint its members. Those members should include recognized representatives and experts from a range of disciplines and with a range of perspectives, and may include participation of appropriate Federal officials. The Commission's business should be conducted in an open and transparent manner.

The Commission should conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle, including all alternatives for the storage, processing, and disposal of civilian and defense used nuclear fuel and nuclear waste. This review should include an evaluation of advanced fuel cycle technologies that would optimize energy recovery, resource utilization, and the minimization of materials derived from nuclear activities in a manner consistent with U.S. nonproliferation goals.

In performing its functions, the Commission should consider a broad range of technological and policy alternatives, and should analyze the scientific, environmental, budgetary, economic, financial, and management issues, among others, surrounding each alternative it considers. Where appropriate, the Commission may also identify potential statutory changes.

The Commission should provide an interim report to you within 18 months of the date of this memorandum, and that report should be made available for public comment. The Commission should provide a final report to you within 24 months of the date of this memorandum. The Department of Energy shall provide funding and administrative support for the Commission, as you determine appropriate, so that it can complete its functions within these time periods. Additionally, all executive departments and agencies shall provide such information and assistance to the Commission as you or the Commission may request for purposes of carrying out the Commission's functions, to the extent permitted by law. Nothing in this memorandum shall be construed to require the disclosure of classified, proprietary, law enforcement sensitive, or other information protected under governing law. This memorandum shall be implemented consistent with applicable law

and subject to the availability of appropriations. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

You are hereby authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
WASHINGTON, January 29, 2010

[FR Doc. 2010–2421
Filed 2–2–10; 8:45 am]
Billing code 6450–01–P

Rules and Regulations

Federal Register
Vol. 75, No. 22
Wednesday, February 3, 2010

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 HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2009–0055]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/U.S. Customs and Border Protection—006 Automated Targeting System of Records

AGENCY: Privacy Office, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of a Department of Homeland Security/U.S. Customs and Border Protection system of records entitled the, "Department of Homeland Security/U.S. Customs and Border Protection—006 Automated Targeting System of Records" from certain provisions of the Privacy Act. Specifically, the Department exempts portions of the Department of Homeland Security/U.S. Customs and Border Protection—006 Automated Targeting system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: *Effective Date:* This final rule is effective February 3, 2010.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Laurence E. Castelli (202–325–0280), Privacy Officer, U.S. Customs and Border Protection, Office of International Trade, Mint Annex, 799 Ninth Street, NW., Washington, DC 20001–4501. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS) published a notice of proposed rulemaking in the **Federal Register**, 72 FR 43567, August 6, 2007, proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records is the DHS/U.S. Customs and Border Protection (CBP)—006 Automated Targeting system. The DHS/CBP—006 Automated Targeting system of records notice was published concurrently in the **Federal Register,** 72 FR 43650, August 6, 2007, and comments were invited on both the notice of proposed rulemaking and system of records notice. Comments were received on both notice of proposed rulemaking and system of records notice.

Public Comments

DHS received thirteen comments on the notice of proposed rulemaking (NPRM) and three comments on the system of records notice (SORN). Of the total sixteen comments: (1) Five comments are duplicate submissions; (2) four comments were erroneously filed relating to a Transportation Security Administration (TSA) publication pertaining to Secure Flight; (3) one comment was erroneously filed relating to a U.S. Customs and Border Protection publication pertaining to the Border Crossing Information system; and (4) of the discrete six comments filed in connection with this system, two comments agreed with the DHS/CBP—006 Automated Targeting (ATS) system of records. The following is an analysis of the substantive related comments and questions submitted by the public.

General Comments

Comment: ATS continues to lack transparency.

Response: DHS disagrees. In recognition of the importance of providing the public with increased notice and transparency regarding CBP's screening efforts, DHS removed ATS from coverage under the legacy Treasury/CS.244 Treasury Enforcement Communication System (66 FR 52984, October 18, 2001), where it has been operational for nearly a decade, and created a separate SORN for ATS (72 FR 43650, August 6, 2007) that details with particularity the collection of information by the system and its use.

Comment: Mission creep is inevitable.

Response: ATS is designed to assist CBP in ensuring compliance not only with customs (Title 19) and immigration laws (Title 8) under its jurisdiction, but also with the numerous other U.S. laws that CBP enforces on behalf of many Federal agencies, such as: (1) The Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401); (2) the Honeybee Act (7 U.S.C. 281–286); (3) the Export Administration Act of 1979 (15 U.S.C. 4605); (4) the Copyright Act (17 U.S.C. 101–120); (5) the Clean Air Act (42 U.S.C. 7521–7543); and (6) the Trading with the Enemy Act (50 U.S.C. App 1–§ 44). By necessity, ATS is designed to accommodate changes in both the law and the intelligence landscape. However, the use of ATS is governed by a number of policy and administrative checks and balances to ensure that ATS, and the PNR, are maintained specifically in the ATS module, referred to as that Automated Targeting System—Passenger (ATS–P), and used in a manner appropriate with the mission of DHS.

Comment: Computer algorithms cannot make accurate security judgments.

Response: ATS does not, by itself, form administrative decisions or institute law enforcement actions against travelers and cargo. Instead, ATS is a decision-support tool that assists CBP officers in identifying individuals who, and cargo which, warrant additional screening. Any legal actions are the result of a trained CBP officer's hands-on interaction and examination of a person or cargo and a consideration of additional evidence or information obtained from the traveler and other sources, or in the case of cargo, the entry documents and other available data.

Comment: ATS will result in the creation of 'security ratings' for citizens.

Response: Unlike the ATS components relating to cargo, ATS–P does not assign a "risk score" to travelers. Instead, travelers that ATS, and more specifically, ATS–P, identifies for possible further scrutiny are not selected because of any rating or objective physical characteristic or political, religious, racial, or ethnic affiliation. Travelers are so identified as the result of threshold targeting rules in

ATS, which are based on current intelligence or past case experience. Travelers may also be identified for further screening if their date of birth or identifier match an entry placed for subject query in DHS/CBP—011 TECS (73 FR 77778, December 19, 2008). A subject query is a query of records that pertains to persons, aircraft, businesses, or vehicles.

SORN Routine Use Comments

Comment: The Routine Uses categories are so broad as to be almost meaningless.

Response: CBP is a law enforcement agency that enforces over 400 statutes on behalf of more than 40 agencies in the Federal government. In addition, CBP and its predecessor agencies (the U.S. Customs Service and the Immigration and Naturalization Service), have signed Memoranda of Understandings (MOUs) or similar agreements with a wide variety of Federal, State and local agencies with border security and law enforcement interests and have similar arrangements with other nations, including customs mutual assistance agreements (CMAAs). The Routine Uses are established to facilitate the sharing of specific information in furtherance of these shared law enforcement missions. The Routine Uses set forth at great length in the ATS SORN also provide notice and transparency to the public as to the nature and extent of the sharing of ATS data while containing appropriate parameters to limit the sharing of discrete law enforcement purposes.

Comment: Routine Use C duplicates and weakens the statutory condition of disclosure in (b)(8) because it does not include notification to the individual required by statute.

Response: The statutory condition of disclosure set forth in section (b)(8) of the Privacy Act permits disclosure of a record "to a person pursuant to a showing of compelling circumstances affecting the health and safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual." As set forth in the ATS SORN (72 FR 43650, August 6, 2007), Routine Use C permits disclosure of ATS data to an organization or individual that is or could become the target of a particular terrorist activity or conspiracy. As such, Routine Use C does not weaken the statutory condition, which is most commonly utilized in compelling public health situations involving exposure to communicable or quarantinable diseases, but instead, illustrates circumstances appropriate to a disclosure for compelling safety reasons involving both organizations and individuals. With regard to the statutory provisions of section (b)(8) of the Privacy Act, in the instance of a potential pandemic outbreak resulting from exposure to a communicable or quarantinable disease during travel and the possible subsequent dispersal throughout a region or the nation, CBP's first responsibility is to inform the proper health agencies and professionals of this risk to facilitate a rapid response to protect the public health. Routine Use D also eliminates potential duplicative reporting requirements to U.S. authorities responsible for protecting public health and combating pandemics. As such, it reduces the economic burden on air carriers. It also promotes the privacy interest of travelers by minimizing the processing of their information by U.S. authorities.

Comment: Routine Use M, which provides access to the Federal government and unnamed third parties while keeping the data secret from the individual, is a strange use of Privacy Act exemptions.

Response: The language of Routine Use M was drafted by the Department of Justice (DOJ) in connection with the Identity Theft Task Force (*See* "Combating Identity Theft: A Strategic Plan" at *http://www.identitytheft.gov*) to address security breaches where disclosure under statutory condition (b)(1) is not applicable. In particular, this Routine Use is intended to cover situations where a breach has occurred and DHS may need to share information with agencies or entities conducting an investigation or to facilitate notifying the individuals whose information has been breached. The "unnamed third party" will be an entity under contract and subject to a non-disclosure agreement to provide services related to the security breach. The "unnamed third party" would only receive the minimum information necessary to perform contracted services such as determining the specific circumstances of the data breach and informing individuals of the breach, its extent, and remedies to be offered, as appropriate. Normally, the type of information to be shared is restricted to name and address, "contact information," and would not include information about the context of the records or non-identity related facts.

Legality of ATS System Comments

Comment: ATS is prohibited by the Privacy Act because it involves the collection and retention of records pertaining to activities protected by the First Amendment (*i.e.,* "right of assembly").

Response: CBP has broad authority to conduct activities relating to the entry into, or exit from the United States, of persons or goods. *See* 19 U.S.C. 482, 1461, 1496, 1499, 1581–83; 8 U.S.C. 1225, 1357; 31 U.S.C. 5332. ATS is a decision-support tool used by CBP officers to execute this lawful border enforcement authority and does not violate the right of citizens to assemble.

Comment: ATS is in violation of the funding prohibitions in section 514 of the 2007 Department of Homeland Security Appropriations Act.

Response: As specified with particularity, Section 514 of the 2007 Homeland Security Appropriations Act, Public Law 109–295, and the funding restrictions set forth therein, pertain to the "Secure Flight program administered by the Transportation Security Administration or any other follow-on or successor passenger screening program." Inasmuch as ATS has been funded by Congress since the late 1990s, it is clearly not a "follow-on or successor" to Secure Flight." Secure Flight is intended to screen domestic passengers attempting to board aircraft; ATS–P is used in connection with individuals seeking admission to the U.S. at ports of entry. Unlike Secure Flight, Congress has not imposed any independent restriction on ATS–P for passenger screening and instead, has appropriated funding for ATS's Passenger Screening Program.

Privacy Act Exemption Comments

Comment: Exempting business confidential information, PNR data, received from commercial third parties from access is contrary to the Privacy Act.

Response: ATS does not exempt access to PNR data about the requestor, obtained from either the requestor or from a booking agent, broker, or another person submitting on behalf of the requestor. DHS will provide the first party requestor with the information in the form in which it was received from the respective carrier about the individual. ATS does exempt business confidential information pertaining to the carrier from access, but this information is not submitted by or on behalf of the requestor, nor does it pertain personally to the requestor. ATS provides access to the raw PNR data in the form that it was submitted, upon request by the individual to whom the data pertains.

Comment: The proposed exemptions violate the requirements of relevance, necessity, accuracy, timeliness and completeness under the Privacy Act.

Response: The Privacy Act requires that an agency "maintain in its records

only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order of the President." 5 U.S.C. 552a (e)(1). CBP, in consideration of its law enforcement mission, claims an exemption from this requirement. The purpose of this Privacy Act exemption is to strike a balance between protecting information collected about persons, while permitting law enforcement agencies to effectively carry out their missions. Here, the information used by ATS and specifically ATS–P, including PNR, has a long history of supporting successful targeting and investigations and is not available from other sources to support the prescreening of travelers prior to arrival in and departure from the United States. ATS is a unique tool that adds to an officer's ability to identify travelers who, and cargo which, may pose a higher risk of violating U.S. law. Without ATS–P, DHS would be unable to identify many travelers whose suspicious behavior is revealed only after considering past case experience and available intelligence. PNR, for example, is often only relevant when considered in light of information obtained from other law enforcement or intelligence sources. In this way, ATS–P complements and does not duplicate other border enforcement tools, such as training to identify false documents and in questioning travelers.

Comment: The proposed Privacy Act (j)(2) exemption contravenes the intent of the statute because the three statutory requirements are not met. Even if DHS asserts that innocent citizens are considered to be criminal offenders, the information qualifying for exemption must consist only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release and parole and probation status.

Response: Exemption (j)(2) permits CBP to assert an exemption for ATS because CBP is a law enforcement agency and the information in ATS is compiled to identify suspected and known criminal offenders or alleged criminal offenders. CBP is charged with screening all persons crossing U.S. borders to ensure compliance with U.S. laws. ATS exists for, among other reasons, to assist DHS in identifying those persons who, and cargo which, may pose a higher risk for violating U.S. law, while not impeding the flow of legitimate travelers, cargo, and conveyances.

Comment: The proposed Privacy Act (k)(2) exemption is inappropriate unless DHS agrees to provide ATS records to travelers who have been denied the opportunity to fly because their names were on a "list."

Response: The access provisions in the current ATS SORN clarify that a requestor may obtain access to the PNR submitted on his or her behalf by his or her respective carrier. This means that an individual may gain access to his or her PNR data, upon request. CBP has long made this information available to U.S. and non-U.S. citizens and thus this represents only a clarification of the prior ATS SORN, not a change of policy. Lastly, this access permits the requestor to seek redress for the fact that their name may be on a "list."

Comment: The proposed exemptions of the system are so broad that CBP would be allowed to use ATS with little accountability.

Response: CBP has asserted Privacy Act exemptions (j)(2) and (k)(2) to protect information maintained in a law enforcement system. These exemptions and their justifications are routinely employed throughout the Federal Government to protect official information maintained in a law enforcement system. The Privacy Act provides authority to assert as many as seven exemptions for records maintained in a system. These exemptions must be asserted in accordance with the provisions of sections (j) and (k) for purposes consistent with the provisions of the Privacy Act. CBP has only asserted exemptions (j)(2) and (k)(2), with respect to ATS, because these two exemptions covered the types and uses of information maintained in ATS. With respect to accountability, DHS already receives significant and constructive oversight by Congress and the Inspector General with respect to many of its programs, including ATS. Individuals may also seek judicial review of most enforcement actions taken by CBP, including those which may stem from the results of an ATS analysis.

Contents of ATS and PNR Comments

Comment: ATS contains passenger information obtained during a secondary screening, such as the title of a book carried by a passenger that will be used to discriminate against travelers.

Response: Secondary screening results are not collected or maintained in ATS. Instead, information relating to secondary screening is collected and maintained in other CBP data systems, in particular, DHS/CBP—011 TECS.

Comment: Data concerning race, ethnicity, political affiliation and other personal matters can be contained in PNR and used in risk assessments, which may result in discrimination against travelers.

Response: One of the many reasons travelers may be selected for additional screening is as a result of threshold targeting rules in ATS, which are based on current intelligence or past case experience and not on physical characteristics, or political, religious, racial, ethnic or sexual affiliation. Moreover, CBP policy prohibits improper discrimination and violators are subject to penalties.

Comment: Much of the ATS data in PNRs is not provided by air passengers seeking to book travel but are commercial records created and maintained by travel companies for their own purposes. The aggregation and use of PNR data from airlines permits DHS to be the enforcer of a joint blacklist by all the airlines of anyone secretly tagged with derogatory PNR sent to DHS.

Response: DHS disagrees. The PNR data that is transmitted to CBP and collected through ATS is composed primarily of information that is provided to airlines and travel agents by or on behalf of air travelers seeking to book travel. The commercial information, such as frequent flier information and internal annotations to the air fare, are transmitted to CBP as part of the PNR collected by ATS, and is limited in amount and proprietary to the submitting company.

Retention Comments

Comment: Two comments noted that the 15-year retention period for ATS is too long.

Response: Terrorist suspects often have no prior criminal record and, at the time of travel, the U.S. Government may have no other derogatory background information about them. CBP uses PNR, including historical PNR, to attempt to identify such previously unknown terrorists before they enter the United States. Specifically, ATS–P is able to analyze PNR data to uncover links between known and previously unidentified terrorists or terrorist suspects, as well as suspicious or irregular travel patterns.

CBP believes that the 15 year retention period enhances privacy protections for travelers whose information is collected, while at the same time permitting it to effectively carry out its proper law enforcement mission. Specifically, the retention period for information maintained in ATS will not exceed fifteen years, after which time it will be deleted in accordance with an approved records disposition schedule except as noted below.

Additionally, the following further access restrictions pertain to the retention and use of PNR, which is contained only in ATS–P: ATS–P users will have general access to PNR for seven years, after which time the PNR data will be moved to dormant, non-operational status. PNR data in dormant status will be retained for eight years and may be accessed only with approval of a senior DHS official designated by the Secretary of Homeland Security and only in response to an identifiable case, threat, or risk. Notwithstanding the above, information that is maintained only in ATS that is linked to law enforcement lookout records, CBP matches to enforcement activities, investigations or cases, such as specific and credible threats and flights, individuals and routes of concern, or other defined sets of circumstances, will remain accessible for the life of the law enforcement matter.

Redress and Accuracy Material Comments

Comment: Two comments noted that the supporting databases used by ATS contained inaccurate information.

Response: ATS is a decision-support tool that provides a risk analysis by comparing information contained in various databases. With the exception of PNR, ATS does not actively maintain the information from those databases; the information is merely analyzed by ATS. Therefore, when an individual is seeking redress for information other than PNR, which is maintained in ATS–P, such redress may be accomplished by referring to the databases that maintain that information. With regard to the information that is actively collected by ATS PNR data, an individual may utilize the comprehensive DHS Traveler Redress Inquiry Program (DHS TRIP) that was created to receive all traveler related comments, complaints and redress requests affecting its component agencies. Through DHS TRIP, a traveler can seek correction of erroneous information stored in ATS, as well as other databases. Although not required to do so under the provisions of the Privacy Act, which are applicable only to U.S. citizens and legal permanent residents, DHS policy extends the opportunity to access and correct data to foreign nationals as well.

Comment: No meaningful redress is provided because an individual does not know if incorrect information is kept in ATS.

Response: DHS disagrees. As noted earlier ATS provides a requestor with access to PNR that was submitted by or on behalf of the requestor. Should the requestor discover that the PNR record or records are inaccurate, then the requestor may seek redress to inform DHS of the inaccuracy and correct it.

Comment: No meaningful redress process is provided because source systems are also exempt from the protections of the Privacy Act.

Response: DHS disagrees. For example, ATS provides access to raw PNR data provided by or on behalf of the requestor. Similarly, the DHS/CBP—005 Advance Passenger Information System (73 FR 68435, November 18, 2008, 73 FR 68435) also provides access to information submitted by or on behalf of a requestor. DHS TRIP provides a means for persons to seek redress regarding information in CBP maintained databases as well as permits CBP to coordinate with other appropriate entities which may have information on a traveler. The results of screening in ATS are a decision-support tool that must still be reviewed by a CBP analyst before further action, such as a referral to secondary inspection, may occur.

Upon careful review of the submitted public comments, having taken into consideration public comments resulting from this NPRM and SORN, as well as the Department's position on these public comments, DHS has determined that for the reasons stated, it is important that the exemptions remain in place. DHS will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

■ For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.*; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. Add at the end of Appendix C to Part 5, Exemption of Record Systems under the Privacy Act, the following new paragraph "45":

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

45. The DHS/CBP—006 Automated Targeting system of records performs screening of both inbound and outbound cargo, travelers, and conveyances. As part of this screening function and to facilitate DHS's border enforcement mission, the DHS/CBP—006 Automated Targeting system of records compares information received with CBP's law enforcement databases, the Federal Bureau of Investigation Terrorist Screening Center's Terrorist Screening Database (TSDB), information on outstanding wants or warrants, information from other government agencies regarding high-risk parties, and risk-based rules developed by analysts using law enforcement data, intelligence, and past case experience. The modules also facilitate analysis of the screening results of these comparisons. This supports the several and varied missions and functions of DHS, including but not limited to: The enforcement of civil and criminal laws (including the immigration law); investigations, inquiries; national security and intelligence activities in support of the DHS mission to identify and prevent acts of terrorism against the United States. The information is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. Certain records or information in DHS/CBP—006 Automated Targeting system of records are exempt from the Privacy Act. With respect to the ATS–P module, exempt records are the targeting rule sets, risk assessment analyses, and business confidential information contained in the PNR that relates to the air and vessel carriers. No exemption shall be asserted regarding PNR data about the requester, provided by either the requester or a booking agent, brokers, or another person on the requester's behalf. This information, upon request, may be provided to the requester in the form in which it was collected from the respective carrier, but may not include certain business confidential information of the air carrier that is also contained in the record, such as use and application of frequent flier miles, internal annotations to the air fare, etc. For other DHS/CBP—006 Automated Targeting system of records modules the only information maintained in the system is the targeting rule sets, risk assessment analyses, and a pointer to the data from the source system of records. The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitations set forth in 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (e)(5), and (8); (f); and (g) pursuant to 5 U.S.C. 552a(j)(2). Additionally, the Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitations set forth in 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (e)(5), and (8); (f); and (g) pursuant to 5 U.S.C. 552a(k)(2). These exemptions also apply to the extent that information in this system of records is recompiled or is created from information contained in other systems of records. After conferring with the appropriate component or agency, DHS may waive applicable exemptions in appropriate circumstances and where it would not appear to interfere with or adversely affect the law enforcement purposes of the systems from which the information is recompiled or in which it is contained. Exemptions from these particular

subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosure) because making available to a record subject the accounting of disclosures from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a known or suspected criminal or terrorist, or other person of interest, by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, *e.g.,* destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation. Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons: (a) From subsection (c)(3) (Accounting for Disclosure) because making available to a record subject the accounting of disclosures from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a known or suspected terrorist by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, *e.g.,* destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(b) From subsection (c)(4) (Accounting for Disclosure, notice of dispute) because certain records in this system are exempt from the access and amendment provisions of subsection (d), this requirement to inform any person or other agency about any correction or notation of dispute that the agency made with regard to those records, should not apply.

(c) From subsections (d)(1), (2), (3), and (4) (Access to Records) because these provisions concern individual access to and amendment of certain records contained in this system, including law enforcement, counterterrorism, and investigatory records. Compliance with these provisions could alert the subject of an investigation to the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to law enforcement, including matters bearing on national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; could identify a confidential source; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing counterterrorism or law enforcement investigations and analysis activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(d) From subsection (e)(1) (Relevancy and Necessity of Information) because it is not always possible for DHS or other agencies to know in advance what information is relevant and necessary for it to complete screening of cargo, conveyances, and passengers. Information relating to known or suspected criminals or terrorists or other persons of interest, is not always collected in a manner that permits immediate verification or determination of relevancy to a DHS purpose. For example, during the early stages of an investigation, it may not be possible to determine the immediate relevancy of information that is collected—only upon later evaluation or association with further information, obtained subsequently, may it be possible to establish particular relevance to a law enforcement program. Lastly, this exemption is required because DHS and other agencies may not always know what information about an encounter with a known or suspected criminal or terrorist or other person of interest will be relevant to law enforcement for the purpose of conducting an operational response.

(e) From subsection (e)(2) (Collection of Information from Individuals) because application of this provision could present a serious impediment to counterterrorism or other law enforcement efforts in that it would put the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that activity. The nature of counterterrorism, and law enforcement investigations is such that vital information about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely solely upon information furnished by the individual concerning his own activities.

(f) From subsection (e)(3) (Notice to Subjects), to the extent that this subsection is interpreted to require DHS to provide notice to an individual if DHS or another agency receives or collects information about that individual during an investigation or from a third party. Should the subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism or other law enforcement efforts by putting the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(g) From subsections (e)(4)(G), (H) and (I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(h) From subsection (e)(5) (Collection of Information) because many of the records in this system coming from other systems of records are derived from other domestic and foreign agency record systems and therefore it is not possible for DHS to vouch for their compliance with this provision; however, the DHS has implemented internal quality assurance procedures to ensure that data used in its screening processes is as complete, accurate, and current as possible. In addition, in the collection of information for law enforcement and counterterrorism purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by (e)(5) would limit the ability of those agencies' trained investigators and intelligence analysts to exercise their judgment in conducting investigations and impede the development of intelligence necessary for effective law enforcement and counterterrorism efforts.

(i) From subsection (e)(8) (Notice on Individuals) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism or law enforcement investigations to the fact of those investigations when not previously known.

(j) From subsection (f) (Agency Rules) because portions of this system are exempt from the access and amendment provisions of subsection (d). Access to, and amendment of, system records that are not exempt or for which exemption is waived may be obtained under procedures described in the related SORN or Subpart B of this Part.

(k) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: January 21, 2010.

Mary Ellen Callahan

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–2201 Filed 2–2–10; 8:45 am]

BILLING CODE 9110–06–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2009–0052]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/U.S. Customs and Border Protection—007 Border Crossing Information System of Records

AGENCY: Privacy Office, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of a Department of Homeland Security/U.S. Customs and Border Protection system of records entitled the, "Department of Homeland Security/U.S. Customs and Border Protection—007 Border Crossing Information System of Records." Specifically, the Department exempts portions of the Department of Homeland Security/U.S. Customs and Border

Protection—007 Border Crossing Information System of Records from provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: *Effective Date:* This final rule is effective February 3, 2010.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Laurence E. Castelli (202–325–0280), Privacy Officer, U.S. Customs and Border Protection, Office of International Trade, Mint Annex, 799 Ninth Street, NW., Washington, DC 20001–4501. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS) published a notice of proposed rulemaking in the **Federal Register,** 73 FR 43374, July 25, 2008, proposing to exempt portions of a system of records from provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records is the DHS/U.S. Customs and Border Protection (CBP)—007 Border Crossing Information system. The DHS/CBP—007 Border Crossing Information system of records notice was published concurrently in the **Federal Register,** 73 FR 43457, July 25, 2008, and comments were invited on both the notice of proposed rulemaking and system of records notice. Comments were received on the notice of proposed rulemaking and system of records notice.

Public Comments

Forty-eight comments were received on the system of records notice (SORN). Of those forty-eight comments, three comments were submitted in duplicate, one comment was submitted in triplicate, and one comment was submitted in quintuplicate. Accordingly, after accounting for the repetitive submissions, thirty-nine original comments were received on the system of records notice. Additionally, the same commenter posted comments twice on the notice of proposed rulemaking (NPRM) however, it was only one comment. Therefore only one original comment was received on the NPRM. The thirty-nine comments received on the SORN focused primarily on opposition either to the entire DHS/CBP—007 Border Crossing Information system of records or to specific aspects of the system including opposition to the proposed length of time the records would be maintained and several of the routine uses listed for the system. Several comments stated opposition to the system because they alleged that the system was unconstitutional. The one comment on the NPRM was against the proposed Privacy Act exemptions because the commenter believed that not all records within DHS/CBP—007 Border Crossing Information system of records are law enforcement data and exempting the DHS/CBP—007 Border Crossing Information system of records information from the Privacy Act would make it extremely difficult to contest and/or fix errors in the data, a right which is provided for in the Privacy Act. DHS notes that several comments submitted in conjunction with the SORN expressed disagreement with DHS' use of the Privacy Act exemptions. However, the comments were not submitted in response to the NPRM. The following is a synopsis of the comments received and DHS' response.

General Comments

Comment: No records should be maintained on law abiding U.S. citizens. Lawful border crossing of U.S. citizens should not be tracked. The focus should be on illegal entrants and non-U.S. citizens.

Response: Throughout its 219 year history, and beginning with actions by the First Congress of the United States, CBP and its principal legacy components, the Immigration and Naturalization Service (INS) and the U.S. Customs Service, have possessed the authority to stop and search all persons, conveyances, and cargo attempting to cross the U.S. border. The DHS/CBP—007 Border Crossing Information system of records is a tool that is by utilized CBP in performance of its mission at U.S. borders. The responsibility of CBP at the U.S. borders encompasses all persons crossing the borders, including U.S. citizens.

Furthermore, as explained in the DHS/CBP—007 Border Crossing Information system of records, the system does not represent a new or expanded collection of information by CBP. Rather, CBP is providing increased information regarding the agency's historical practices.

Comment: This system should be classified. The collected information should only be used for National Security purposes.

Response: The DHS/CBP—007 Border Crossing Information system of records was published as part of DHS's ongoing effort to increase transparency regarding the collection of information at the Department. Accordingly, if the system were classified, the public would generally not have access to information in the system either under the Privacy Act or the Freedom of Information Act.

Moreover, in CBP's judgment the system's level of classification is commensurate with the type of information maintained in the system and the agency has put in place adequate measures to ensure the integrity of the system.

Comment: The system should not be exempted from the Freedom of Information Act.

Response: The system is not exempted from the Freedom of Information Act. The Privacy Act by its terms at 5 U.S.C. 552a(b)(2) specifically provides for access to information in a system of records, including exempt systems of records, through a request made under the Freedom of Information Act. In response to a Freedom of Information Act request, and in accordance with that statute, the government may exempt certain portions of responsive records from disclosure when providing an individual with information about him or herself.

Comment: Criminal penalties for misuse of data must be specified with no exceptions for government employees.

Response: The Privacy Act authorizes criminal penalties for misuse of data maintained in a system covered by the Privacy Act. 5 U.S.C. 552a(i). There are no exceptions for criminal conduct committed by government employees. Additionally, CBP identifies misuse of information in its information systems as a specific violation applicable to all CBP employees. Employees may be dismissed from CBP for mishandling or misusing information maintained in CBP's systems and may be subject to criminal or civil penalties.

Comment: The system should have an audit trail and information should only be accessed if there is need to know.

Response: This system has a clear audit trail of who has accessed the system and who has accessed what records, so that if there are concerns about an individual's use of the system it can be tracked. CBP's Office of Internal Affairs regularly reviews the use of the system to ensure it is being used properly. CBP recognizes the need to prevent misuse of any information it collects. Therefore, CBP has implemented several internal controls to mitigate threats to the integrity of its systems. Access to CBP's systems is governed by a strict policy that implements rights and responsibilities to information. This means that only CBP employees with a need to know have access to information that falls

within the performance of official duties. Furthermore, CBP requires that all employees participate in regular privacy awareness training to receive automated systems access and requires that employees periodically re-attend such training to continue their access. CBP also identifies misuse of information in information systems as a specific violation applicable to all CBP employees. Employees may be dismissed from CBP for mishandling or misusing information maintained in CBP's systems and may be subject to criminal or civil penalties.

Comment: DHS should have an updated System of Records Notice for TECS.

Response: A new system of records notice for TECS was published in December 2008. DHS/CBP—011 TECS (73 FR 77778, December 19, 2008).

Comment: The system security for the DHS/CBP—007 Border Crossing Information system of records data has not been adequately addressed.

Response: Multiple security measures are in place for data collected in DHS systems. CBP uses routers, firewall and intrusion detection systems to prevent unauthorized access to its systems. Any information stored via backup tape is protected through strict physical safeguards and other technical safeguards to ensure it cannot be inappropriately accessed.

Access and Redress Comments

Comment: Exempting information within the DHS/CBP—007 Border Crossing Information system of records from certain provisions of the Privacy Act will make it extremely difficult, if not impossible, for individuals to fix errors that show up in the database.

Response: CBP respectfully disagrees. CBP has not proposed exempting access to the DHS/CBP—007 Border Crossing Information system of records by individuals who have a system record that pertains to them. To the contrary, the DHS/CBP—007 Border Crossing Information system of records delineated procedures for contesting system records. The relevant section of the SORN states: "Requests to amend a record must be in writing and should be addressed to the CBP Customer Service Center (Rosslyn, VA), 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Telephone (877) 227–5511; or through the "Questions" tab at *http://www.cbp.gov.xp.cgov/travel/customerservice.*" Requests should conform with the requirements of 6 CFR Part 5, Subpart B, which provides the rules for requesting access to Privacy Act records maintained by DHS and can be found at *http://www.dhs.gov/foia.* The envelope and letter should be clearly marked "Privacy Act Access Request." The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

If individuals are uncertain what agency handles the information, they may seek redress through the DHS Traveler Redress Program (DHS TRIP) (72 FR 2294, January 18, 2007). DHS TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs, such as airports, seaports and train stations or at U.S. land borders. Through DHS TRIP, a traveler can request correction of erroneously stored data in other DHS databases through one application. Redress requests should be sent to: DHS Traveler Redress Inquiry Program, 601 South 12th Street, TSA–901, Arlington, VA 22202–4220 or online at *http://www.dhs.gov/trip.*

Retention Period Comments

Comment: The retention period is too long for records about people that have committed no crime.

Response: The fifteen-year and seventy-five year retention periods proposed for the DHS/CBP—007 Border Crossing Information system of records were determined in order to allow CBP to effectively pursue its law enforcement mission while addressing privacy concerns. The fifteen-year retention period will allow CBP to access the data when needed for a law enforcement purpose yet permit the removal of the data in a time period significantly shorter than other systems. The seventy-five year period for non-immigrant aliens will allow for proper administration of certain immigration benefits as well as other law enforcement purposes. Furthermore, it should be noted, that while the DHS/CBP—007 Border Crossing Information system of records information is maintained for a number of years, any access to the information will always require a "need to know" by any person accessing the information. Access by persons without a proper "need to know" may result in criminal penalties and/or disciplinary actions.

Routine Uses

Comment: Under the listed Routine Uses, potential interested parties with whom the DHS/CBP—007 Border Crossing Information system of records information may be shared, such as press, foreign governments, State, prospective employers, students, contractors, etc., is too broad and not consistent with the reason for collecting the information.

Response: CBP, and its predecessor agencies, INS and the U.S. Customs Service, have signed Memoranda of Understandings (MOUs) or entered into agreements with a wide variety of Federal, State, and local agencies with an interest in maintaining border security and law enforcement; similar arrangements are in place with other nations in the form of Customs Mutual Assistance Agreements (CMAAs) and other information-sharing agreements and arrangements. The terms of these arrangements specify the necessity of sharing information and highlight the fact that the types of information sharing described in the SORN are neither unique nor a new practice for border authorities. Additionally, all MOUs and other arrangements for the sharing of information contain specific provisions relating to the responsibilities of the receiving party to keep the information confidential, protected, and secure. DHS does not share PII with domestic or foreign governments or multilateral organizations which DHS is not confident will protect the privacy interests of the data subject.

The routine uses identified are consistent with CBP's role as a law enforcement agency that enforces over 400 statutes on behalf of more than 40 agencies in the Federal Government. DHS is charged in its authorizing statute, specifically section 892 of the Homeland Security Act of 2002, to facilitate the sharing of terrorist information across the government. In addition, The Intelligence Reform and Terrorism Prevention Act of 2004 required the President to establish an Information Sharing Environment "that facilitates the sharing of terrorism information." Following this enactment, on October 25, 2005, the President issued Executive Order 13388, directing that DHS and other agencies "promptly give access to * * * terrorism information to the head of each other agency that has counterterrorism functions" and establishing a mechanism for implementing the Information Sharing Environment.

In addition, routine use O. permits CBP to share information with the press where such a release would inform the public about the performance of CBP's border security mission, such as the release of information pertaining to an arrest of a person attempting to enter the United States with bomb making materials in the trunk of his/her car.

Such uses are consistent with CBP's and DHS's overall law enforcement mission and serve to inform the public of how that mission is being accomplished. The particular routine use includes protections to balance the privacy interests of the person, whose information may be disclosed, with the public's right to know how the government is accomplishing its mission; this is the traditional balance that has always been struck between privacy and the public's right "to know what its government is up to."

Comment: The listed Routine Use for sharing for civil cases is not consistent with the mission against terrorism.

Response: The priority mission of CBP is to prevent terrorist and terrorists' weapons from entering the United States while facilitating legitimate travel and trade. In performance of its duties at the border, CBP, as a law enforcement agency, enforces over 400 statutes on behalf of more than 40 agencies in the Federal government. As such, the enforcement is not always criminal in nature and the sharing of DHS/CBP—007 Border Crossing Information system of records information in certain civil matters is understandable and consistent with CBP overall mission. Again, the DHS/CBP—007 Border Crossing Information system of records does not represent a new collection of information, and the routine use for civil purposes is consistent with CBP's historical treatment of this information.

Comment: Routine Uses are vague, overbroad and in some instances unnecessary.

Response: CBP is a law enforcement agency that enforces over 400 statutes on behalf of more than 40 agencies in the Federal government. In addition, CBP and its predecessor agencies, the INS and U.S. Customs Service, have signed MOUs or similar agreements with a wide variety of Federal, State and local agencies with border security and law enforcement interests and have similar accords with other nations in the form of CMAAs and other information sharing agreements or arrangements. The DHS/CBP—007 Border Crossing Information system of records Routine Uses are established to facilitate the sharing of specific information in furtherance of these shared law enforcement missions. The Routine Uses set forth at great length in the DHS/CBP—007 Border Crossing Information system of records also provides notice and transparency to the public as to nature and extent of the sharing of system data while containing appropriate parameters to limit the sharing to discrete purposes.

Privacy Act Statutory Comments

Comment: The system is not consistent with DHS principles of minimization and the Fair Information Practice Principles, specifically the length of retention, and as such should be amended to comply with these standards.

Response: CBP collects the minimum amount of information to properly record the border crossing event of an individual and facilitate CBP's border security, law enforcement and counterterrorism functions. Additionally, as discussed, the length of retention for information stored in the system was established to allow CBP to effectively pursue its border security, law enforcement and counterterrorism missions, while addressing privacy concerns.

Legal or Constitutional Comments

Comment: The system is unconstitutional. No records should be maintained in the system without probable cause that something is illegal nor should any records be shared without probable cause.

Response: As the U.S. Supreme Court has stated, "[i]t is axiomatic that the United States, as sovereign, has the inherent authority to protect, and a paramount interest in protecting, its territorial integrity." *United States* v. *Flores-Montano,* 541 U.S. 149, 153 (2004). Indeed, "the Government's interest in preventing the entry of unwanted persons and effects is at its zenith at the international border." *Id.* at 152. For this reason, the U.S. Supreme Court has held that stops and examinations are reasonable in the absence of a warrant or probable cause when they are conducted at the U.S. border, *see Carroll* v. *United States,* 267 U.S. 132, 153–54 (1925), and the "functional equivalent of the border," such as international airports, *see United States* v. *Irving,* 432 F.3d 401, 414 (2nd Cir. 2005).

Under the border search exception, routine stops and examinations conducted at the border are reasonable for Fourth Amendment purposes "simply by virtue of the fact that they occur at the border," and may be conducted without any individualized suspicion. *United States* v. *Ramsey,* 431 U.S. 606, 616 (1977). In addition, the Congress has specifically authorized CBP to collect the information maintained in the system. (*see,* e.g., 49 U.S.C. 44909 for information collected through the DHS/CBP—005 Advance Passenger Information system of records (73 FR 68435, November 18, 2008)).

Comment: The system is prohibited by the Privacy Act because it involves the collection and retention of records pertaining to activities protected by the First Amendment (i.e., "right of assembly").

Response: The broad authority of CBP to conduct activities relating to the entry or exit of persons or things into or out of the United States is codified at title 19 of the United States Code (U.S.C.), in sections 482, 1461, 1496, 1499, and 1581–83, and title 8, U.S.C. 1357. The system is a decision-support tool used by CBP officers to execute this lawful border enforcement authority and does not violate the right of citizens to assemble.

Privacy Act Exemptions Comments

Comment: There is no good reason for exempting a system of this type from the Privacy Act. All people for whom the government holds records ought to have the ability to review, amend, or correct information maintained by the government.

Response: The suggested exemptions from the Privacy Act listed in the DHS/CBP—007 Border Crossing Information NPRM (73 FR 43374, June 25, 2008) were selected to allow maximum transparency of data collected in the system while simultaneously allowing CBP to perform its border enforcement mission. For example, if the system did not have the proposed exemption from subsection (c)(3) of the Privacy Act, (5 U.S.C. 552a (c)(3)), the fact that certain DHS/CBP—007 Border Crossing Information system of records information was shared with a law enforcement agency could disclose to the subject of an investigation the existence of such an investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting could possibly allow the suspect individual to impede the investigation and present a serious concern to successful law enforcement efforts and possibly compromise national security.

Public Recommendations

The submitted public comments offered numerous suggestions concerning DHS/CBP—007 Border Crossing Information system of records. Those suggestions ranged from cancellation of the system in its entirety, to proposed modifications to the system to enable it to meet concerns raised in the comments. Some of the suggested modifications included the following:

- Records not be shared without probable cause support by a court order (already in Privacy Act);
- Penalties for misuse of data (already exist);
- This system should be classified;

• Retention of records should only be in cases were there is a reasonable suspicion of criminal or terrorist activity;

• The retention period should be shortened;

• Records should only be maintained on non-U.S. Citizens; and

• Records should only be shared pursuant to a court order.

Responses to all these recommendations have been provided elsewhere within this document.

Upon careful review of the submitted public comments, having taken into consideration public comments resulting from this NPRM and SORN, as well as the Department's position on these public comments, DHS has determined that for the reasons stated, it is important that the exemptions remain in place. DHS will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

■ For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.;* 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. Add at the end of Appendix C to Part 5, Exemption of Record Systems under the Privacy Act, the following new paragraph "46":

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

46. The DHS/CBP—007 Border Crossing Information system of records will maintain border crossing information on travelers who are admitted or paroled into the United States. This information includes: certain biographical information; a photograph (if available); certain itinerary information provided by air and sea carriers and any other forms of passenger transportation, including rail, which is or may subsequently be mandated, or is or may be provided on a voluntary basis; and the time and location of the border crossing. This system may contain records or information pertaining to the accounting of disclosures made from DHS/CBP—007 Border Crossing Information system of records to agencies (Federal, State, Local, Tribal, Foreign, or International), in accordance with the published routine uses. For the accounting of these disclosures only, the Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitations set forth in 5 U.S.C. 552(c)(3); (e)(8); and (g) pursuant to 5 U.S.C. 552a(j)(2). Additionally, for the accounting of these disclosures only, the Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitations set forth in 5 U.S.C. 552(c)(3); (e)(8); and (g) pursuant to 5 U.S.C. 552a(k)(2). Further, no exemption shall be asserted with respect to biographical or travel information submitted by, and collected from, a person's travel documents or submitted from a government computer system to support or to validate those travel documents. After conferring with the appropriate component or agency, DHS may waive applicable exemptions in appropriate circumstances and where it would not appear to interfere with or adversely affect the law enforcement purposes of the systems from which the information is recompiled or in which it is contained. Exemptions from the above particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, when information in this system or records is recompiled or is created from information contained in other systems of records subject to exemptions for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because making available to a record subject to the accounting of disclosures from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expect to compromise ongoing efforts to investigate a violation of U.S. law, including investigations of a known or suspected terrorist or criminal, or other person of interest, by notifying the record subject that he or she is under investigation. This information could also permit the record's subject to take measures to impede the investigation, e.g., destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(b) From subsection (e)(8) (Notice to Individuals) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism or law enforcement investigations to the fact of those investigations when not previously known.

(c) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: January 21, 2010.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–2200 Filed 2–2–10; 8:45 am]

BILLING CODE 9110–06–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AI01

[NRC–2007–0008]

Alternate Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock Events; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a rule that appeared in the **Federal Register** on January 4, 2010 (75 FR 13), that amends the NRC's regulations to provide alternate fracture toughness requirements for protection against pressurized thermal shock (PTS) events for pressurized water reactor (PWR) pressure vessels. This document is necessary to correct formatting and typographical errors in paragraph (g).

DATES: The correction is effective February 3, 2010, the date the original rule becomes effective.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rulemaking and Directives Branch, Office of Administration, Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–492–3663, e-mail *Michael.Lesar@nrc.gov.*

SUPPLEMENTARY INFORMATION: In FR doc. E9–31146, published on January 4, 2010, make the following correction:

§ 50.61a [Corrected]

■ 1. On page 27, paragraph (g) of § 50.61a is corrected to read as follows:

(g) *Equations and variables used in this section.*

$$\text{Equation 1: } RT_{MAX-AW} = MAX\left\{\left[RT_{NDT(U)-plate} + \Delta T_{30-plate}\right], \left[RT_{NDT(U)-axial\ weld} + \Delta T_{30-axial\ weld}\right]\right\}$$

$$\text{Equation 2: } RT_{MAX-PL} = RT_{NDT(U)-plate} + \Delta T_{30-plate}$$

Equation 3: $RT_{MAX-FO} = RT_{NDT(U)-forging} + \Delta T_{30-forging}$

Equation 4: $RT_{MAX-CW} = MAX\left\{\left[RT_{NDT(U)-plate} + \Delta T_{30-plate}\right], \left[RT_{NDT(U)-circweld} + \Delta T_{30-circweld}\right], \left[RT_{NDT(U)-forging} + \Delta T_{30-forging}\right]\right\}$

Equation 5: $\Delta T_{30} = MD + CRP$

Equation 6: $MD = A \times (1 - 0.001718 \times T_C) \times (1 + 6.13 \times P \times Mn^{2.471}) \times \varphi t_e^{0.5}$

Equation 7: $CRP = B \times (1 + 3.77 \times Ni^{1.191}) \times f(Cu_e, P) \times g(Cu_e, Ni, \varphi t_e)$

where:

P [wt-&%] = phosphorus content
Mn [wt-%] = manganese content
Ni [wt-%] = nickel content
Cu [wt-%] = copper content
$A = 1.140 \times 10^{-7}$ for forgings
$A = 1.451 \times 10^{-7}$ for plates
$A = 1.417 \times 10^{-7}$ for welds
B = 102.3 for forgings
B = 102.5 for plates in non-Combustion Engineering manufactured vessels
B = 135.2 for plates in Combustion Engineering vessels
B = 155.0 for welds

$\varphi t_e = \varphi t$ for $\varphi \geq 4.39 \times 10^{10}$ n/cm²/sec
$\varphi t_e = \varphi t \times (4.39 \times 10^{10}/\varphi)^{0.2595}$ for $\varphi < 4.39 \times 10^{10}$ n/cm²/sec

where:

φ [n/cm²/sec] = average neutron flux
t [sec] = time that the reactor has been in full power operation
φt [n/cm²] = $\varphi \times t$
$f(Cu_e,P) = 0$ for $Cu \leq 0.072$
$f(Cu_e,P) = [Cu_e - 0.072]^{0.668}$ for $Cu > 0.072$ and $P \leq 0.008$
$f(Cu_e,P) = [Cu_e - 0.072 + 1.359 \times (P - 0.008)]^{0.668}$ for $Cu > 0.072$ and $P > 0.008$

where:

$Cu_e = 0$ for $Cu \leq 0.072$
Cu_e = MIN (Cu, maximum Cu_e) for $Cu > 0.072$
maximum $Cu_e = 0.243$ for Linde 80 welds
maximum $Cu_e = 0.301$ for all other materials

$g(Cu_e,Ni,\varphi t_e) = 0.5 + (0.5 \times \tanh\{[\log_{10}(\varphi t_e) + (1.1390 \times Cu_e) - (0.448 \times Ni) - 18.120]/0.629\})$

Equation 8: Residual (r) = measured ΔT_{30} − predicted ΔT_{30} (by Equations 5, 6 and 7)

Equation 9: Mean deviation for a data set of n data points = $(1/n) \times \sum_{i=1}^{n} r_i$

Equation 10: Maximum credible heat-average residual = $2.33\sigma/n^{0.5}$

where:

n = number of surveillance data points (sample size) in the specific data set
σ = standard deviation of the residuals about the model for a relevant material group given in Table 5.

Equation 11: $T_{SURV} = \frac{m}{se(m)}$

where:

m is the slope of a plot of all of the r values (estimated using Equation 8) versus the base 10 logarithm of the neutron fluence for each r value. The slope shall be estimated using the method of least squares.

se(m) is the least squares estimate of the standard-error associated with the estimated slope value *m*.

Equation 12: $r^* = \frac{r}{\sigma}$

where:

r is defined using Equation 8 and σ is given in Table 5

TABLE 1—PTS SCREENING CRITERIA

Product form and RT_{MAX-X} values	RT_{MAX-X} limits [°F] for different vessel wall thicknesses [6] (T_{WALL})		
	$T_{WALL} \leq 9.5$ in.	9.5 in. < T_{WALL} ≤ 10.5 in.	10.5 in. < T_{WALL} ≤ 11.5 in.
Axial Weld—RT_{MAX-AW}	269	230	222
Plate—RT_{MAX-PL}	356	305	293
Forging without underclad cracks—RT_{MAX-FO} [7]	356	305	293
Axial Weld and Plate—$RT_{MAX-AW} + RT_{MAX-PL}$	538	476	445
Circumferential Weld—RT_{MAX-CW} [8]	312	277	269
Forging with underclad cracks—RT_{MAX-FO} [9]	246	241	239

[6] Wall thickness is the beltline wall thickness including the clad thickness.
[7] Forgings without underclad cracks apply to forgings for which no underclad cracks have been detected and that were fabricated in accordance with Regulatory Guide 1.43.
[8] RT_{PTS} limits contribute 1×10^{-8} per reactor year to the reactor vessel TWCF.

[9] Forgings with underclad cracks apply to forgings that have detected underclad cracking or were not fabricated in accordance with Regulatory Guide 1.43.

TABLE 2—ALLOWABLE NUMBER OF FLAWS IN WELDS

Through-wall extent, TWE [in.]		Maximum number of flaws per 1,000-inches of weld length in the inspection volume that are greater than or equal to TWE_{MIN} and less than TWE_{MAX}
TWE_{MIN}	TWE_{MAX}	
0	0.075	No Limit.
0.075	0.475	166.70.
0.125	0.475	90.80.
0.175	0.475	22.82.
0.225	0.475	8.66.
0.275	0.475	4.01.
0.325	0.475	3.01.
0.375	0.475	1.49.
0.425	0.475	1.00.
0.475	Infinite	0.00.

TABLE 3—ALLOWABLE NUMBER OF FLAWS IN PLATES AND FORGINGS

Through-wall extent, TWE [in.]		Maximum number of flaws per 1,000 square-inches of inside surface area in the inspection volume that are greater than or equal to TWE_{MIN} and less than TWE_{MAX}. This flaw density does not include underclad cracks in forgings
TWE_{MIN}	TWE_{MAX}	
0	0.075	No Limit.
0.075	0.375	8.05.
0.125	0.375	3.15.
0.175	0.375	0.85.
0.225	0.375	0.29.
0.275	0.375	0.08.
0.325	0.375	0.01.
0.375	Infinite	0.00.

TABLE 4—CONSERVATIVE ESTIMATES FOR CHEMICAL ELEMENT WEIGHT PERCENTAGES

Materials	P	Mn
Plates	0.014	1.45
Forgings	0.016	1.11
Welds	0.019	1.63

TABLE 5—MAXIMUM HEAT-AVERAGE RESIDUAL [°F] FOR RELEVANT MATERIAL GROUPS BY NUMBER OF AVAILABLE DATA POINTS (SIGNIFICANCE LEVEL = 1%)

Material group	σ [°F]	Number of available data points					
		3	4	5	6	7	8
Welds, for Cu > 0.072	26.4	35.5	30.8	27.5	25.1	23.2	21.7
Plates, for Cu > 0.072	21.2	28.5	24.7	22.1	20.2	18.7	17.5
Forgings, for Cu > 0.072	19.6	26.4	22.8	20.4	18.6	17.3	16.1
Weld, Plate or Forging, for Cu ≤ 0.072	18.6	25.0	21.7	19.4	17.7	16.4	15.3

TABLE 6—T_{MAX} VALUES FOR THE SLOPE DEVIATION TEST (SIGNIFICANCE LEVEL = 1%)

Number of available data points (n)	T_{MAX}
3	31.82
4	6.96
5	4.54
6	3.75
7	3.36
8	3.14

TABLE 6—T_{MAX} VALUES FOR THE SLOPE DEVIATION TEST (SIGNIFICANCE LEVEL = 1%)—Continued

Number of available data points (n)	T_{MAX}
9	3.00
10	2.90
11	2.82
12	2.76
13	2.72
14	2.68

TABLE 6—T_{MAX} VALUES FOR THE SLOPE DEVIATION TEST (SIGNIFICANCE LEVEL = 1%)—Continued

Number of available data points (n)	T_{MAX}
15	2.65

Dated at Rockville, Maryland, this 29th day of January 2010.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rulemaking and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2010–2283 Filed 2–2–10; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 0907281181–0040–03]

RIN 0648–AX93

Fisheries of the Northeastern United States; Reporting Requirement for Midwater Trawl Vessels Fishing in Closed Area I

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

ACTION: Final rule; effectiveness of a collection-of-information requirement.

SUMMARY: NMFS announces approval by the Office of Management and Budget (OMB) of a collection-of-information requirement contained in Northeast (NE) Multispecies regulations for midwater trawl herring vessels that fish in groundfish Closed Area I (CA I). The intent of this final rule is to implement these additional reporting requirements.

DATES: This rule is effective March 5, 2010. The amendments to 50 CFR 648.14(r)(2)(vii) and 648.80(d)(7)(iii)(B), published in the **Federal Register** on November 2, 2009 (74 FR 56562), will become effective on March 5, 2010.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to the Regional Administrator, NMFS Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930 and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, (978) 281–9341, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: A final rule implementing modifications to the Gulf of Maine/Georges Bank (GOM/GB) Herring Midwater Trawl Gear Letter of Authorization (LOA) published in the **Federal Register** on November 2, 2009 (74 FR 56562). The measures contained in the rule were effective upon publication, with the exception of new requirements for vessel operators to complete and submit a CA I Midwater Trawl Released Codend Affidavit. Because OMB approval of the CA I Midwater Trawl Released Codend Affidavit had not been received by the date the final rule was published, NMFS delayed the effective date of the associated reporting requirements. These reporting requirements were detailed in the proposed rule (September 4, 2009; 74 FR 45798), with public comment accepted through September 27, 2009. All comments received on the proposed measures were addressed in the November 2, 2009, final rule and are not repeated here.

On January 4, 2010, OMB approved, without change, the collection-of-information contained in the CA I Midwater Trawl Released Codend Affidavit. Accordingly, effective March 5, 2010, if a vessel issued an All Areas and/or an Areas 2 and 3 Limited Access Herring Permit releases a net in CA I before the fish can be sampled by the observer, the vessel operator must complete and sign a CA I Midwater Trawl Released Codend Affidavit, as specified in §§ 648.14(r)(2)(vii) and 648.80(d)(7)(iii)(B). The CA I Midwater Trawl Released Codend Affidavit form includes details of where, when, and why the net was released as well as a good-faith estimate of both the total weight of fish caught on that tow and the weight of fish released (if the tow had been partially pumped). The completed affidavit form must be submitted to NMFS within 48 hr of the completion of the trip.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary of Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

There is good cause under 5 U.S.C. § 553(b)(B) to waive prior notice and an opportunity for public comment on this action, as notice and comment would be unnecessary and contrary to the public interest. This reporting requirement was detailed in the September 4, 2009, proposed rule, with public comments accepted through September 27, 2009. This reporting requirement was also detailed in the November 2, 2009, final rule, which also explained that implementation of the requirement was delayed pending OMB approval of the form. Therefore, the public has previously been provided with notice of this measure and opportunity to comment. Providing additional notice and comment would further delay the collection of bycatch discard information. The time required for additional notice and public comment would likely delay the implementation of this reporting requirement past the period in early spring when midwater trawl vessels have historically fished in Closed Area I. If this reporting requirement were not in place by that time, valuable information on bycatch discard would not be collected. The New England Fishery Management Council has expressed an interest in using data collected under this program in the current development of Amendment 5 to the FMP.

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

This final rule contains a new collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The new collection-of-information requirement pertaining to the CA I Midwater Trawl Released Codend Affidavit has been approved by OMB under OMB control number 0648–0602. Public reporting burden for these requirements is estimated to average 5 min per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS at the **ADDRESSES** above, and e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

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

List of Subjects in 15 CFR Part 902

Reporting and recordkeeping requirements.

Dated: January 28, 2010.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 15 CFR part 902 is amended as follows:

PART 902–NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by revising the existing entries for §§ 648.14 and 648.80 to read as follows:

§ 902.1 OMB control number assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (All numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
648.14	–0202, –0212,–0469,–0489, –0501, –0502, and –0602
* * * * *	
648.80	–0202, –0422, –0489, –0521, and –0602
* * * * *	

[FR Doc. 2010–2291 Filed 2–2–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 10

RIN 1215–AB66

Claims for Compensation; Death Gratuity Under the Federal Employees' Compensation Act

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Final rule.

SUMMARY: On August 18, 2009, the Department of Labor (DOL) published an interim final rule in order to administer the death gratuity created by section 1105 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181. Section 1105 provides a death gratuity payment to eligible survivors of federal employees and non-appropriated fund instrumentality employees (NAFI employees) who die of injuries incurred in connection with service with an Armed Force in a contingency operation.

Section 1105 amended the Federal Employees' Compensation Act (FECA) to add a new section, designated as section 8102a. The Secretary of Labor has the authority to administer and to decide all questions arising under FECA. 5 U.S.C. 8145. FECA authorizes the Secretary to prescribe rules and regulations necessary for the administration and enforcement of the Act. 5 U.S.C. 8149. The Secretary has delegated the authority provided by 5 U.S.C. 8145 and 8149 to the Director of the Office of Workers' Compensation Programs (OWCP), who is responsible for the administration and implementation of FECA. 20 CFR 1.1. Thus OWCP will administer the adjudication of claims and the payment of the death gratuity under new section 8102a.

At the same time the DOL published the interim final rule, it also invited written comments and advice from interested parties regarding possible changes to those regulations. This document amends the interim final rule based on the single comment received by the DOL.

DATES: *Effective Date:* This final rule is effective on April 5, 2010. Applicability dates: This final rule will apply to all claims filed on or after April 5, 2010. This rule will also apply to any claims that are pending on April 5, 2010.

FOR FURTHER INFORMATION CONTACT: Shelby Hallmark, Director, Office of Workers' Compensation Programs, U.S. Department of Labor, Room S–3524, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: 202–693–0031 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of Labor's (DOL) interim final rule governing the administration of the death gratuity created by section 1105 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181, by the DOL was published in the **Federal Register** on August 18, 2009 (74 FR 41617). The rule took effect immediately and included a 60-day period for comment. During the comment period, DOL received one timely comment from an individual. This comment addressed the issue of timeliness for retroactive claims under § 10.912, as well as some comments regarding what forms should be used under §§ 10.903 and 10.911. The DOL's section-by-section analysis of the timely comment it received is set forth below.

I. Comments on the Interim Final Rule

The section numbers used in the headings of the following analysis are those that were used in the interim final rule.

Sections 10.903 and 10.911

The commenter suggested that the interim final rule and forms be amended to indicate that, for retroactive claims under 5 U.S.C. 8102a, claimants would not need to submit the new forms CA–41 and CA–42 as other forms applied during the period prior to enactment of the death gratuity benefit on January 28, 2008 and that those forms be amended accordingly. The commenter also suggested that, in the alternative, the regulations could be amended at §§ 10.903 and 10.911 to reference that forms CA–5 and CA–6, which are used for death benefit claims under the FECA, could be used to file for the new death gratuity benefit. This comment, however, misconstrues the relationship between death benefits under the FECA and the new death gratuity benefit. Specifically, the death gratuity is a new benefit that did not exist prior to January 28, 2008, which involves different burdens of proof, different information, and potentially different beneficiaries than a claim for death benefits under the FECA. The new information sought in the new forms is required so that the DOL may make a proper determination as to eligibility under the new death gratuity benefit. Therefore, the suggested changes to §§ 10.903 and 10.911 have not been made.

Section 10.912

The commenter also suggested that § 10.912 be modified to indicate that a retroactive claim for the new death gratuity benefit is timely if a death benefit claim is filed for the same death within the three-year time limit for filing a FECA claim. The DOL notes that the regulation specifically covers such a situation, in that it states that a claim for the new death gratuity benefit is timely if it is filed within the time limits specified by the FECA pursuant to 5 U.S.C. 8122. That section of the FECA states that a claim for benefits is timely if it is filed within three years of the date of injury or death. That section further states that a claim for disability that is timely filed will be a timely filing for a death benefit based on the same injury. It is the position of the DOL that this section covers the circumstances noted by the commenter, and that the timely filing of a claim for death benefits under the FECA is a timely filing for a retroactive death gratuity benefit. Furthermore, the DOL notes that section 8122 of the FECA also states that a claim is also timely if an immediate supervisor had knowledge of an injury

within 30 days from the date of injury, which will cover the vast majority of retroactive death gratuity claims under section 8102a.

The commenter's contention that there is potential confusion regarding the time limitations for a retroactive death gratuity benefit, however, is well taken. The DOL notes that, since it would have been impossible to file a claim for a benefit that did not exist, Congress could not have intended for the statute of limitations to begin to run from the date of death for retroactive death gratuity claims. Furthermore, as DOL had no procedures for the filing of retroactive death gratuity claims prior to the enactment of the Interim Final Rule on August 18, 2009, the three-year time limitation for filing a retroactive death gratuity claim could not have begun to run until that date. Accordingly, the DOL has amended § 10.912(a) by adding a sentence at the end of that subsection to clarify when the statute of limitations started running for retroactive claims for the FECA death gratuity benefit. This section also has been slightly renumbered.

II. Administrative Requirements for the Rulemaking

Executive Order 12866

This regulatory action constitutes a "significant" rule within the meaning of Executive Order 12866 in that any executive agency could be required to participate in the development of claims for benefits under this regulatory action. The Department believes, however, that this regulatory action will not have a significant economic impact on the economy, or any person or organization subject to the changes, in that the annual amount of benefits paid under this section is expected to be approximately one million dollars. The changes have been reviewed by the Office of Management and Budget (OMB) for consistency with the President's priorities and the principles set forth in Executive Order 12866.

Regulatory Flexibility Act of 1980

This rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612. The Department has concluded that the rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

Paperwork Reduction Act (PRA)

This rule contains information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.* The requirements set out in §§ 10.909, 10.911, 10.912, 10.914 and 10.915 of this rule were both submitted to and approved by the OMB under the OMB Control Number 1215–0206 (expires May 31, 2010).

The National Environmental Policy Act of 1969

The Department certifies that this rule has been assessed in accordance with the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA). The Department concludes that NEPA requirements do not apply to this rulemaking because this rule includes no provisions impacting the maintenance, preservation, or enhancement of a healthful environment.

Federal Regulations and Policies on Families

The Department has reviewed this rule in accordance with the requirements of section 654 of the Treasury and General Government Appropriations Act of 1999, 5 U.S.C. 601 note. These regulations were not found to have a potential negative affect on family well-being as it is defined thereunder.

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

The Department certifies that this rule has been assessed regarding environmental health risks and safety risks that may disproportionately affect children. These were not found to have a potential negative affect on the health or safety of children.

Unfunded Mandates Reform Act of 1995 and Executive Order 13132

The Department has reviewed this rule in accordance with the requirements of Exec. Order No. 13132, 64 FR 43225 (Aug. 10, 1999), and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.,* and has found no potential or 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 there is no Federal mandate contained herein that could result in increased expenditures by State, local, or tribal governments or by the private sector, the Department has not prepared a budgetary impact statement.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The Department has reviewed this rule in accordance with Exec. Order 13175, 65 FR 67,249 (Nov. 9, 2000), and has determined that it does not have "tribal implications." The rule does 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."

Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

The Department has reviewed this rule in accordance with Exec. Order 12630, 53 FR 8859 (Mar. 15, 1988), and has determined that it does not contain any "policies that have takings implications" in regard to the "licensing, permitting, or other condition requirements or limitations on private property use, or that require dedications or exactions from owners of private property."

Executive Order 13211: Energy Supply, Distribution, or Use

The Department has reviewed this regulation and has determined that the provisions of Exec. Order 13211, 66 FR 28355 (May 18, 2001), are not applicable as there are no direct or implied effects on energy supply, distribution, or use.

The Privacy Act of 1974, 5 U.S.C. 552a, as Amended

While claims filed under section 8102a of the FECA will be a separate claim file and bear a separate claim number from any other FECA claim file maintained on the covered employee, the collection and release of these files will be conducted under the provisions of the Privacy Act and the published systems of record notices for FECA claims files. Therefore, the Department has determined that this rule will require a minor revision of the current Privacy Act System of Records, DOL/GOVT–1, Office of Workers' Compensation Programs, Federal Employees' Compensation Act File, 67 FR 16826 (April 8, 2002).

Clarity of This Regulation

Executive Order 12866, 58 FR 51735 (September 30, 1993), and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. The Department

invites comments on how to make this rule easier to understand.

List of Subjects in 20 CFR Part 10

Administrative practice and procedure, Claims, Death gratuity, Government employees, Labor, Workers' compensation, NAFI.

Text of the Rule

■ For the reasons set forth in the preamble, the interim final rule, which added subpart J to 20 CFR Part 10 and which was published at 74 FR 41617 on August 18, 2009, is adopted as a final rule with the following change:

PART 10—CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED

Subpart J—Death Gratuity

■ 1. The authority citation for Part 10, Subpart J continues to read as follows:

Authority: 5 U.S.C. 8102a.

■ 2. Revise § 10.912 to read as follows:

§ 10.912 What is required to establish a claim for the death gratuity payment?

Claim form CA–41 describes the basic requirements. Much of the required information will be provided by the employing agency when it completes notification form CA–42. However, the claimant bears the burden of proof to ensure that OWCP has the evidence needed to establish the claim. OWCP may send any request for additional evidence to the claimant and to his or her representative, if any. Evidence should be submitted in writing. The evidence submitted must be reliable, probative, and substantial. Each claim for the death gratuity must establish the following before OWCP can pay the gratuity:

(a) That the claim was filed within the time limits specified by the FECA, as prescribed in 5 U.S.C. 8122 and this part. Timeliness is based on the date that the claimant filed the claim for the death gratuity under § 10.911, not the date the employing agency submitted form CA–42. As procedures for accepting and paying retroactive claims were not available prior to the publication of the interim final rule, the applicable statute of limitations began to run for a retroactive payment under this subpart on August 18, 2009.

(b) That the injured person, at the time he or she incurred the injury or disease, was an employee of the United States as defined in 5 U.S.C. 8101(1) and § 10.5(h) of this part, or a non-appropriated fund instrumentality employee, as defined in 10 U.S.C. 1587(a)(1).

(c) That the injury or disease occurred and that the employee's death was causally related to that injury or disease. The death certificate of the employee must be provided. Often, the employing agency will provide the death certificate and any needed medical documentation. OWCP may request from the claimant any additional documentation that may be needed to establish the claim.

(d) That the employee incurred the injury or disease in connection with the employee's service with an Armed Force in a contingency operation. This will be determined from evidence provided by the employing agency or otherwise obtained by OWCP and from any evidence provided by the claimant.

(1) Section 8102a defines "contingency operation" to include humanitarian operations, peacekeeping operations, and similar operations. ("Similar operations" will be determined by OWCP.)

(i) A "contingency operation" is defined by 10 U.S.C. 101(a)(13) as a military operation that—

(A) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of [Title 10], chapter 15 of [Title 10], or any other provision of law during a war or during a national emergency declared by the President or Congress.

(ii) A "humanitarian or peacekeeping operation" is defined by 10 U.S.C. 2302(8) as a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing.

(iii) "Humanitarian assistance" is defined by 10 U.S.C. 401(e) to mean medical, surgical, dental, and veterinary care provided in areas of a country that are rural or are underserved by medical, surgical, dental, and veterinary professionals, respectively, including education, training, and technical assistance related to the care provided; construction of rudimentary surface transportation systems; well drilling and construction of basic sanitation facilities; rudimentary construction and repair of public facilities.

(2) A contingency operation may take place within the United States or abroad. However, operations of the National Guard are only considered "contingency operations" for purposes of this subpart when the President, Secretary of the Army, or Secretary of the Air Force calls the members of the National Guard into service. A "contingency operation" does not include operations of the National Guard when called into service by a Governor of a State.

(3) To show that the injury or disease was incurred "in connection with" the employee's service with an Armed Force in a contingency operation, the claim must show that the employee incurred the injury or disease while in the performance of duty as that phrase is defined for the purposes of otherwise awarding benefits under FECA.

(4)(i) When the contingency operation occurs outside of the United States, OWCP will find that an employee's injury or disease was incurred "in connection with" the employee's service with an Armed Force in a contingency operation if the employee incurred the injury or disease while performing assignments in the same region as the operation, unless there is conclusive evidence that the employee's service was not supporting the Armed Force's operation.

(ii) Economic or social development projects, including service on Provincial Reconstruction Teams, undertaken by covered employees in regions where an Armed Force is engaged in a contingency operation will be considered to be supporting the Armed Force's operation.

(5) To show that an employee's injury or disease was incurred "in connection with" the employee's service with an Armed Force in a contingency operation, the claimant will be required to establish that the employee's service was supporting the Armed Force's operation. The death gratuity does not cover federal employees who are performing service within the United States that is not supporting activity being performed by an Armed Force.

(e) The claimant must establish his or her relationship to the deceased employee so that OWCP can determine whether the claimant is the survivor entitled to receive the death gratuity

payment according to the order of precedence prescribed in § 10.907.

Shelby Hallmark,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2010–1925 Filed 2–2–10; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 548

Belarus Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is adding new part 548 to 31 CFR chapter V to implement Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus."

DATES: *Effective Date:* February 3, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On June 16, 2006, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 13405 (71 FR 35485, June 20, 2006) ("E.O. 13405"), effective at 12:01 a.m. eastern daylight time on June 19, 2006. In E.O. 13405, the President determined that the actions and policies of certain members of the Government of Belarus and other persons to undermine Belarus democratic processes or institutions, which were manifested in the fundamentally undemocratic March 2006 elections, to commit human rights abuses related to political repression, including detentions and disappearances, and to engage in public corruption, including by diverting or misusing Belarusian public assets or by misusing public authority, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and declared a national emergency to deal with that threat.

Section 1(a) of E.O. 13405 blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, of: (1) The persons listed in the Annex to E.O. 13405; and (2) any person determined by the Secretary of the Treasury, after consultation with the Secretary of State: (i) To be responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus; (ii) to be responsible for, or to have participated in, human rights abuses related to political repression in Belarus; (iii) to be a senior-level official, a family member of such an official, or a person closely linked to such an official who is responsible for or has engaged in public corruption related to Belarus; (iv) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described above or any person listed in or designated pursuant to E.O. 13405; or (v) to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person listed in or designated pursuant to E.O. 13405. The property and interests in property of the persons described above may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

In Section 1(b) of E.O. 13405, the President determined that the making of donations of certain articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, as specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to E.O. 13405 would seriously impair his ability to deal with the national emergency declared in E.O. 13405. The President therefore prohibited the donation of such items unless authorized by OFAC.

Section 1(c) of E.O. 13405 provides that the prohibition on any transaction or dealing in blocked property or interests in property includes, but is not limited to, the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to E.O. 13405, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Section 2 of E.O. 13405 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in E.O. 13405, as well as any conspiracy formed to violate such prohibitions.

Section 5 of E.O. 13405 authorizes the Secretary of the Treasury, after consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, as may be necessary to carry out the purposes of E.O. 13405. Section 5 of E.O. 13405 also provides that the Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the U.S. Government. In furtherance of the purposes of E.O. 13405, OFAC is promulgating the Belarus Sanctions Regulations, 31 CFR part 548 (the "Regulations").

The Regulations implement targeted sanctions that are directed at certain persons who meet the criteria set forth above. The sanctions generally do not prohibit trade or the provision of banking or other financial services to the country of Belarus, unless the transaction or service in question involves a person whose property and interests in property are blocked pursuant to these sanctions.

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations implements the prohibitions contained in sections 1 and 2 of E.O. 13405. *See, e.g.,* §§ 548.201 and 548.205. Persons identified in the Annex to E.O. 13405, designated by or under the authority of the Secretary of the Treasury pursuant to E.O. 13405, or otherwise subject to the blocking provisions of E.O. 13405 are referred to throughout the Regulations as "persons whose property and interests in property are blocked pursuant to § 548.201(a)." The names of persons listed in or designated pursuant to E.O. 13405 are published on OFAC's Specially Designated Nationals and Blocked Persons List, which is accessible via OFAC's Web site. Those names also are published in the **Federal**

Register as they are added to the List, and the entire List is republished annually as Appendix A to 31 CFR chapter V.

Sections 548.202 and 548.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and set forth the requirement to hold blocked funds, such as currency, bank deposits, or liquidated financial obligations, in interest-bearing blocked accounts. Section 548.204 of subpart B provides that all expenses incident to the maintenance of blocked physical property shall be the responsibility of the owners and operators of such property, and that such expenses shall not be met from blocked funds, unless otherwise authorized. The section further provides that blocked property may, in OFAC's discretion, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 548.205 of subpart B implements the prohibitions of E.O. 13405 on any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in E.O. 13405, and on any conspiracy formed to violate such prohibitions.

Section 548.206 of subpart B details transactions that are exempt from the prohibitions of the Regulations pursuant to sections 203(b)(1), (3), and (4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)). These exempt transactions relate to personal communications, the importation and exportation of information or informational materials, and transactions ordinarily incident to travel.

Subpart C of the Regulations defines key terms used throughout the Regulations, and subpart D contains interpretive sections regarding the Regulations. Section 548.411 of subpart D explains that the property and interests in property of an entity are blocked if the entity is 50 percent or more owned by a person whose property and interests in property are blocked, whether or not the entity itself is listed in or designated pursuant to E.O. 13405.

Transactions otherwise prohibited under the Regulations but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart E of 31 CFR part 501. Subpart E of the Regulations also contains certain statements of licensing policy in addition to the general licenses.

Subpart F of the Regulations refers to subpart C of part 501 for applicable recordkeeping and reporting requirements. Subpart G of the Regulations describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty. Subpart G also refers to Appendix A of part 501 for a more complete description of these procedures.

Subpart H of the Regulations refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of authority by the Secretary of the Treasury. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting, Procedures and Penalties Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 548

Administrative practice and procedure, Banks, Banking, Belarus, Blocking of assets, Credit, Foreign trade, Penalties, Reporting and recordkeeping requirements, Securities, Services.

■ For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 548 to 31 CFR chapter V to read as follows:

PART 548—BELARUS SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
548.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

548.201 Prohibited transactions involving blocked property.
548.202 Effect of transfers violating the provisions of this part.
548.203 Holding of funds in interest-bearing accounts; investment and reinvestment.
548.204 Expenses of maintaining blocked physical property; liquidation of blocked property.
548.205 Evasions; attempts; conspiracies.
548.206 Exempt transactions.

Subpart C—General Definitions

548.301 Blocked account; blocked property.
548.302 Effective date.
548.303 Entity.
548.304 Information or informational materials.
548.305 Interest.
548.306 Licenses; general and specific.
548.307 Person.
548.308 Property; property interest.
548.309 Transfer.
548.310 United States.
548.311 U.S. financial institution.
548.312 United States person; U.S. person.
548.313 Financial, material, or technological support.

Subpart D—Interpretations

548.401 Reference to amended sections.
548.402 Effect of amendment.
548.403 Termination and acquisition of an interest in blocked property.
548.404 Transactions ordinarily incident to a licensed transaction.
548.405 Provision of services.
548.406 Offshore transactions.
548.407 Payments from blocked accounts to satisfy obligations prohibited.
548.408 Charitable contributions.
548.409 Credit extended and cards issued by U.S. financial institutions.
548.410 Setoffs prohibited.
548.411 Entities owned by a person whose property and interests in property are blocked.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

548.501 General and specific licensing procedures.
548.502 Effect of license or authorization.
548.503 Exclusion from licenses.
548.504 Payments and transfers to blocked accounts in U.S. financial institutions.
548.505 Entries in certain accounts for normal service charges authorized.
548.506 Investment and reinvestment of certain funds.
548.507 Provision of certain legal services authorized.
548.508 Authorization of emergency medical services.
548.509 Transactions with certain blocked persons authorized.

Subpart F—Reports

548.601 Records and reports.

Subpart G—Penalties

548.701 Penalties.
548.702 Pre-penalty notice; settlement.
548.703 Penalty imposition.
548.704 Administrative collection; referral to United States Department of Justice.

Subpart H—Procedures

548.801 Procedures.
548.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

548.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (28 U.S.C. 1705 note); E.O. 13405, 71 FR 35485; 3 CFR, 2007 Comp., p. 231.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 548.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 548.201 Prohibited transactions involving blocked property.

(a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13405 of June 16, 2006 (71 FR 35485, June 20, 2006); and

(2) Any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

(i) To be responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus;

(ii) To be responsible for, or to have participated in, human rights abuses related to political repression in Belarus;

(iii) To be a senior-level official, a family member of such an official, or a person closely linked to such an official who is responsible for or has engaged in public corruption related to Belarus;

(iv) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraphs (a)(2)(i) through (a)(2)(iii) of this section or any person whose property or interests in property are blocked pursuant to this paragraph (a); or

(v) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property or interests in property are blocked pursuant to this paragraph (a).

Note 1 to paragraph (a) of § 548.201: The names of persons listed in or designated pursuant to Executive Order 13405, whose property and interests in property are blocked pursuant to paragraph (a) of this section, are published on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List ("SDN" list) (which is accessible via the Office of Foreign Assets Control's Web site), published in the **Federal Register**, and incorporated into Appendix A to this chapter with the identifier "[BELARUS]." See § 548.411 concerning entities that may not be listed on the SDN list but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

Note 2 to paragraph (a) of § 548.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), in section 203 (50 U.S.C. 1702), explicitly authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this part also are published on the SDN list, published in the **Federal Register**, and incorporated into Appendix A to this chapter with the identifier "[BPI–BELARUS]."

Note 3 to paragraph (a) of § 548.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include, but are not limited to, prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

(d) The prohibitions in paragraph (a) of this section apply except to the extent transactions are authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date.

§ 548.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 548.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 548.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13405, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 548.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 548.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 548.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 548.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 548.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 548.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 548.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 548.201(a) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 548.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 548.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The importation from any country and the exportation to any country of any information or informational materials, as defined in § 548.304, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property and interests in property are blocked pursuant to § 548.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology, or software for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 548.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 548.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 548.201 held in the name of a person whose property and interests in property are blocked pursuant to § 548.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

Note to § 548.301: See § 548.411 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 548.201(a)(1), 12:01 a.m. eastern daylight time on June 19, 2006; and

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 548.201(a), the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 548.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 548.304 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD–ROMs, artworks, and news wire feeds.

Note to paragraph (a) of § 548.304: To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials,* with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the "EAA"), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 548.305 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* "an interest in property"), means an interest of any nature whatsoever, direct or indirect.

§ 548.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

Note to § 548.306: See § 501.801 of this chapter on licensing procedures.

§ 548.307 Person.

The term *person* means an individual or entity.

§ 548.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder,

powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 548.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 548.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 548.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 548.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 548.313 Financial, material, or technological support.

The term *financial, material, or technological support,* as used in § 548.201(a)(2)(iv) of this part, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. "Technologies" as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

Subpart D—Interpretations

§ 548.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 548.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 548.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 548.201(a), unless there exists in the property another interest that is blocked pursuant to § 548.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 548.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 548.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 548.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(c) *Example.* A license authorizing Company A, whose property and interests in property are blocked

pursuant to § 548.201(a), to complete a securities sale also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, broker, transfer agents, banks, etc., provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.405 Provision of services.

(a) Except as provided in § 548.206, the prohibitions on transactions involving blocked property contained in § 548.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 548.201(a); or

(2) With respect to property interests subject to § 548.201.

(b) *Example.* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 548.201(a).

Note to § 548.405: See §§ 548.507 and 548.508 on licensing policy with regard to the provision of certain legal and medical services.

§ 548.406 Offshore transactions.

The prohibitions in § 548.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 548.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 548.201(a) has or has had an interest since the effective date.

§ 548.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 548.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 548.408 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing or medicine, may be made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 548.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 548.201(a) if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person, or the receipt of contributions from any such person.

§ 548.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 548.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 548.201 if effected after the effective date.

§ 548.411 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 548.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 548.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13405 or designated pursuant to § 548.201(a).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 548.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 548.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 548.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 548.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 548.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked

accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note to § 548.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 548.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 548.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 548.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 548.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 548.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.,* through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 548.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 548.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 548.201(a) is prohibited unless licensed pursuant to this part.

§ 548.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 548.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 548.509 Transactions with certain blocked persons authorized.

(a) Except as provided in paragraph (b), U.S. persons are authorized to engage in all transactions otherwise prohibited by this part with Lakokraska OAO and/or Polotosk Steklovolokno OAO, entities whose property and interests in property are blocked pursuant to § 548.201(a)(2), until May 31, 2010.

(b) Unless otherwise authorized pursuant to this part, all property and interests in property of Lakokraska OAO or Polotsk Steklovolokno OAO that were blocked pursuant to Executive Order 13405 prior to September 4, 2008, remain blocked and subject to the prohibitions of this part. This section does not authorize U.S. persons to procure goods, services, or technology from, or engage in transactions with, any other blocked person, directly or indirectly, through Lakokraska OAO and/or Polotosk Steklovolokno OAO.

Subpart F—Reports

§ 548.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 548.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) ("IEEPA"), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

Note to paragraph (a)(1) of § 548.701: As of the date of publication in the **Federal Register** of the final rule adding this part to 31 CFR chapter V (February 3, 2010), IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be

fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 548.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see Appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see Appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see Appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in Appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 548.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see Appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 548.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 548.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 548.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13405 of June 16, 2006 (71 FR 35485, June 20, 2006), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 548.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: January 27, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

Approved: January 22, 2010.

Stuart A. Levey,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2010–2220 Filed 2–2–10; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0878]

RIN 1625–AA00

Safety Zone; AICW Closure Safety Zone for Ben Sawyer Bridge Replacement Project, Sullivan's Island, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Atlantic Intracoastal Waterway for the safe removal and replacement of the old and new approach spans of the Ben Sawyer Swing Bridge. This regulation is necessary to protect life and property on the navigable waters of the Atlantic Intracoastal Waterway from the dangers associated with the construction project. No vessel or person is allowed in this zone unless authorized by the Captain of the Port or a designated representative.

DATES: *Effective Date:* this rule is effective in the CFR from February 3, 2010 until 11:59 p.m. February 13, 2010. This rule is effective with actual notice for purposes of enforcement beginning 7 a.m. February 3, 2010.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–0878 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–0878 in the "Keyword" box, and then clicking "Search." This material is 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 Lieutenant Julie Miller, Sector Charleston office of Waterways Management Coast Guard; telephone 843–720–3273, e-mail *Julie.e.miller@uscg.mil.* If you have any 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 hazards associated with the bridge replacement, including potential falling debris and the use of heavy equipment and machinery in the waterway, could lead to severe injury, fatalities and/or destruction of public property. Therefore, immediate action is needed to ensure the public's safety from the hazards noted above.

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** for the same reasons as stated above.

Background and Purpose

The removal and replacement of the old and new spans of the Ben Sawyer Bridge are scheduled to begin on February 3, 2010. This operation presents a potential hazard to mariners from falling debris and the use of heavy equipment and machinery. To provide for the safety of the public, the Coast Guard will temporarily restrict access to this section of the Atlantic Intracoastal Waterway during bridge replacement operations.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone to encompass the waters of the Atlantic Intracoastal Waterway Mile 462.2, extending 180 yards northwest of the Ben Sawyer Bridge, and 220 yards southwest of the Ben Sawyer Bridge (32°46.22 N, 079°50.31 W (NAD 1983)). The actual date of the bridge spans removal and replacement is subject to change due to weather and other scheduling constraints. Notification of the safety zone will be announced through broadcast notice to mariners, marine safety information bulletins, local media press releases, and on-scene Coast Guard assets. Marine traffic will not be permitted to enter the safety zone without permission of the Captain of the Port Charleston or his designated representative. Traffic needing permission to pass through the safety zone can contact the COTP on VHF–FM channel 16 or via phone at (843) 740–7050.

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 regulation will restrict access to the area, the effect of the rule will not be significant because the safety zone will only be in effect for a short duration and only affects a small portion of the waterway. Additionally, advanced outreach and notification to marine traffic notifying them of the upcoming closure will occur, therefore marine traffic should be able to plan transits around closure dates or plan safe alternate transit routes if transiting during the expected closure dates.

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 and operators of vessels intending to transit the affected portion of the Atlantic Intracoastal Waterway from 7 a.m. on February 3, 2010 to 11:59 p.m. on February 13, 2010. This impact will not be significant but may have impact on routine navigation because the safety zone will be effective for 10 days and close down the entire portion of the Atlantic Intracoastal Waterway. Although the safety zone will apply to the entire width of the Atlantic Intracoastal Waterway channel at the Ben Sawyer Bridge, the Coast Guard will outreach to traffic in advance of the bridge closure, so that they may schedule trips and plan alternate routes accordingly.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect 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 establishes a temporary safety zone to protect the public from bridge replacement operations. An environmental analysis checklist and a categorical exclusion determination will be 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T07–0078 to read as follows:

§ 165.T07–0078 Safety Zone; AICW Closure Safety Zone for Ben Sawyer Bridge Replacement Project, Sullivan's Island, SC.

(a) *Location.* The Coast Guard is establishing a temporary safety zone for the Ben Sawyer Bridge span replacement project at the Ben Sawyer Bridge located at Atlantic Intracoastal Waterway Mile 462.2 (32°46.22 N, 079°50.31 W (NAD 1983)). The safety zone will encompass the entire waterway from 180 yards northwest of the Ben Sawyer Bridge to 220 yards southwest of the Bridge.

(b) *Definition.* The following definition applies to this section:

Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Charleston, South Carolina.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may anchor, moor, or transit the safety zone without permission of the Captain of the Port Charleston, South Carolina, or his designated representative. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction.

(d) *Effective Period.* This rule will be enforced from 7 a.m. February 3, 2010 through 11:59 p.m. February 13, 2010.

M.F. McAllister,

Captain, U.S. Coast Guard, Captain of the Port Charleston South Carolina.

[FR Doc. 2010–2215 Filed 2–2–10; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 382

[Docket No. 2006–1 CRB DSTRA]

Determination of Rates and Terms for Preexisting Subscription Services and Satellite Digital Audio Radio Services

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges are publishing final regulations governing the rates for the preexisting satellite digital audio radio services' use of the ephemeral recordings statutory license under the Copyright Act for the period 2007 through 2012.

DATES: *Effective Date:* March 5, 2010.

Applicability Dates: The regulations apply to the license period January 1, 2007, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707–7658 or by e-mail at *crb@loc.gov*.

SUPPLEMENTARY INFORMATION: On January 24, 2008, the Copyright Royalty Judges ("Judges") published in the **Federal Register** their determination of royalty rates and terms under the statutory license under Sections 112(e) and 114 of the Copyright Act, title 17 of the United States Code, for the period 2007 through 2012 for preexisting satellite digital audio radio services ("SDARS"). 73 FR 4080. In *SoundExchange, Inc.* v. *Librarian of Congress,* 571 F.3d 1220, 1226 (D.C. Cir. 2009), the U.S. Court of Appeals for the District of Columbia Circuit affirmed the Judges' determination in all but one respect, remanding to the Judges the single matter of specifying a royalty for the use of the ephemeral recordings statutory license under Section 112(e) of the Copyright Act. By order dated October 22, 2009, the Judges established a period from November 2, 2009, through December 2, 2009, for SoundExchange, Inc. and Sirius XM Radio Inc. (collectively, the "Parties") to negotiate and submit a settlement of the ephemeral royalty rate issue that was the subject of the remand.

On November 24, 2009, the Parties submitted their settlement of the remanded issue. Subsequently, the Judges published for comment the proposed change in the rule necessary to implement that settlement pursuant to the order of remand from the U.S. Court of Appeals for the District of Columbia Circuit. 74 FR 66601 (December 16, 2009). Comments were due to be filed by no later than January 15, 2010. Having received no comments or objections to the proposed change, the Judges are now adopting as final the proposed change as published on December 16, 2009. *See* 74 FR 66601.

As noted in the December 16 publication, pursuant to the Parties' settlement, the change to the regulations at 37 CFR 382.12 adopted today do not disturb the combined Section 112(e)/114 royalty previously set by the Judges but do specify that five percent of the combined royalty will be considered the Section 112(e) royalty, while the balance of the royalty is attributable to the Section 114 license.

List of Subjects in 37 CFR Part 382

Copyright, Digital audio transmissions, Performance right, Sound recordings.

Final Regulations

■ For the reasons set forth in the preamble, the Copyright Royalty Judges amend part 382 of title 37 of the Code of Federal Regulations as follows:

PART 382—RATES AND TERMS FOR DIGITAL TRANSMISSIONS OF SOUND RECORDINGS AND THE REPRODUCTION OF EPHEMERAL RECORDINGS BY PREEXISTING SUBSCRIPTION SERVICES AND PREEXISTING SATELLITE DIGITAL AUDIO RADIO SERVICES

■ 1. The authority citation for part 382 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114, and 801(b)(1).

■ 2. Section 382.12 is revised to read as follows:

§ 382.12 Royalty fees for the public performance of sound recordings and the making of ephemeral recordings.

(a) *In general.* The monthly royalty fee to be paid by a Licensee for the public performance of sound recordings pursuant to 17 U.S.C. 114(d)(2) and the making of any number of ephemeral phonorecords to facilitate such performances pursuant to 17 U.S.C. 112(e) shall be the percentage of monthly Gross Revenues resulting from Residential services in the United States as follows: for 2007 and 2008, 6.0%; for 2009, 6.5%; for 2010, 7.0%; for 2011, 7.5%; and for 2012, 8.0%.

(b) *Ephemeral recordings.* The royalty payable under 17 U.S.C. 112(e) for the making of phonorecords used by the Licensee solely to facilitate transmissions during the Term for which it pays royalties as and when

provided in this subpart shall be included within, and constitute 5% of, such royalty payments.

Dated: January 28, 2010.

James Scott Sledge,

Chief U.S. Copyright Royalty Judge.

[FR Doc. 2010–2219 Filed 2–2–10; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0771; FRL–9108–7]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an error in the amendatory instruction in a November 20, 2009 final rule pertaining to the Indiana State Implementation Plan (SIP) revision updating the definition of "References to the Code of Federal Regulations," to refer to the 2008 edition. The amendatory instruction in that rulemaking conflicts with the actual amendment language. EPA, therefore, is correcting the erroneous amendatory instructions.

DATES: *Effective Date:* This final rule is effective on February 3, 2010.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328, *panos.christos@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA published a final rule document on November 20, 2009, (74 FR 60197) approving Indiana's request to revise the Indiana SIP by updating the definition of "References to the Code of Federal Regulations," to refer to the 2008 edition. In this approval EPA erroneously identified the paragraph being added to 40 CFR 52.770. The amendatory instruction in that rulemaking conflicts with the actual amendment language. The amendatory language says to add paragraph (c)(192), but the actual language being added is for paragraph (c)(191). Therefore, the amendatory instruction should have referred to paragraph (c)(191).

Correction

In the final rule published in the **Federal Register** on November 20, 2009, (74 FR 60197), on page 60199, second column, in amendatory instruction 2, in the second line, "* * * adding paragraph (c)(192) * * *" should have read: "* * * adding paragraph (c)(191) * * *".

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(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 rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use", 66 FR 28355 (May 22, 2001). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section, above, 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 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). 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, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of *February 3, 2010.* 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 the rule in the **Federal Register.** This correction to 40 CFR 52 for Indiana is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: January 22, 2010.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart P—Indiana

§ 52.770 [Amended]

■ 2. Section 52.770 is amended by redesignating paragraph (c)(192) as paragraph (c)(191).

[FR Doc. 2010–2248 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0540; FRL–8808–4]

Hexythiazox; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of hexythiazox in or on corn, sweet, plus cobs with husks removed (K+CWHR); corn, sweet, forage; and corn, sweet, stover. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sweet corn grown for seed. This regulation establishes a maximum permissible level for residues of hexythiazox in these food . The time-limited tolerances expire and are revoked on December 31, 2012.

DATES: This regulation is effective February 3, 2010. Objections and requests for hearings must be received on or before April 5, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0540. All documents in the docket are listed in the docket index available in *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Andrew Ertman, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 3087–9367; e-mail address: *ertman.andrew@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0540 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 5, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2009–0540, by one of the following methods:

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

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of FFDCA, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for the combined residues of hexythiazox, trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-

chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, in or on corn, sweet, plus cobs with husks removed (K+CWHR) at 0.02 parts per million (ppm); corn, sweet, forage at 6.0 ppm; and corn, sweet, stover at 2.5 ppm. These time-limited tolerances expire and are revoked on December 31, 2012. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR).

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of section 408 of FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Hexythiazox on Sweet Corn Grown for Seed and FFDCA Tolerances

The applicant, the Idaho Department of Agriculture, states that there has been an increase in mite populations over the past several years and growers currently have no feasible control alternative (either chemical or non-chemical) to control them. Left unchecked, mites can cause significant losses in seed yield and quality. After having reviewed the submission, EPA determined that emergency conditions exist for this State, and that the criteria for an emergency exemption are met. EPA has authorized under FIFRA section 18 the use of hexythiazox on sweet corn grown for seed for control of mites in Idaho.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of hexythiazox in or on sweet corn plus cobs with husks removed (K+CWHR), sweet corn forage, and sweet corn stover. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although these time-limited tolerances expire and are revoked on December 31, 2012, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on sweet corn plus cobs with husks removed (K+CWHR), sweet corn forage, and sweet corn stover after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether hexythiazox meets FIFRA's registration requirements for use on sweet corn grown for seed or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of hexythiazox by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for persons in any State other than Idaho to use this pesticide on these crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for hexythiazox, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of this emergency exemption request and the time-limited tolerances for combined residues of hexythiazox, trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, in or on corn, sweet, plus cobs with husks removed (K+CWHR) at 0.02 ppm; corn, sweet, forage at 6.0 ppm; and corn, sweet, stover at 2.5 ppm. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

On December 2, 2009 the Agency published a Final Rule (74 FR 63070,

FRL–8799–9) establishing tolerances for combined residues of hexythiazox in or on potato at 0.02 ppm. When the Agency conducted the risk assessments in support of the December 2, 2009 tolerance action, it also assessed the risk resulting from the section 18 use on sweet corn grown for seed. Specifically, in that risk assessment, EPA assumed that hexythiazox would be present in corn, sweet, plus cobs with husks removed (K+CWHR) at 0.02 ppm; corn, sweet, forage at 6.0 ppm; and corn, sweet, stover at 2.5 ppm. EPA relies upon those risk assessments and the findings made in the **Federal Register** document in support of this action. Refer to the December 2, 2009 **Federal Register** document (EPA–HQ–OPP–2007–0330), available at *http://www.regulations.gov*, for a detailed discussion of the aggregate risk assessments and determination of safety.

Based on the risk assessments discussed in the final rule published in the **Federal Register** of December 2, 2009 (74 FR 63070, FRL–8799–9), EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to hexythiazox residues.

V. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement methodology (Method AMR-985–87) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no currently established CODEX, Canadian, or Mexican MRLs for residues of hexythiazox in/on the subject commodities.

VI. Conclusion

Therefore, time-limited tolerances are established for combined residues of hexythiazox, trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, in or on corn, sweet, plus cobs with husks removed (K+CWHR) at 0.02 ppm; corn, sweet, forage at 6.0 ppm; and corn, sweet, stover at 2.5 ppm. These tolerances expire and are revoked on December 31, 2012.

VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under sections 408(e) and 408(l)(6) of FFDCA in response to a petition submitted to the Agency. 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). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with sections 408(e) and 408(l)(6) of FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: January 25, 2010.

Lois Rossi,

Director, Registration DivisionOffice of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.448 is amended by alphabetically adding commodities to the table in paragraph (b) to read as follows:

§ 180.448 Hexythiazox; tolerance for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * *	*	
Corn, sweet, plus cobs with husks removed (K+CWHR)	0.02	12/31/12
Corn, sweet, forage	6.0	12/31/12
Corn, sweet, stover	2.5	12/31/12

* * * * *

[FR Doc. 2010–2148 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0460; FRL–8808–8]

Dithianon; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of dithianon in or on grapes that are imported. BASF requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 3, 2010. Objections and requests for hearings must be received on or before April 5, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0460 All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Rose Kearns, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5611; e-mail address: *kearns.rosemary@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*. To access the OPPTS harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/oppts* and select "Test Methods & Guidelines" on the left-side navigation menu.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0460 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before April 5, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0460, by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of November 4, 2009 (74 FR 57170) (FRL–8797–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E7103) by BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528. The petition requested that 40 CFR 180.621 be amended by establishing a tolerance for residues of the fungicide dithianon, 5,10-dihydro-5-10-dioxonaptho(2,3-b)-1,4-dithiin-2,3-

dicarbonitrile, in or on grapes at 3 parts per million (ppm). That notice referenced a summary of the petition prepared by BASF, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerance, for residues of dithianon on grape at 3 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The acute toxicity is mild via the oral route. The toxicologically significant adverse effects of dithianon are similar across species. In studies with shorter durations of exposure, including the subchronic dog and rat studies, the developmental toxicity study in rats, and the 2-generation reproduction rat study, decreases in body weight, body weight gain, and/or food consumption were noted in adults. However, with continued exposure, as in the chronic and/or carcinogenicity studies in the rat, mouse, and dog, the kidney is the target organ for toxicity. Signs of renal toxicity include increased absolute and/or relative kidney weights in the rat, mouse, and dog; non-neoplastic kidney lesions in mice and rats; and renal adenomas and carcinomas in female rats. Post-implantation loss due to early resorptions was observed in the developmental rat study.

The available toxicology database does not show any indication of increased qualitative or quantitative susceptibility of the offspring. Dithianon did not cause reproductive or developmental toxicity in the 2-generation reproduction study. In the developmental rat study, decreased fetal weights were observed only at a dose higher than that which produced similar maternal effects. The developmental toxicity study in rabbits was classified unacceptable/guideline.

Carcinogenicity studies in rats and mice do not raise a concern as to carcinogenicity. The only treatment-related tumors, rare kidney tumors, (primarily adenomas), were seen only at the highest dose tested (30 milligram/kilogram/day (mg/kg/day)) in one sex (females) and in one species (rats). The highest dose tested was considered adequate, but not excessive, to assess the carcinogenicity of dithianon; however, significant renal toxicity occurred at this dose, which may have contributed to the tumor formulation. Although the Agency concluded that there was not a sufficient or cohesive dataset at the time to fully support a mode of action, it is biologically plausible that the tumors were caused by a non-genotoxic mode of action involving hephrotoxicity and sustained regenerative proliferation. Further, dithianon is not mutagenic. Dithianon produced positive results in an acceptable chromosomal aberration assay that was conducted *in vitro* using Chinese hamster lung fibroblasts (V79 cells); in contrast, a forward gene mutation assay tested in this same cell line was negative. A second forward gene mutation assay with V79 cells was also negative, but it was classified unacceptable due to inadequate cytotoxicity at the highest concentration tested. Negative responses were seen in bacteria (two acceptable reverse gene mutation assays in Salmonella), Wistar rat systems (an acceptable *in vivo* cytogenetic assay and an acceptable *in vitro* UDS assay), and NMRI mice (an unacceptable *in vivo* micronucleus assay).

Specific information on the studies received and the nature of the adverse effects caused by dithianon as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document "Dithianon-Human Health Risk Assessment for Proposed Tolerance on Imported Grapes," at pages 9–12 in docket ID number EPA–HQ–OPP–2007–0460.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which the NOAEL in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a benchmark dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-, intermediate-, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the level of concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for dithianon used for human

risk assessment can be found at *http://www.regulations.gov* in the document "Dithianon — Human Health Risk Assessment for Proposed Tolerance on Imported Grapes," at pages 20–24 in docket ID number EPA–HQ–OPP–2007–0460.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to dithianon, EPA considered exposure under the petitioned-for tolerances as well as all existing dithianon tolerances in (40 CFR 180.621). EPA assessed dietary exposures from dithianon in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

No such effects were identified applicable to the general population in the toxicological studies for dithianon; therefore, a quantitative acute dietary exposure assessment is unnecessary. However an endpoint was identified for females 13–49 years of age. In conducting the acute dietary exposure assessment EPA used the Dietary Exposure Evaluation Model-Food Commodity Intake Database (DEEM-FCID, version 2.03). EPA assumed that dithianon is used on all crops covered by tolerances and that all treated crops bear tolerance-level residues.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the DEEM-FCID, version 2.03. EPA assumed that dithianon is used on all crops covered by tolerances and that all treated crops bear average values from crop residue field trials.

iii. *Cancer*. For the reasons explained in Unit III.A., EPA has concluded that dithianon does not pose a cancer risk and therefore an exposure assessment for the purpose of evaluating cancer risk is unnecessary.

iv. *Anticipated residue information*. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water*. Current and proposed tolerances for dithianon are intended to support imported commodities only and there are no existing or proposed U.S. registrations. Therefore, there is no expectation that dithianon residues would occur in surface or ground water sources of drinking water.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Dithianon is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found dithianon to share a common mechanism of toxicity with any other substances, and dithianon does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that dithianon does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. There is no indication of increased quantitative or qualitative susceptibility of rats to *in utero* and/or postnatal exposure to dithianon.

3. *Conclusion*. The FQPA Safety Factor will be retained at 10X as a database uncertainty factor for acute and chronic assessments. The primary reason for retaining the FQPA safety factor is residual uncertainty concerning lack of an acceptable rabbit development study. In deciding to retain the safety factor EPA also took into account the following considerations:

i. Immunotoxicity testing is required as a result of changes made to the pesticide data requirements in December 2007. Although a study has not yet been submitted, there is no evidence of immunotoxicity in any study in the toxicity database for dithianon and the Agency does not believe that conducting an immunotoxicity study will result in a lower POD than that currently used for overall risk assessment. Therefore, a database uncertainty factor (UFDB) is not needed to account for the lack of this study.

ii. Acute and subchronic neurotoxicity testing is required as a result of changes made to the pesticide data requirements in December 2007. Although these studies have not yet been submitted, there is no evidence of neurotoxicity in any study in the toxicity database for dithianon and the Agency does not believe that conducting these studies will result in a lower POD than that currently used for overall risk assessment. Therefore, a UFDB is not needed to account for the lack of this study. For the same reason, EPA has determined that there is no need for a developmental neurotoxicity study.

iii. There is no evidence that dithianon results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental study or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues for the acute analysis and reliable data on average field trial residues in the chronic analysis. The exposure assessments will not understate exposure to dithianon.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to dithianon will occupy 79% of the aPAD for (females 13–49 years of age at the 95th percentile of exposure) the population group receiving the greatest exposure.

2. *Chronic risk*. The exposure for all populations assessed are below the level of concern. The exposure for the general U.S. population is at 18% of cPAD. The most highly exposed sub-group is children (1–2 years old), whose exposure is at 63% of the cPAD. This assessment is slightly refined with use of average residue values and empirical processing factors, but is still highly conservative with the assumption of 100% CT. There are no residential uses for dithianon.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Dithianon is not registered for any use patterns that would result in residential exposure. Therefore, the short-term aggregate risk is the sum of the risk from exposure to dithianon through food and water and will not be greater than the chronic aggregate risk.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Dithianon is not registered for any use patterns that would result in intermediate-term residential exposure. Therefore, the intermediate-term aggregate risk is the sum of the risk from exposure to dithianon through food and water, which has already been addressed, and will not be greater than the chronic aggregate risk.

5. *Aggregate cancer risk for U.S. population*. As described in Unit III.A. above, dithianon is not expected to pose a cancer risk.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to dithianon residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate methodology LC/MS/MS method (BASF 244882) is available for enforcing the proposed tolerance on grapes. Adequate multi-residue method testing data are available for dithianon and these data have been forwarded to the FDA for evaluation. The data indicate that FDA multi-residue methods are not suitable for determining residues of dithianon.

B. International Residue Limits

There are currently no established Canadian or Mexican maximum residue limits (MRLs) for dithianon on grapes. There are no harmonization concerns with MRL's on grapes established by Codex and the European Union because the grape tolerance being established is equivalent to these MRLs both in terms of residue expression and residue level.

C. Revisions to Petitioned-For Tolerances

EPA has revised the dithianon tolerance expression to clarify the chemical moieties that are covered by the tolerances and specify how compliance with the tolerances is to be measured. The revised tolerance expression makes clear that the tolerances cover residues of dithianon and its metabolites and degradates but that compliance with tolerance levels will be determined by measuring only dithianon, (5,10-dihydro-5,10-dioxonaphtho(2-3-b)-1,4-dithiin-2,3-dicarbonitrile), in or on the commodities that have an established tolerance level. EPA has determined that it is reasonable to make this change final without prior proposal and opportunity for comment, because public comment is not necessary, in that the change has no substantive effect on the tolerance, but rather is merely intended to clarify the existing tolerance expression.

V. Conclusion

Therefore, tolerances are established for residues of dithianon, 5,10-dihydro-5,10-dioxonaphtho(2,3-b)-1,4-dithiin-2,3-dicarbonitrile, in or on grapes at 3 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final

rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: January 25, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.621 is revised to read as follows:

§ 180.621 Dithianon; tolerances for residues.

(a) *General.* Tolerances are established for residues of dithianon, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only dithianon, 5, 10-dihydro-5,10-dioxonaphtho(2,3-b)-1,4-dithiin-2,3-dicarbonitrile.

Commodity	Parts per million
Fruit, pome, group 11[1]	5
Grape [2]	3
Hop, dried cones[1]	100

[1]No U.S. registration as of September 5, 2006.

[2]No U.S. registration as of January 29, 2010.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2010–2145 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0262; FRL–8436–9]

Spiromesifen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for the inadvertent or indirect combined residues of spiromesifen (2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate) its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-2-one), and its metabolites containing the 4-hydroxymethyl moiety (4-hydroxy-3-[4-(hydroxymethyl)-2,6-dimethylphenyl]-1-oxaspiro[4.4]non-3-en-2-one), calculated as the parent compound equivalents, in or on the following commodities from crops grown as rotational crops: bulb vegetables. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 3, 2010. Objections and requests for hearings must be received on or before April 5, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0262. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Jennifer Gaines, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305-5967; e-mail address: *gaines.jennifer@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

In addition to accessing electronically available documents at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0262 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before April 5, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2008–0262, by one of the following methods:

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

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

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

II. Petition for Tolerance

In the **Federal Register** of November 5, 2008 (73 FR 65851) (FRL–8385–1), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8F7398) by Bayer CropScience, P.O. Box 12014, 2 T. W. Alexander Dr., Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.607 be amended by establishing tolerances for the inadvertent or indirect combined residues of the insecticide spiromesifen (2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate), its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-2-one), and its metabolites containing the 4-hydroxymethyl moiety (4-hydroxy-3-[4-(hydroxymethyl)-2,6-dimethylphenyl]-1-oxaspiro[4.4]non-3-en-2-one), calculated as the parent compound equivalents, in or on the following commodities from crops grown as rotational crops: vegetable, bulb, group 3-07 at 0.07 parts per million (ppm). That notice is available to the public in the docket, *http://www.regulations.gov*. One comment was received on the notice of filing. EPA's response to this comment is discussed in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for inadvertent or indirect combined residues of spiromesifen, (2-oxo-3-(2,4,6- trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate), its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-2-one), and its metabolites containing the 4-hydroxymethyl moiety (4-hydroxy-3-[4-(hydroxymethyl)-2,6-dimethylphenyl]-1-oxaspiro[4.4]non-3-en-2-one), calculated as the parent compound equivalents, on the following commodities from crops grown as rotational crops: vegetable, bulb, group 3-07. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Spiromesifen shows low acute toxicity via the oral, dermal and inhalation routes of exposure. It was neither an eye nor dermal irritant, but showed moderate potential as a contact sensitizer. In short- and long-term animal toxicity tests, the critical effects observed were loss of body weight, adrenal effects (discoloration, decrease in fine vesiculation, and the presence of cytoplasmic eosinophilia in zona fasciculata cells), thyroid effects (increased thyroid stimulating hormone, increased thyroxine binding capacity, decreased T_3 and T_4 levels, colloidal alteration and thyroid follicular cell hypertrophy), liver effects (increased alkaline phosphatase, ALT and decreased cholesterol, triglycerides), and spleen effects (atrophy, decreased spleen cell count, and increased macrophages). Spiromesifen shows no significant developmental or reproductive effects, is not likely to be carcinogenic based on bioassays in rats and mice, and lacks *in vivo* and *in vitro* mutagenic effects. Spiromesifen is not considered a neurotoxic chemical based on the chemical's mode of action and the available data from multiple studies, including acute and subchronic neurotoxicity studies.

Specific information on the studies received and the nature of the adverse effects caused by spiromesifen as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document "Spiromesifen: Human-Health Risk Assessment for Request to Reduce Rotational Crop Plantback Interval (PBI) for Bulb Vegetables (Crop Group 3)," at pages 11-16 in docket ID number EPA–HQ–OPP–2008–0262 and memo, D363706, June 11, 2009.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-, intermediate-, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for spiromesifen used for human risk assessment can be found at *http://www.regulations.gov* in the document "Spiromesifen: Human-Health Risk Assessment for Request to Reduce Rotational Crop Plantback Interval (PBI) for Bulb Vegetables (Crop Group 3)," at page 17 in docket ID number EPA–HQ–OPP–2008–0262.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to spiromesifen, EPA considered exposure under the petitioned-for tolerances as well as all existing spiromesifen tolerances in (40 CFR 180.607). EPA assessed dietary exposures from spiromesifen in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No such effects were identified in the toxicological studies for spiromesifen; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 Cummulative Survey of Food Intake by Individuals. As to residue levels in food, EPA assumed tolerance-level residues for all commodities except for the leafy-greens and leafy *Brassica* greens subgroups (4A and 5B). The tolerance values for leafy vegetables were adjusted upward to account for the metabolite BSN 2060-4-hydroxymethyl (free and conjugated), which is a residue of concern in leafy vegetables for risk assessment purposes only. EPA used data from the metabolism studies to create a tolerance-equivalent value for the parent spiromesifen and the BSN 2060-4-hydroxymethyl metabolite to estimate residues in leafy vegetables. Dietary Exposure Evaluation Model (DEEM) 7.81 default processing factors and 100% crop treated (CT) were assumed for all commodities.

iii. *Cancer*. Due to no evidence of carcinogenic effects in the submitted rat and mouse cancer studies, spiromesifen has been classified as "not likely to be carcinogenic to humans." Therefore, an exposure assessment to evaluate cancer risk was not performed.

iv. *Anticipated residue and percent crop treated (PCT) information*. EPA did not use anticipated residue and/or PCT information in the dietary assessment for spiromesifen. Tolerance level residues were used for all food commodities except for the leafy-greens and leafy *Brassica* greens subgroups (4A and 5B). For these subgroups, the residue values were adjusted to account for the metabolite BSN 2060-4-hydroxymethyl (free and conjugated), which is a residue of concern in leafy vegetables for risk assessment purposes only. The Agency assumed 100% CT for all food commodities.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for spiromesifen in drinking water. Because the Agency does not have comprehensive monitoring data, the Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for spiromesifen in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of spiromesifen. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Parent spiromesifen is not likely to persist in the environment as it readily undergoes both biotic and abiotic degradation; however, its primary degradate, BSN2060-enol, is expected to persist. While parent spiromesifen strongly sorbs to sediment and is not likely to be mobile, its major degradates, BSN2060-enol and BSN2060-carboxy, do not sorb to sediment and are expected to leach into groundwater. Spiromesifen has limited solubility in water (130 micrograms/Liter (μg/L) at 25° C) and in some cases has been reported to have a practical solubility of 40 to 50 μg/L. The pesticide degrades primarily through aerobic soil metabolism and hydrolysis; however, in clear shallow water it will readily undergo photolysis. Field studies indicate that spiromesifen readily dissipates with field dissipation half-lives ranging from 2 to 10 days.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of spiromesifen for chronic exposure are 188 parts per billion (ppb) for surface water and 86 ppb for ground water. For chronic dietary risk assessment, the water concentration of value 188 ppb was used to assess the contribution to drinking water. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Spiromesifen is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a

tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found spiromesifen to share a common mechanism of toxicity with any other substances, and spiromesifen does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that spiromesifen does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. There is no evidence of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to spiromesifen. In the prenatal developmental toxicity studies in rats and rabbits and in the two-generation reproduction study in rats, developmental toxicity to the offspring occurred at equivalent or higher doses than parental toxicity.

3. *Conclusion*. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings: EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for spiromesifen is complete and no additional immunotoxicity or neurotoxicty testing is required. The rationale is described below:

a. Because spleen effects were seen in several toxicity studies, the registrant pursued specialized immunotoxicity studies in rats and mice that were both negative. These studies satisfy the revised 40 CFR part 158 requirement for immunotoxicity testing. In addition, the endpoints selected for the risk assessment are considered protective of any possible immunotoxic effects.

b. There is no concern for neurotoxicity resulting from exposure to spiromesifen. Neurotoxic effects such as reduced motility, spastic gait, increased reactivity, tremors, clonic-tonic convulsions, reduced activity, labored breathing, vocalization, avoidance reaction, piloerection, limp, cyanosis, squatted posture, and salivation were observed in two studies (5–day inhalation and subchronic oral rat) at high doses (134 and 536 milligrams/kilogram/day (mg/kg/day), respectively). These effects were neither reflected in neurohistopathology nor in other studies. Because these effects were not observed in the acute and subchronic neurotoxicity studies, they were not considered reproducible. Thus, based on the chemical's mode of action and the available data from multiple studies, the chemical is not considered neurotoxic.

ii. There is no evidence that spiromesifen results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study. A developmental neurotoxicity study is not required.

iii. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to spiromesifen in drinking water. These assessments will not underestimate the exposure and risks posed by spiromesifen.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. No adverse effect resulting from a single-oral exposure was identified and no acute dietary endpoint was selected. Therefore, spiromesifen is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to spiromesifen from food and water will utilize 77% of the cPAD for infants (<1 year old), the population group receiving the greatest exposure.

3. *Short-term risk and intermediate-term risk*. Short-term and intermediate-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Spiromesifen is not registered for any use patterns that would result in residential exposure. Therefore, the short-term aggregate risk is the sum of the risk from exposure to spiromesifen through food and water and will not be greater than the chronic aggregate risk.

4. *Aggregate cancer risk for U.S. population*. Spiromesifen has been classified as "not likely to be carcinogenic to humans." Spiromesifen is not expected to pose a cancer risk.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to spiromesifen residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high-performance liquid chromatography/mass spectroscopy (HPLC/MS/MS)/Method 00631/M001 and Method 110333) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

No Codex, Canadian, or Mexican maximum Residue Limits have been

established for residues of spiromesifen and its metabolites on the requested crops.

C. Response to Comments

One comment was received from an anonymous citizen who objected to the proposed use of spiromesifen because of the amounts of pesticides already approved and being approved. The Agency understands the commenter's concerns and recognizes that some individuals believe that pesticides should be banned completely. However, under the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) EPA is authorized to establish pesticide tolerances or exemptions where persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute.

D. Revisions to Petitioned-For Tolerances

Vegetable, bulb, group 3-07. Due to the detection of residues on onion after performing an extensive rotational crop study, Bayer then proposed changing the tolerance from 0.07 ppm to 0.09 ppm. The Agency concurred with this proposed tolerance. Using the North American Free Trade Agreement (NAFTA) Maximum Residue Limits/Tolerance Harmonization Workgroup methodology for evaluating field trial data, the Agency determined that the requested establishment of permanent tolerances in/on vegetable, bulb, group 3-07 proposed at 0.09 ppm should be made.

V. Conclusion

Therefore, tolerances are established for inadvertent or indirect combined residues of the insecticide spiromesifen, (2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate), its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-2-one), and its metabolites containing the 4-hydroxymethyl moiety (4-hydroxy-3-[4-(hydroxymethyl)-2,6-dimethylphenyl]-1-oxaspiro[4.4]non-3-en-2-one), calculated as the parent compound equivalents, in or on vegetable, bulb, group 3-07 at 0.09 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

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

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: January 25, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.607 is amended by alphabetically adding the following commodity to the table in paragraph (d) to read as follows:

§ 180.607 Spiromesifen; tolerances for residues.

* * * * *

(d) * * *

Commodity	Parts per million
* * * *	*
Vegetable, bulb, group 3-07	0.09
* * * *	*

* * * * *

[FR Doc. 2010–2144 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0261; FRL–8809–3]

Chlorantraniliprole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of chlorantraniliprole in or on multiple commodities which are identified and discussed later in this document. This regulation additionally amends previously established tolerances in or on multiple commodities and deletes tolerances in or on several commodities that will be replaced by this action. E.I. du Pont de Nemours and Company, DuPont Crop Protection, requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 3, 2010. Objections and requests for hearings must be received on or before April 5, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0261. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kable Bo Davis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0415; e-mail address: *davis.kabl@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0261 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before April 5, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2009–0261, by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of May 6, 2009 (Volume 74 FR 20949) (FRL–8412–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F7513) by E.I. du Pont de Nemours and Company, DuPont Crop Protection,1090 Elkton Road, Newark, DE 19711. The petition requested that 40 CFR 180.628 be amended by establishing tolerances for residues of the insecticide chlorantraniliprole, 3-bromo-*N*-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide, in or on acerola at 2.0 parts per million (ppm); almond, hull at 5.0 ppm; apple, wet pomace at 2.5 ppm; artichoke at 4.0 ppm; asparagus at 13.0 ppm; atemoya at 4.0 ppm; avocado at 4.0 ppm; banana at 4.0 ppm; biriba at 4.0 ppm; black sapote at 4.0 ppm; cacao bean, bean at 0.15 ppm; cacao, roasted beans at 1.4 ppm; canistel at 4.0 ppm; cattle, fat at 0.3 ppm; cattle, liver at 0.3 ppm; cattle, meat at 0.05 ppm; cattle, meat byproducts except liver at 0.2 ppm; cherimoya at 4.0 ppm; chocolate at 3.0 ppm; citrus, dried pulp at 14.0 ppm; cocoa powder at 3.0 ppm; coffee, bean, green at 0.5 ppm; coffee, instant at 2.5 ppm; corn, sweet at 0.02 ppm; corn, field, grain at 0.04 ppm; corn, pop at 0.04 ppm; corn, aspirated grain fractions at 2.0 ppm; corn, processed commodities at 0.1 ppm; crambe at 0.3 ppm; crayfish at 8.0 ppm; custard apple at 4.0 ppm; egg at 0.1 ppm; feijoa at 4.0 ppm; figs at 4.0 ppm; forage, fodder, and straw of cereal grains, group 16, forage and fodder at 25.0 ppm; forage, fodder, and straw of cereal grains, group 16, hay and straw at 90.0 ppm; fruit, caneberry, subgroup 13–07A at 1.8 ppm; fruit, citrus, group 10 at 1.4 ppm; fruit, pome, group 11 at 1.2 ppm; fruit, small vine climbing, subgroup 13–07D at 2.5 ppm; fruit, stone, group 12 at 4.0 ppm; goat,

fat at 0.3 ppm; goat, liver at 0.3 ppm; goat, meat at 0.05 ppm; goat, meat byproducts, except liver at 0.2 ppm; grass, forage, fodder and hay, group 17, forage and fodder at 25.0 ppm; grass, forage, fodder and hay, group 17, hay and straw at 90.0 ppm; guava at 4.0 ppm; hare's ear mustard at 0.3 ppm; herbs and spices, subgroup 19A, dried at 90.0 ppm; herbs and spices, subgroup 19A, fresh at 25.0 ppm; herbs and spices, subgroup 19B, spices at 7.0 ppm; hops at 90.0 ppm; horse, fat at 0.3 ppm; horse, liver at 0.3 ppm; horse, meat at 0.05 ppm; horse, meat byproducts, except liver at 0.2 ppm; ilama at 4.0 ppm; jaboticaba at 2.0 ppm; jojoba at 0.3 ppm; lesquerella at 0.3 ppm; longan at 4.0 ppm; lunaria at 0.3 ppm; lychee at 2.0 ppm; mango at 4.0 ppm; milk at 0.05 ppm; milkweed at 0.3 ppm; mint at 9.0 ppm; mustard at 0.3 ppm; non-grass animal feeds, group 18, forage and fodder at 13.0 ppm; non-grass animal feeds, group 18, hay and straw at 45.0 ppm; non-grass animal feeds, group 18, seeds at 3.5 ppm; nut, tree, group 14 at 0.04 ppm; oil radish at 0.3 ppm; okra at 0.7 ppm; olive at 4.0 ppm; olive, oil at 40.0 ppm; papaya at 2.0 ppm; passion fruit at 2.0 ppm; peanut at 0.1 ppm; peanut hay at 90.0 ppm; persimmon at 4.0 ppm; pineapple at 1.5 ppm; pineapple process residue at 3.0 ppm; pistachio at 0.04 ppm; pomegranate at 4.0 ppm; poppy seed at 0.3 ppm; poultry, fat at 0.02 ppm; poultry, meat at 0.02 ppm; poultry, meat byproducts at 0.02 ppm; prickly pear cactus at 13.0 ppm; pulasan at 4.0 ppm; raisins at 5.0 ppm; rambutan at 4.0 ppm; rapeseed at 0.3 ppm; rice, grain at 0.15 ppm; rice, hulls at 0.3 ppm; rice, straw at 0.3 ppm; rose hip at 0.3 ppm; sapodilla at 4.0 ppm; sapote, mamey at 4.0 ppm; sesame at 0.3 ppm; sheep, fat at 0.3 ppm; sheep, liver at 0.3 ppm; sheep, meat at 0.05 ppm; sheep, meat byproducts except liver at 0.2 ppm; soursop at 4.0 ppm; spanish lime at 4.0 ppm; star apple at 4.0 ppm; starfruit at 4.0 ppm; strawberries at 1.0 ppm; sugar apple at 4.0 ppm; sugarcane, cane at 14.0 ppm; sugarcane molasses at 420.0 ppm; tallowwood at 0.3 ppm; tea oil plant at 0.3 ppm; ti palm, leaves at 13.0 ppm; ti palm, roots at 0.1 ppm; vegetables, brassica leafy, group 5 at 11.0 ppm; vegetables, foliage of legume, group 7, forage/vines at 30.0 ppm; vegetables, foliage of legume, group 7, hay at 90.0 ppm; vegetables, legume, group 6, except soybeans at 2.0 ppm; vegetables, tuberous and corm, subgroup 1C at 0.01 ppm; wax jambu at 4.0 ppm; white sapote (casimiroa) and other cultivars and/or hybrids at 4.0 ppm. that notice referenced a summary of the petition prepared by E.I. du Pont de Nemours and Company, Dupont Crop Protection, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

EPA has determined that tolerances are not required for several petitioned commodities. Additionally, the Agency is revising tolerances for several proposed individual and group commodities and is amending multiple established tolerances. Finally, EPA is deleting several existing tolerances. The details on the specific changes being made and the reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for chlorantraniliprole including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with chlorantraniliprole follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Chlorantraniliprole is not genotoxic, neurotoxic, immunotoxic, carcinogenic, or teratogenic. Chlorantraniliprole has been found to have low acute toxicity by the oral, dermal, and inhalation routes of exposure and has little to no irritation effect on the eyes or skin. Additionally, chlorantraniliprole is not a dermal sensitizer. There was only one toxicity study in the toxicology database that indicated that Chlorantraniliprole yielded an adverse effect (18-month oral/mouse). This study was used to establish a point of departure based on hepatocellular effects for chronic risk.

Specific information on the studies received and the nature of the adverse effects caused by chlorantraniliprole as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document; "*Chlorantraniliprole (DPX-E2Y45). Human Health Risk Assessment for Section 3 Registration Request to Expand Uses of Coragen, Altacor, and Dermacor X-100 Labels on Various Field, Vegetable, and Fruit Crops*," page 31 in docket ID number EPA–HQ–OPP–2009–0261.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a benchmark dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-term, intermediate-, and chronic-term risks are evaluated by

comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the level of concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for chlorantraniliprole used for human risk assessment can be found at *http://www.regulations.gov* in the document; "*Chlorantraniliprole (DPX-E2Y45). Human Health Risk Assessment for Section 3 Registration Request to Expand Uses of Coragen, Altacor, and Dermacor X-100 Labels on Various Field, Vegetable, and Fruit Crops*," in docket ID number EPA–HQ–OPP–2009–0261.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to chlorantraniliprole, EPA considered exposure under the petitioned-for tolerances as well as all existing chlorantraniliprole tolerances in 40 CFR 180.628. EPA assessed dietary exposures from chlorantraniliprole in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

No such effects were identified in the toxicological studies for chlorantraniliprole; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 Continuing Survey of Food Intake by Individual (CSFII). As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues.

iii. *Cancer*. Chlorantraniliprole was classified as "Not likely to be Carcinogenic to Humans" based on evidence showing no treatment-related tumors in the submitted chronic and oncogenicity studies in rats and mice, and subchronic studies in mice, dogs, and rats, and no mutagenic concerns in the genotoxicity studies. Therefore, an exposure assessment to evaluate cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information*. EPA did not use anticipated residue or PCT information in the dietary assessment for chlorantraniliprole. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for chlorantraniliprole in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of chlorantraniliprole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of chlorantraniliprole for chronic exposures for non-cancer assessments are estimated to be 3.65 ppb for surface water and 1.06 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 3.65 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Chlorantraniliprole is currently registered for the following uses that could result in residential exposures: Turfgrass and ornamental plants. Residential exposure could occur for short-term and intermediate-term exposures however, due to the lack of toxicity identified for short- and intermediate-term durations via relevant routes of exposure, no risk is expected from these exposures. Additional information on residential exposure assumptions can be found at *www.regulations.gov* (Docket ID EPA–HQ–OPP–2009–0261, pages 24 through 25).

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found chlorantraniliprole to share a common mechanism of toxicity with any other substances, and chlorantraniliprole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that chlorantraniliprole does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. There were no effects on fetal growth or postnatal development up to the limit dose of 1,000 milligrams/kilogram/day (mg/kg/day) in rats or rabbits in the developmental or 2-generation reproduction studies. Additionally, there were no treatment related effects on the numbers of litters, fetuses (live or dead), resorptions, sex ratio, or post-implantation loss and no effects on fetal body weights, skeletal ossification, and external, visceral, or skeletal malformations or variations.

3. *Conclusion*. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were to reduced 1X. That decision is based on the following findings:

i. The toxicity database for chlorantraniliprole is complete and considered adequate for this risk assessment (including 40 CFR 158.500 requirements for dermal toxicity,

immunotoxicity, and acute/subchronic neurotoxicity effective December 26, 2007).

ii. There is no indication that chlorantraniliprole is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that chlorantraniliprole results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The chronic dietary food exposure assessment utilized tolerance-level residues and 100 PCT data. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to chlorantraniliprole in drinking water. Due to the lack of toxicity identified for short-term and intermediate-term durations via relevant routes of exposure, no risk is expected from postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by chlorantraniliprole.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. No adverse effect resulting from a single-oral exposure was identified and no acute dietary endpoint was selected. Therefore, chlorantraniliprole is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to chlorantraniliprole from food and water will utilize 5% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of chlorantraniliprole is not expected.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Although short-term residential exposure could occur with the use of chlorantraniliprole, no toxicological effects resulting from short-term dosing were observed. Therefore, the aggregate risk is the sum of the risk from food and water and will not be greater than the chronic aggregate risk.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Although intermediate-term residential exposure could result from the use of chlorantraniliprole, no toxicological effects resulting from intermediate-term dosing were observed. Therefore, the aggregate risk is the sum of the risk from food and water and will not be greater than the chronic aggregate risk.

5. *Aggregate cancer risk for U.S. population*. Based on evidence showing no treatment-related tumors in the submitted chronic and oncogenicity studies in rats and mice, and subchronic studies in mice, dogs, and rats, and no mutagenic concerns in the genotoxicity studies, chlorantraniliprole is not expected to pose a cancer risk to humans.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to chlorantraniliprole residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology, Liquid Chromatography Mass Spectrometry (LC/MS/MS), is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

Regarding international Maximum Residue Levels (MRLs) for chlorantraniliprole, all tolerances are harmonized (tolerances and MRLs have equivalent residue levels and tolerance expressions) or U.S. tolerances are higher than Codex based on submitted data and differences in U.S. use patterns. U.S. tolerances exceed Codex MRLs for the following commodities: Grapes, edible offal (mammalian), milks, meat (from mammals), pome fruits, stone fruits and eggs. All other MRLs are harmonized with Codex.

C. Response to Comments

There were no comments received in response to the notice of filing.

D. Revisions to Petitioned-For Tolerances

EPA has revised the proposed tolerance levels of chlorantraniliprole on the following commodities: cacao bean from 0.15 ppm to 0.08 ppm; cacao bean, roasted bean from 1.4 ppm to 0.8 ppm; cacao bean, chocolate from 3.0 ppm to 1.5 ppm; cacao bean, cocoa powder from 3.0 ppm to 1.5 ppm; coffee, green bean from 0.5 ppm to 0.4 ppm; coffee, instant from 2.5 ppm to 2.0 ppm; egg from 0.1 ppm to 0.2 ppm; herbs and spices, subgroup 19B, spices from 7.0 ppm to 14 ppm; animal feed, nongrass, group 18, forage from 13.0 ppm to 25 ppm; animal feed, nongrass, group 18, hay from 45 ppm to 90 ppm; alfalfa, seed from 3.5 ppm to 7.0 ppm; poultry, fat from 0.02 ppm to 0.01 ppm; rice, hulls from 0.3 ppm to 0.4 ppm. EPA revised the tolerance levels based on analysis of the residue field trial data using the Agency's tolerance spreadsheet in accordance with the *Agency's Guidance for Setting Pesticide Tolerances Based on Field Trial Data*.

The commodity, fruit, pome, group 11 is being revised to read fruit, pome, group 11, except mayhaw. A separate tolerance of 0.6 ppm is being established for mayhaw. The commodity, fruit, stone, group 12 is being revised to read fruit, stone, group 12, except cherry, chickasaw plum, and damson plum. Separate tolerances of 2.0 ppm are being established for cherry, sweet; cherry, tart; plum, chickasaw; plum, damson. for these two groups the EPA has determined that for those commodities in these groups considered small fruit it is not approriatate to establish the higher tolerance because they have differing use directions with a longer phi that will result in lower residue levels.

The petitioner requested tolerances on forage, fodder, and straw of cereal

grains, group 16, forage and fodder at 25.0 ppm; and forage, fodder, and straw of cereal grains, group 16, hay and straw at 90.0 ppm. However, no tolerances were proposed for cereal grains, crop group 15. Without a tolerance for cereal grains, crop group 15, tolerances for cereal grains, crop group 16, forage, fodder and straw are not appropriate. However, based on submitted data and translation, the tolerance of 14 ppm can be established for the following individual crop group 16 commodities: corn, field, forage; corn, field, stover; corn, pop, forage; corn, pop, stover; corn, sweet, forage, and corn, sweet, stover.

Based upon the re-examination of the available ruminant feeding study, EPA is establishing tolerance levels of chlorantraniliprole on the following commodities: Hog, fat at 0.02 ppm and hog, meat byproducts at 0.02 ppm.

The current established tolerance of 0.01 ppm for residues of chlorantraniliprole on potatoes is revoked upon the establishment of tolerances on vegetables, tuberous and corm, subgroup 1C at 0.01 ppm. The petitioner requested tolerances be established for fruit, small vine climbing, subgroup 13–07D at 2.5 ppm.

The representative commodities for this subgroup are grape and fuzzy kiwifruit. Data are only available for grape. Therefore, the EPA is establishing a tolerance for fruit, small vine climbing, subgroup 13–07F at 2.5 ppm which is a subset of subgroup 13–07D. The current established tolerance of 1.2 ppm for residues of chlorantraniliprole on grapes is revoked upon the establishment of tolerances on fruit, small vine climbing, subgroup 13–07F at 2.5 ppm.

Finally, EPA has revised the tolerance expression to clarify (1) that, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of chlorantraniliprole not specifically mentioned; and (2) that compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression.

V. Conclusion

Therefore, tolerances are established for residues of chlorantraniliprole, 3-bromo-*N*-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide, in or on acerola at 2.0 ppm; animal feed, nongrass, group 18, forage at 25 ppm; animal feed, nongrass, group 18, hay at 90 ppm; alfalfa, seed at 7.0 ppm; artichoke, globe at 4.0 ppm; asparagus at 13 ppm; atemoya at 4.0 ppm; avocado at 4.0 ppm; banana at 4.0 ppm; biriba at 4.0 ppm; cacao bean at 0.08 ppm; cacao bean, chocolate at 1.5 ppm; cacao bean, cocoa powder at 1.5 ppm; cacao bean, roasted bean at 0.8 ppm; cactus at 13 ppm; canistel at 4.0 ppm; cattle, liver at 0.3 ppm; cherimoya at 4.0 ppm; citrus, dried pulp at 14 ppm; coffee, green bean at 0.4 ppm; coffee, instant at 2.0 ppm; corn, sweet, kernel plus cobs with hush removed at 0.02 ppm; corn, field, grain at 0.04 ppm; corn, field, milled byproducts at 0.1 ppm; corn, pop, grain at 0.04 ppm; crambe, seed at 0.3 ppm; crayfish at 8.0 ppm; custard apple at 4.0 ppm ; egg at 0.2 ppm; feijoa at 4.0 ppm; fig at 4.0 ppm; fruit, caneberry, subgroup 13-07A at 1.8 ppm; fruit, citrus, group 10 at 1.4 ppm; fruit, small vine climbing, subgroup 13-07F at 2.5 ppm; goat, liver at 0.3 ppm; grass forage, fodder and hay, group 17 at 90 ppm; grain, aspirated fractions at 2.0 ppm; guava at 4.0 ppm; hare's ear mustard, seed at 0.3 ppm; herb subgroup 19A, dried leaves at 90 ppm; herb subgroup 19A, fresh leaves at 25 ppm; hop, dried cones at 90 ppm; horse, liver at 0.3 ppm; ilama at 4.0 ppm; jaboticaba at 2.0 ppm; jojoba, seed at 0.3 ppm; lesquerella, seed at 0.3 ppm; longan at 4.0 ppm; lunaria, seed at 0.3 ppm; lychee at 2.0 ppm; mango at 4.0 ppm; milkweed, seed at 0.3 ppm; mustard seed at 0.3 ppm; oil, radish, seed at 0.3 ppm; okra at 0.7 ppm; olive at 4.0 ppm; olive, oil at 40.0 ppm; papaya at 2.0 ppm; passionfruit at 2.0 ppm; peppermint, tops at 9.0 ppm; persimmon at 4.0 ppm; pineapple at 1.5 ppm; pineapple, process residue at 3.0 ppm; pomegranate at 4.0 ppm; poppy, seed at 0.3 ppm; poultry, fat at 0.01 ppm; poultry, meat byproducts at 0.02 ppm; pulasan at 4.0 ppm; rambutan at 4.0 ppm; rapeseed, seed at 0.3 ppm; rice, grain at 0.15 ppm; rice, hulls at 0.4 ppm; rose hip, seed at 0.3 ppm; sapodilla at 4.0 ppm; sapote, black at 4.0 ppm; sapote, mamey at 4.0 ppm; sapote, white at 4.0 ppm; sesame, seed at 0.3 ppm; sheep, liver at 0.3 ppm; soursop at 4.0 ppm; spanish lime at 4.0 ppm; spearmint, tops at 9.0 ppm; spice, subgroup 19B at 14 ppm; star apple at 4.0 ppm; starfruit at 4.0 ppm; strawberries at 1.0 ppm; sugar apple at 4.0 ppm; sugarcane, cane at 14 ppm; sugarcane, molasses at 420 ppm; tallowwood, seed at 0.3 ppm; tea oil plant, seed at 0.3 ppm; vegetables, foliage of legume, except soybean, subgroup 7A, forage at 30 ppm; vegetables, foliage of legume, except soybean, subgroup 7A, hay at 90 ppm; vegetables, legume, group 6, except soybeans at 2.0 ppm; vegetables, tuberous and corm, subgroup 1C at 0.01 ppm; wax jambu at 4.0 ppm.

Additionally, tolerances are amended for residues of chlorantraniliprole in or on apple, wet pomace from 0.60 ppm to 2.5 ppm; cattle, fat from 0.01 ppm to 0.3 ppm; cattle, meat from 0.01 ppm to 0.05 ppm; cattle, meat byproducts from 0.01 ppm to 0.2 ppm; fruit, pome, group 11, except mayhaw from 0.30 ppm to 1.2 ppm; fruit, stone, group 12, except cherry, chickasaw plum, and damson plum from 0.30 ppm to 4.0 ppm; goat, fat from 0.01 ppm to 0.3 ppm; goat, meat from 0.01 ppm to 0.05 ppm; goat, meat byproduct from 0.01 ppm to 0.2 ppm; grape, raisin from 2.5 ppm to 5.0 ppm; horse, fat from 0.01 ppm to 0.3 ppm; horse, meat from 0.01 ppm to 0.05 ppm; horse, meat byproduct from 0.01 ppm to 0.2 ppm; milk from 0.01 ppm to 0.05 ppm; sheep, fat from 0.01 ppm to 0.3 ppm; sheep, meat from 0.01 ppm to 0.05 ppm; sheep, meat byproduct from 0.01 ppm to 0.2 ppm.

Although requests were made to amend residues of chlorantraniliprole in or on Crop Groups 11 and 12, the following individual commodities required separate tolerances. Tolerances are established for residues of chlorantraniliprole in or on cherry, sweet at 2.0 ppm; cherry, tart at 2.0 ppm; mayhaw at 0.6 ppm; plum, chickasaw at 2.0 ppm and plum, damson at 2.0 ppm.

In addition, requests were made to establish tolerances of chlorantraniliprole in or on Crop Group 15, however adequate data were only submitted to support the establishment of tolerances for specific commodities. tolerances are established for residues of chlorantraniliprole in or on corn, field, forage at 14.0 ppm; corn, field, stover at 14.0 ppm; corn, pop, forage at 14.0 ppm; corn, pop, stover at 14.0 ppm; corn, sweet, forage at 14.0 ppm and corn, sweet, stover at 14.0 ppm.

This regulation deletes a tolerance in or on grape at 1.2 ppm and potato at 0.01 ppm. Additionally, the following time-limited section 18 emergency exemption tolerances are deleted: corn, sweet, cannery waste at 6.0 ppm; corn, sweet, forage at 6.0 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; corn, sweet, stover at 6.0 ppm; milk at 0.03 ppm; rice, grain at 0.10 ppm and rice, straw at 0.25 ppm. Finally, this regulation deletes time-limited tolerances for indirect/inadvertent residues of chlorantraniliprole in or on animal feed, nongrass, group 18 at 0.20 ppm; cowpea, forage at 0.20 ppm; cowpea, hay at 0.20 ppm; field pea, hay at 0.20 ppm; field pea, vine at 0.20 ppm; grass, forage, fodder and hay, group 17 at 0.20 ppm; okra at 0.70 ppm; strawberry at 1.20 ppm and sugarcane at 0.20 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

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

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: January 26, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.628 is revised to read as follows:

§ 180.628 Chlorantraniliprole; tolerances for residues.

(a) *General*. Tolerances are established for residues of the insecticide chlorantraniliprole, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only chlorantraniliprole, 3-bromo-*N*-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide.

Commodity	Parts per million
Acerola	2.0
Alfalfa, seed	7.0
Almond, hulls	5.0
Animal feed, nongrass, group 18, forage	25
Animal feed, nongrass, group 18, hay	90
Apple, wet pomace	2.5
Artichoke, globe	4.0
Asparagus	13
Atemoya	4.0
Avocado	4.0
Banana	4.0
Biriba	4.0
Brassica, head and stem, subgroup 5A	4.0
Brassica, leafy greens, subgroup 5B	11
Cacao bean	0.08
Cacao bean, chocolate	1.5
Cacao bean, cocoa powder	1.5
Cacao bean, roasted bean	0.8
Cactus	13
Canistel	4.0
Cattle, fat	0.3
Cattle, liver	0.3
Cattle, meat	0.05

Commodity	Parts per million
Cattle, meat byproducts, except liver	0.2
Cherimoya	4.0
Cherry, sweet	2.0
Cherry, tart	2.0
Citrus, dried pulp	14
Coffee, green bean	0.4
Coffee, instant	2.0
Corn, field, forage	14
Corn, field, grain	0.04
Corn, field, milled byproducts	0.1
Corn, field, stover	14
Corn, pop, forage	14
Corn, pop, grain	0.04
Corn, pop, stover	14
Corn, sweet, forage	14
Corn, sweet, kernel plus cobs with husk removed	0.02
Corn, sweet, stover	14
Cotton, gin byproduct	30
Cotton, hulls	0.40
Cotton, undelinted seed	0.30
Crambe, seed	0.3
Crayfish	8.0
Custard apple	4.0
Egg	0.2
Feijoa	4.0
Fig	4.0
Fruit, caneberry, subgroup 13–07A	1.8
Fruit, citrus, group 10	1.4
Fruit, pome, group 11, except mayhaw	1.2
Fruit, small vine climbing, subgroup 13–07F	2.5
Fruit, stone, group 12, except cherry, chickasaw plum, and damson plum	4.0
Goat, fat	0.3
Goat, liver	0.3
Goat, meat	0.05
Goat, meat byproducts, except liver	0.2
Grain, aspirated fractions	2.0
Grape, raisin	5.0
Grass forage, fodder and hay, group 17	90
Guava	4.0
Hare's ear mustard, seed	0.3
Herb subgroup 19A, dried leaves	90
Herb subgroup 19A, fresh leaves	25
Hog, fat	0.02
Hog, meat byproducts	0.02
Hop, dried cones	90
Horse, fat	0.3
Horse, liver	0.3
Horse, meat	0.05
Horse, meat byproducts, except liver	0.2
Ilama	4.0
Jaboticaba	2.0
Jojoba, seed	0.3
Lesquerella, seed	0.3
Longan	4.0
Lunaria, seed	0.3
Lychee	2.0
Mango	4.0
Mayhaw	0.6
Milk	0.05
Milkweed, seed	0.3
Mustard, seed	0.3
Nut, tree, group 14	0.04
Oil, radish, seed	0.3
Okra	0.7
Olive	4.0
Olive, oil	40
Papaya	2.0
Passionfruit	2.0
Peppermint, tops	9.0
Persimmon	4.0
Pineapple	1.5
Pineapple, process residue	3.0
Pistachio	0.04
Plum, chickasaw	2.0

Commodity	Parts per million
Plum, damson	2.0
Pomegranate	4.0
Poppy, seed	0.3
Poultry, fat	0.01
Poultry, meat byproducts	0.02
Pulasan	4.0
Rambutan	4.0
Rapeseed, seed	0.3
Rice, grain	0.15
Rice, hulls	0.4
Rose hip, seed	0.3
Sapodilla	4.0
Sapote, black	4.0
Sapote, mamey	4.0
Sapote, white	4.0
Sesame, seed	0.3
Sheep, fat	0.3
Sheep, liver	0.3
Sheep, meat	0.05
Sheep, meat byproducts, except liver	0.2
Soursop	4.0
Spanish lime	4.0
Spearmint, tops	9.0
Spice, subgroup 19B	14
Star apple	4.0
Starfruit	4.0
Strawberry	1.0
Sugar apple	4.0
Sugarcane, cane	14
Sugarcane, molasses	420
Tallowwood, seed	0.3
Tea oil plant, seed	0.3
Vegetable, cucurbit, group 9	0.25
Vegetable, foliage of legume, except soybean, subgroup 7A, forage	30
Vegetable, foliage of legume, except soybean, subgroup 7A, hay	90
Vegetable, fruiting, group 8	0.70
Vegetable, leafy, except brassica, group 4	13
Vegetable, legume, group 6, except soybeans	2.0
Vegetable, tuberous and corm, subgroup 1C	0.01
Wax jambu	4.0

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* Time-limited tolerances are established for the indirect or inadvertent residues of the insecticide chlorantraniliprole, including its metabolites and degradates, in or on the commodities in the table below when present therein as a result of the application of chlorantraniliprole to the growing crops listed in paragraph (a) of this section. Compliance with the tolerance levels specified below is to be determined by measuring only chlorantraniliprole, 3-bromo-*N*-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide.

Commodity	Parts per million	Expiration/revocation date
Grain, cereal, forage, fodder and straw, group 16	0.20	04/10/10
Leek	0.20	04/10/10
Onion, green	0.20	04/10/10
Onion, welsh	0.20	04/10/10
Peanut, hay	0.20	04/10/10
Shallot	0.20	04/10/10
Soybean, forage	0.20	04/10/10
Soybean, hay	0.20	04/10/10
Vegetable, leaves of root and tuber, group 2	0.20	04/10/10

[FR Doc. 2010–2254 Filed 2–2–10; 8:45 am]
BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 26

[Docket No. OST–2010–0021]

RIN 2105–AD76

Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Final rule.

SUMMARY: This final rule changes the Department of Transportation (Department) regulation concerning how often recipients of DOT financial assistance are required to submit to the appropriate DOT operating administration for approval the methodology and process used to establish their overall disadvantaged business enterprise (DBE) goal for federally funded contracting opportunities. Under the rule, recipients will submit overall goals for review every three years, rather than annually.

DATES: *Effective Date:* This rule is effective March 5, 2010.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W94–302, Washington, DC 20590, 202 366–9310, *Bob.Ashby@dot.gov.*

SUPPLEMENTARY INFORMATION: On April 8, 2009, the Department published in the **Federal Register** at 74 FR 15910, a notice of proposed rulemaking (NPRM) inviting public comment on a proposal to establish a staggered three-year schedule for the submission by DOT recipients subject to the regulations at 49 CFR part 26 of their overall goal for DBE participation on DOT-assisted contracts. Recipients are currently required to make a DBE goal submission each year on August 1st. This proposed rule change was modeled largely on the comparable provision in the airport concessions DBE rule in Part 23 of this Title, with which the Department has had successful experience.

The Department received approximately 27 comments from state departments of transportation, airports, transit authorities, DBEs, contractor associations, and transportation consultants. This final rule responds to the substantive concerns raised in the comments from those who supported or opposed the adoption of the proposed rule.

The majority of commenters supported the proposed rule change as long as recipients are either required to conduct annual reviews to account for changes that may warrant a modification of the overall goal or are simply allowed to make adjustments to the overall goal during the three-year period based on changed circumstances without necessarily requiring annual reviews. Some of the circumstances or conditions that may indicate the need for an adjustment include, but are not limited to, the collection of new data, a significant change in the recipient's DOT assisted contracting program (e.g., new contracting opportunities presented by the availability of new or different grant opportunities), a marked increase or decrease in the availability of DBEs in the recipient's contracting market, or a significant change in the legal standards governing the DBE program. Some supporters also thought it advisable to give recipients the flexibility to request a waiver to set their own schedule or to submit an overall goal that covers a one-, two-, or three-year period as appropriate due to the nature of the recipient's contracting program. The ability to maintain the status quo—i.e., set annual overall goals—was an approach strongly endorsed by some airports, some representatives of the aviation industry, and some representatives of general contractors.

The commenters opposed to the proposed rule change raised several concerns about moving to a three-year cycle: (1) The difficulty in estimating a DBE goal beyond one year given the changes in the political landscape or changes in the kind of projects that are funded; (2) locking in goals for three years undermines the ability to assess market conditions and DBE availability; (3) requiring annual reviews during the three-year period defeats the purpose of reducing the administrative burden associated with the annual goal setting process since an annual review will likely result in the need for an adjustment and thereby trigger the annual goal setting process; and (4) it fails to achieve a level playing field or ensure narrow tailoring.

Having considered the comments, the Department believes going to a system of staggered three-year overall DBE goal submissions would not compromise the ability of recipients to implement a narrowly tailored program and would enable recipients to improve the data collection, analysis, and consultation required to establish an overall goal that truly aims to reflect the level of DBE participation one would expect absent the effects of discrimination. Since the DBE program rules were substantially revised in 1999, generally we have not seen huge variances in the annual DBE goal submissions made by recipients over the last ten years. Thus, we do not assume that requiring an annual review would necessarily lead to annual adjustments resulting from a process that mimics the current yearly process. That said, we do not think it necessary to mandate annual reviews. Instead, we believe recipients or operating administrations should be allowed, based on changed circumstances, to initiate mid-course reviews as needed to determine if adjustments to the overall goal are warranted. Also, we do not think it prudent to allow each recipient to establish a different schedule for submission. Such a series of exceptions would likely swallow the rule. It also would make it much more difficult for operating administrations to manage reviews and oversee compliance. However, in those cases where a recipient believes its situation differs from other similarly situated recipients, the existing program waiver process offers the recipient the opportunity to seek an exception. These program waivers, unlike the general program waiver provisions of 49 CFR 26.15, could be granted by an operating administration and would not have to be approved by the Secretary.

Under the final rule, each operating administration is required to establish a schedule for submissions to be posted on its Web site. The schedules are intended to be posted no later than 30 days after the effective date of this rule. During the transition to this new system, specific notice of the deadline for overall goal submissions and the consequences of failing to meet the deadline should be provided to recipients. The schedules established by the operating administrations should include each year a proportionate or representative number of recipients from all regions of the country (e.g., north, south, east, and west). During the transition to the new scheduling system, recipients should continuing using or operating under the goals last approved by the operating administration.

Regulatory Analyses and Notices

Executive Order 12866 and Regulatory Flexibility Act

The Department has determined that this action is not a significant regulatory

action for purposes of Executive Order 12866 or the Department's regulatory policies and procedures. The rule would not impose any costs or burdens on grantees or other parties. It would reduce burdens on recipients by reducing the frequency of goal submissions to the Department. For these reasons, the Department certifies that the rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule does not create any information collection requirements covered by the Paperwork Reduction Act.

List of Subjects in 49 CFR Part 26

Administrative practice and procedures, Airports, Civil rights, Government contracts, Grant programs—transportation, Minority business, Reporting and recordkeeping requirements.

Issued this 20th day of January 2010, at Washington, DC.

Ray LaHood,

Secretary of Transportation.

■ For the reasons stated in the preamble, the Department amends 49 CFR part 26 as follows:

PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

■ 1. The authority for 49 CFR part 26 continues to read as follows:

Authority: 23 U.S.C. 324; 42 U.S.C. 2000d, *et seq.;* 49 U.S.C 1615, 47107, 47113, 47123; Sec. 1101(b), Pub. L. 105–178, 112 Stat. 107, 113.

Subpart C—Goals, Good Faith Efforts, and Counting

■ 2. Revise § 26.45(e) and (f) to read as follows:

§ 26.45 How do recipients set overall goals?

* * * * *

(e) Once you have determined a percentage figure in accordance with paragraphs (c) and (d) of this section, you should express your overall goal as follows:

(1) If you are an FHWA recipient, as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming three fiscal years.

(2) If you are an FTA or FAA recipient, as a percentage of all FTA or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA- or FAA-assisted contracts in the three forthcoming fiscal years.

(3) In appropriate cases, the FHWA, FTA or FAA Administrator may permit you to express your overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects.

(f)(1) If you set overall goals on a fiscal year basis, you must submit them to the applicable DOT operating administration by August 1 at three-year intervals, based on a schedule established by the FHWA, FTA, or FAA, as applicable, and posted on that agency's Web site. You must submit to the operating administration for approval any significant adjustment you make to your goal during the three-year period based on changed circumstances. The operating administration may direct you to undertake a review of your goal if necessary to ensure that the goal continues to fit your circumstances appropriately.

(2) If you are an FHWA, FTA, or FAA recipient and set your overall goal on a project or grant basis, you must submit the goal for review at a time determined by the FHWA, FTA, or FAA Administrator.

(3) Timely submission and operating administration approval of your overall goal is a condition of eligibility for DOT financial assistance.

(4) If you fail to establish and implement goals as provided in this section, you are not in compliance with this part. If you establish and implement goals in a way different from that provided in this part, you are not in compliance with this part. If you fail to comply with this requirement, you are not eligible to receive DOT financial assistance.

* * * * *

[FR Doc. 2010–2294 Filed 2–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192 and 195

[Docket No. PHMSA–2007–27954; Amdt. Nos. 192–112 and 195–93]

RIN 2137–AE28

Pipeline Safety: Control Room Management/Human Factors, Correction

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Final rule; correction.

SUMMARY: PHMSA is correcting a Final Rule that appeared in the **Federal Register** on December 3, 2009. That final rule amended the Federal Pipeline Safety Regulations to address human factors and other aspects of control room management for pipelines where controllers use supervisory control and data acquisition (SCADA) systems, but contained errors regarding certain dates, both in the preamble and the amendments. This document corrects those errors.

DATES: *Effective Date:* February 3, 2010. *Applicability Date:* This correction is applicable beginning February 1, 2010.

FOR FURTHER INFORMATION CONTACT: For technical information contact Byron Coy at (609) 989–2180 or by e-mail at *Byron.Coy@dot.gov.* For legal information contact Benjamin Fred at (202) 366–4400 or by e-mail at *Benjamin.Fred@dot.gov.* All materials in the docket may be accessed electronically at *http://www.regulations.gov.* General information about PHMSA may be found at *http://phmsa.dot.gov.*

SUPPLEMENTARY INFORMATION: On December 3, 2009, PHMSA published a final rule in the **Federal Register** (74 FR 63310) entitled "Pipeline Safety: Control Room Management/Human Factors." This final rule contained several errors regarding certain compliance dates. The final rule became effective on February 1, 2010, and the corrected dates detailed in this final rule correction are applicable as of February 1, 2010.

On page 63311 of the preamble to the December 3 rule, in the first column in the **DATES** section, the compliance date is corrected to read "Compliance Date: An operator must develop control room management procedures by August 1, 2011, and implement the procedures by February 1, 2013."

■ Therefore, in accordance with the reasons stated in the preamble, PHMSA

amends 49 CFR part 192 by making the following correcting amendments:

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118; and 49 CFR 1.53.

§ 192.631 [Amended]

■ 2. In paragraph (a)(2), in the second sentence, remove the phrase "implement the procedures no later than February 1, 2012" and add the phrase "implement the procedures no later than February 1, 2013" in its place.

§ 195.446 [Amended]

■ 3. In paragraph (a), in the last sentence, remove the phrase "implement the procedures no later than February 1, 2012", and add the phrase "implement the procedures no later than February 1, 2013" in its place.

Issued in Washington, DC, on January 28, 2010.

Cynthia L. Quarterman,

Administrator.

[FR Doc. 2010–2190 Filed 2–2–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907301206–0032–02]

RIN 0648–AY13

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: This action implements 2010 specifications and management measures for Atlantic mackerel, squid, and butterfish (MSB). Specifically, this action maintains quotas for Atlantic mackerel (mackerel), *Illex* squid (*Illex*), *Loligo* squid (*Loligo*), and butterfish at the same levels as 2009. This action also modifies accounting procedures for underages of Trimester 1 quotas in the *Loligo* fishery so that Trimester 1 quota underages that are greater than 25 percent of the Trimester 1 quota will be allocated equally to Trimesters 2 and 3, and underages that are less than 25 percent of the Trimester 1 quota will be allocated to Trimester 3. Additionally, this action will increase the minimum mesh size requirement for codend covers in the *Loligo* fishery from 4.5 inches (11.43 cm) to 5 inches (12.7 cm). These specifications and management measures promote the utilization and conservation of the MSB resource.

DATES: Effective March 5, 2010, except for the amendment to § 648.23(a)(3)(i), which is effective August 3, 2010.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (Council), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The EA/RIR/IRFA is accessible via the Internet at *http://www.nero.noaa.gov.* NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the classification section of the rule. Copies of the FRFA and the Small Entity Compliance Guide are available from: Patricia Kurkul, Regional Administrator, National Marine Fisheries Service, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930–2276, or via the Internet at *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, 978–281–9272, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) appear at 50 CFR part 648, subpart B. Regulations governing foreign fishing appear at 50 CFR part 600, subpart F. These regulations at § 648.21 and § 600.516(c), require that NMFS, based on the maximum optimum yield (Max OY) of each fishery as established by the regulations, annually publish a proposed rule specifying the amounts of the initial optimum yield (IOY), allowable biological catch (ABC), domestic annual harvest (DAH), and domestic annual processing (DAP), as well as, where applicable, the amounts for total allowable level of foreign fishing (TALFF) and joint venture processing (JVP) for the affected species managed under the FMP. In addition, these regulations allow specifications to be specified for up to 3 years, subject to annual review. The regulations at § 648.21 also specify that IOY for squid is equal to the combination of research quota (RQ) and DAH, with no TALFF specified for squid. For butterfish, the regulations specify that a butterfish bycatch TALFF will be specified only if TALFF is specified for mackerel.

At its June 9–11, 2009, meeting in New York, NY, the Mid-Atlantic Fishery Management Council (Council) recommended 2010 MSB specifications. The recommended specifications for mackerel, *Illex, Loligo,* and butterfish are the same as those implemented in 2009. For *Loligo,* the Council recommended a modification in accounting Trimester 1 quota underages. The Council also recommended increasing the minimum mesh size requirement for codend covers in the *Loligo* fishery. The Council submitted these recommendations, along with the required analyses, for agency review on August 10, 2009. A proposed rule for the 2010 MSB specifications and management measures was published on November 12, 2009 (74 FR 58234), and the public comment period for the proposed rule ended on December 14, 2009. Details concerning the Council's development of these measures were presented in the preamble of the proposed rule and are not repeated here.

Final MSB Specifications and Management Measures for the 2010 Fishing Year

This action implements the following MSB specifications and management measures for the 2010 fishing year, which are described in detail below.

TABLE 1—FINAL SPECIFICATIONS, IN METRIC TONS (MT), FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR 2010 FISHING YEAR

Specifications	*Loligo*	*Illex*	Mackerel	Butterfish
Max OY	32,000	24,000	N/A	12,175

TABLE 1—FINAL SPECIFICATIONS, IN METRIC TONS (MT), FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR 2010 FISHING YEAR—Continued

Specifications	*Loligo*	*Illex*	Mackerel	Butterfish
ABC	19,000	24,000	156,000	1,500
IOY [3]	[1] 18,667	24,000	[2] 115,000	[3] 485
DAH	18,667	24,000	[4] 115,000	485
DAP	18,667	24,000	100,000	485
JVP	0	0	0	0
TALFF	0	0	0	0

[1] Excludes 333 mt for Research Set-Aside (RSA).
[2] IOY may be increased during the year, but the total ABC will not exceed 156,000 mt.
[3] Includes a 15,000 mt catch of Atlantic mackerel by the recreational fishery.
[4] Excludes 15 mt for RSA.

Atlantic Mackerel

This action specifies the mackerel ABC at 156,000 mt, based on the formula ABC = T − C. T is the yield (211,000 mt) associated with a fishing mortality rate (F) that is equal to the target F (F = 0.12); C is the estimated catch of mackerel in Canadian waters (55,000 mt) for the upcoming fishing year. Thus, 211,000 mt minus 55,000 mt results in the 2010 mackerel ABC of 156,000 mt. This action also specifies the mackerel IOY at 115,000 mt, a level that can be fully harvested by the domestic fleet, thereby precluding the specification of TALFF while allowing the U.S. mackerel industry to expand.

Because the harvesting ability and processing capacity exists, it is reasonable to assume that the commercial fishery will harvest 100,000 mt of mackerel. Therefore, this action specifies the mackerel DAH at 115,000 mt, which is the commercial harvest plus the 15,000 mt anticipated to be harvested by the recreational fishery. Because IOY = DAH, this specification is consistent with the Council's recommendation that the level of IOY should not provide for TALFF.

This action specifies the mackerel DAP at 100,000 mt and the mackerel JVP at zero. For the past 6 years, the Council has recommended zero JVP because the surplus between DAH and DAP has been declining as U.S. shoreside processing capacity for mackerel has expanded. The Council also heard from the industry that the availability (i.e., size, distribution, and abundance) of mackerel to the fishery, rather than processing capacity, has curtailed catch in recent years. Based on this information, the Council concluded, and NMFS concurs, that processing capacity is no longer a limiting factor relative to domestic production of mackerel. Consequently, if U.S. harvesters land mackerel in excess of 100,000 mt, and should the IOY be adjusted upward, U.S. processors have the capacity and intent to process it.

Inseason Adjustment of the Mackerel IOY

Regulations at § 648.21(e) provide that specifications may be adjusted inseason during the fishing year by the NMFS Northeast Regional Administrator (Regional Administrator), in consultation with the Council, by publishing a notice in the **Federal Register** and providing a 30-day public comment period. In 2010, as in 2009, NMFS's Northeast Fishery Statistic Office will summarize mackerel landings from dealer reports on a weekly basis and post this information on the Northeast Regional Office Web site (*http://www.nero.noaa.gov/*). NMFS staff will closely monitor these landings and industry trends to determine if an inseason adjustment is necessary. If, using landings projections and all other available information, the Regional Administrator determines that 70 percent of the Atlantic mackerel IOY will be landed during the 2010 fishing year, the Regional Administrator will make available additional quota for a total IOY of 156,000 mt of Atlantic mackerel for harvest during 2010. Additionally, if an inseason adjustment of the IOY is warranted, the Regional Administrator will notify the Council and the inseason adjustment will be published in the **Federal Register.**

Atlantic Squids

Loligo

This action specifies the *Loligo* Max OY at 32,000 mt and the ABC, IOY, DAH, DAP at 19,000 mt. This is consistent with proxies for *Loligo* target and threshold fishing mortality rates, F_{Target} and $F_{Threshold}$, which were revised through Amendment 9 to the FMP (Amendment 9) (73 FR 37382, July 1, 2008) to reflect the analytical advice provided by the most recent *Loligo* stock assessment review committee (SARC 34). The FMP does not authorize the specification of JVP and TALFF for the *Loligo* fishery because of the domestic industry's capacity to harvest and process the OY for this fishery; therefore, there will be no JVP or TALFF in 2010.

Distribution of the *Loligo* DAH

As was done in 2007 to 2009, this action allocates the 2010 *Loligo* DAH into trimesters, consistent with the Council's recommendation. The trimester allocations for 2010 are as follows:

TABLE 2—TRIMESTER ALLOCATION OF LOLIGO QUOTA IN 2010

Trimester	Percent	Metric tons [1]
I (Jan–Apr)	43	8,027
II (May–Aug)	17	3,173
III (Sep–Dec)	40	7,467
Total	100	18,667

[1] Trimester allocations after 333 mt RQ deduction.

This action will split the distribution of Trimester I underages evenly between Trimester II and III if the underage is greater than 25 percent of the Trimester I quota. All other underages or overages will be applied to Trimester III. This method of underage distribution will prevent an underharvest of the annual quota, and distribute unharvested quota evenly throughout the year. Announcements of quota adjustments may be delayed up to 2 months after Trimester I ends due to inherent data processing time lag and late dealer reporting in the dealer reporting program.

Changes to *Loligo* Codend Mesh Size Requirements

This action will increase the "net strengthener"/"codend cover" minimum mesh requirement from 4.5 inches (11.3 cm) to 5 inches (12.7 cm) (inside stretch measurement), consistent with the codend mesh size requirement currently

required in another Mid-Atlantic fishery (scup). This increase should reduce bycatch of small squid and finfish in the *Loligo* fishery.

Illex

This action specifies the *Illex* Max OY, IOY, ABC, and DAH at 24,000 mt. The FMP does not authorize the specification of JVP or TALFF for the *Illex* fishery because of the domestic fishing industry's capacity to harvest and to process the IOY from this fishery.

Butterfish

The status of the butterfish stock was most recently assessed in late 2004. That assessment concluded that, while overfishing of the stock is not occurring, the stock is overfished. Based on this information, the Council was notified by NMFS on February 11, 2005, that the butterfish stock was designated as overfished, pursuant to the requirements of section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Council developed a rebuilding plan for the butterfish stock in Amendment 10 to the FMP (Amendment 10), which was approved October 7, 2009. A stock assessment was conducted in late 2009, but the results are not yet available. The Council recommended that the quota be restricted to recent landings levels to prevent an expansion of the fishery and to protect the rebuilding stocks. Therefore, in 2010, as implemented in 2009, this action sets the Max OY at 12,175 mt; the ABC at 1,500 mt; and the IOY, DAH, and DAP at 500 mt. Harvest at these levels should prevent overfishing of the butterfish stock in 2010. Additionally, consistent with MSB regulations, the Council recommended, and this action is specifying, zero TALFF for butterfish in 2010 because zero TALFF is specified for mackerel.

Comments and Responses

Comment: One comment letter was received that indicated that quotas for all four species should be cut in half, and that overfishing is occurring.

Response: The most recent stock assessments for these species indicate that overfishing is not occurring for any of them, and that butterfish is the only species managed under the MSB Fishery Management Plan (FMP) that is overfished. This action specifies that the butterfish quota will remain at the reduced level of 500 mt in 2010 in order to curtail a directed butterfish fishery consistent with the rebuilding program for butterfish established by Amendment 10 to the MSB FMP.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866 (E.O. 12866).

NMFS, pursuant to section 604 of the Regulatory Flexibility Act, has prepared a final regulatory flexibility analysis (FRFA), included in this final rule, in support of the 2009 MSB specifications and management measures. The FRFA describes the economic impact that this final rule, along with other non-preferred alternatives, will have on small entities.

The FRFA incorporates the economic impacts and analysis summarized in the IRFA, a summary of the significant issues raised by the public, and a summary of analyses prepared to support the action (i.e., the EA and the RIR). The contents of these documents are not repeated in detail here. A copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**). A complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to the proposed and final rules and is not repeated here.

Statement of Need for This Action

This action specifies 2010 specifications and management measures for MSB fisheries and modifies existing management measures to improve the management of MSB fisheries.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS received one comment letter, but it was not related to the IRFA or the general economic effects of the proposed action.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

Based on permit data for 2008, the numbers of potential fishing vessels in the 2010 fisheries are as follows: 371 for *Loligo*/butterfish, 77 for *Illex,* 2,342 for mackerel, and 2,193 vessels with incidental catch permits for squid/butterfish. There are no large entities participating in this fishery, as defined in section 601 of the RFA. Therefore, there are no disproportionate economic impacts on small entities. Many vessels participate in more than one of these fisheries; therefore, permit numbers are not additive.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

Actions Implemented With the Final Rule

The mackerel IOY specified in this action (115,000 mt, with 15,000 mt allocated to recreational catch) represents status quo, as compared to 2009, and is no constraint to vessels relative to the landings in recent years. Mackerel landings for 2004–2006 averaged 51,836 mt. Landings in 2007 were 25,547 mt, and landings in 2008 were 21,749 mt. This action also allows for an inseason adjustment, which would increase the IOY up to the ABC (156,000 mt), if landings approach the IOY early in the fishing year. Therefore, no reductions in revenues for the mackerel fishery are expected as a result of this action.

The *Loligo* IOY (19,000 mt) specified in this action represents the status quo compared to the 2009. No reductions in revenues for the *Loligo* fishery are expected as a result of this action.

The accounting methods for *Loligo* trimester underages implemented in this action will distribute any substantial underage in Trimester I (greater than 25 percent of the Trimester I quota) evenly over the rest of the year. This method of transferring quota over to Trimester II from Trimester I may provide some economic benefits to this fishery compared to how the fishery was prosecuted under the 2008 and 2009 specifications.

This action also increases the required minimum codend cover mesh size from 4.5 inches (11.3 cm) to 5.0 inches (12.7 cm) in the *Loligo* fishery. This mesh size increase is not expected to have a significant impact on landings since most of the selectivity occurs in the codend liner. Most vessels are equipped with nets meeting or exceeding the proposed codend minimum mesh size, so no negative impacts on revenues in this fishery are expected as a result of this action.

The *Illex* IOY (24,000 mt) specified in this action represents status quo as compared to 2009. Implementation of this action would not result in a reduction in revenue or a constraint on expansion of the fishery in 2010.

The butterfish IOY specified in this action (500 mt) represents status quo, as compared to 2009, and represents only a minimal constraint to vessels relative to the landings in recent years. Due to market conditions, there has not been a directed butterfish fishery in recent years; therefore, recent landings have been low. Given the lack of a directed butterfish fishery and low butterfish landings, this action is not expected to reduce revenues in this fishery more than minimally.

Alternatives to the Actions in the Final Rule

The Council analysis evaluated two alternatives for mackerel. The first alternative would have set the ABC at 56,000 mt, IOY at 56,000 mt, and the second alternative would have set the ABC at 186,000 mt, IOY at 115,000 mt. Based on recent harvest levels, neither of the ABC and IOY alternatives represents a constraint on vessels in this fishery. However, the ABC of 56,000 mt in the first alternative could result in foregone revenue if mackerel is available to the fishery.

For *Loligo,* alternatives to this action would have set the Max OY at 32,000 mt and ABC, IOY, DAH, and DAP at 19,000 mt. The alternatives differed from this action in how Trimester underages and overages were applied to the following Trimester quotas. The first alternative is the status quo, and would have continued to transfer Trimester I and II overages or underages to Trimester III. The second alternative would make the full amount of a Trimester I underage available to Trimester II. This action distributes any substantial underage in Trimester I (greater than 25 percent of the Trimester I quota) evenly over the rest of the year, which may positively impact *Loligo* stocks, and prevent an underharvest of the annual quota.

For *Illex,* one alternative was considered, which would have set the ABC, IOY, DAH, and DAP at 19,000 mt rather than 24,000 mt. This quota was used between 1997 and 1999, and was associated with the SAW 21 stock assessment from 1996. However, this alternative would still allow harvest in excess of recent landings in this fishery.

For butterfish, two alternatives were considered. The first would have set Max OY at 12,175 mt; ABC at 4,525 mt; and IOY, DAH, and DAP 1,861 mt; which is equivalent to the 2005–2007 specifications. The second alternative would have set Max OY at 12,175 mt; ABC at 9,131 mt; and IOY, DAH, and DAP at 3,044 mt. The amounts in this alternative represent the specifications that would result from the application of the F target control rule if the butterfish stock was declared rebuilt, and was included due to the potential for rapid rebuilding in the butterfish stock. However, this alternative would likely result in overfishing and the additional depletion of the spawning stock biomass of an overfished species. None of these alternatives represent a constraint on vessels in this fishery or would reduce revenues in the fishery.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared. The guide will be sent to all holders of permits issued for the MSB fisheries. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from the Regional Administrator and are also available from NMFS, Northeast Region (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: January 28, 2010.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.21, paragraph (f)(2) is revised to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

* * * * *

(f) * * *

(2) Any underages of commercial period quota for Trimester I that are greater than 25 percent of the Trimester I quota will be divided in half, with one portion applied to Trimester II, and one portion applied to Trimester III of the same year. Any underages of commercial period quota for Trimester I that are less than 25 percent of the Trimester I quota will be applied to Trimester III of the same year. Any overages of commercial quota for Trimesters I and II will be subtracted from Trimester III of the same year.

* * * * *

■ 3. In § 648.22, paragraph (a)(2)(i) is added, and paragraph (a)(2)(ii) is added and reserved to read as follows:

§ 648.22 Closure of the fishery.

(a) * * *

(2) * * *

(i) If the Regional Administrator determines that the Trimester I closure threshold has been underharvested by 25 percent or more, then the amount of the underharvest shall be reallocated to Trimester II and Trimester III in equal amounts, through notice in the **Federal Register.**

(ii) [Reserved]

* * * * *

■ 4. In § 648.23, paragraph (a)(3)(i) is revised to read as follows:

§ 648.23 Gear restrictions.

(a) * * *

(3) * * *

(i) *Net obstruction or constriction.* Owners or operators of otter trawl vessels fishing for and/or possessing *Loligo* shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 17/8 inches (48 mm) diamond mesh, inside stretch measure. "Top of the regulated portion of the net" means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor. However, owners

or operators of otter trawl vessels fishing for and/or possessing *Loligo* may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend, provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond mesh, inside stretch measure. For the purpose of this requirement, head ropes are not to be considered part of the top of the regulated portion of a trawl net.

* * * * *

[FR Doc. 2010–2282 Filed 2–2–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 09100091344–9056–02]

RIN 0648–XU20

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allocation of the 2010 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 31, 2010, through 1200 hrs, A.l.t., September 1, 2010.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

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

The A season allocation of the 2010 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA is 19,862 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2010) and inseason adjustment (74 FR 68713, December 29, 2009).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allocation of the 2010 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 17,862 mt, and is setting aside the remaining 2,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 28, 2010.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

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

Dated: January 29, 2010.

Emily H. Menashes,

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

[FR Doc. 2010–2257 Filed 1–29–10; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351–0040–03]

RIN 0648–XL28

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2009 and 2010 Harvest Specifications for Groundfish; Correction

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

ACTION: Correcting amendment.

SUMMARY: On February 17, 2009, NMFS published the final 2009 and 2010 harvest specifications for groundfish of the Bering Sea and Aleutian Islands (BSAI) management area. Table 8c of that document contained the final 2009 and 2010 prohibited species bycatch allowances for the BSAI trawl limited access sector and non-trawl fisheries of the BSAI management area. That table contained an error that is corrected in this rule.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.) February 3, 2010, through 2400 hrs, A.l.t., December 31, 2010.

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

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the Fisheries Management Plan (FMP) for groundfish of the BSAI and govern the groundfish fisheries in the BSAI. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations governing U.S. fisheries also appear at 50 CFR part 600.

On February 17, 2009 (74 FR 7359) NMFS published harvest specifications

for groundfish of the BSAI that included Table 8c, which allocated the final 2009 and 2010 prohibited species bycatch allowances for the BSAI trawl limited access sector and non-trawl fisheries of the BSAI management area. However, NMFS inadvertently left out the date of April 15, 2010, associated with the 2010 allocation of halibut mortality for the rockfish fishery category for the BSAI trawl limited access sector. This document corrects the error and republishes Table 8c in its entirety. Without this correction, the rockfish fishery for this sector opened on January 20, 2010, instead of April 15, 2010, as intended by the Council and NMFS to address operational issues raised by the fisheries participants.

Correction

Accordingly, the revised Table 8c from the temporary rule (FR Doc. E9–3297) published on February 17, 2009, at 74 FR 7359, is corrected as follows:

On page 7371, Table 8c is corrected and republished in its entirety to read as follows:

TABLE 8C—FINAL 2009 AND 2010 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES

BSAI trawl limited access fisheries	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Yellowfin sole	187	47,397	1,176,494	346,228	1,185,500
Rock sole/flathead sole/other flatfish [2]	0	0	0	0	0
Turbot/arrowtooth/sablefish [3]	0	0	0	0	0
Rockfish (in 2010 April 15–December 31)	5	0	2,000	60,000	1,000
Pacific cod	508	6,000	50,000	60,000	50,000
Pollock/Atka mackerel/other species [4]	175	400	20,000	5000	5,000
Total BSAI trawl limited access PSC	875	53,797	1,248,494	411,228	1,241,500

Non-trawl fisheries	Catcher processor	Catcher vessel
Pacific cod—Total	760	15
January 1–June 10	314	10
June 10–August 15	0	3
August 15–December 31	446	2
Other non-trawl—Total	58	
May 1–December 31	58	
Groundfish pot and jig	Exempt	
Sablefish hook-and-line	Exempt	
Total non-trawl PSC	833	

[1] Refer to § 679.2 for definitions of areas.
[2] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.
[3] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[4] "Other species" for PSC monitoring includes sculpins, sharks, skates, and octopus.

Classification

This action is authorized under 50 CFR 679.20 and is exempt from review under E.O. 12866.

Pursuant to 5 U.S.C. 553(b)(B), the Acting Assistant Administrator of Fisheries (AA) finds good cause to waive prior notice and opportunity for public comment, as notice and comment would be impracticable and contrary to the public interest. Through this action, NOAA seeks to correct the inadvertent omission of the 2010 dates associated with the allocation of halibut mortality for the rockfish category for the BSAI trawl limited access sector. Prior notice and an opportunity for public comment on this action would be impracticable and contrary to the public interest for the following reasons: Corrections to ensure the rule's compliance with the intent of the Council and NMFS to address operational issues raised by fisheries participants must be made immediately; since the rockfish fishery for this sector opened prematurely, on January 20, 2010, instead of the intended date of April 15, 2010. A premature opening of the fishery would fail to limit directed fishing for rockfish to a time period when all interested participants would have equal opportunity to participate and would unfairly advantage some participants at the expense of other participants. Additionally, this correction must be made immediately in order to give the regulated community as much time as is practical to plan upcoming fishing activities. As such, prior notice and an opportunity for public comment on these measures are impracticable and contrary to the public interest because NMFS only recently discovered these errors and must ensure the timely,

uninterrupted, comprehensive and rational management of the fisheries consistent with the Magnuson-Stevens Act.

Additionally, for the reasons listed above, the AA finds good cause to waive the 30-day delay in the effective date under 5 U.S.C. 553(d)(3), as such procedures would be contrary to the public interest. Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

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

Dated: January 28, 2010.

Samuel D. Rauch III,

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

[FR Doc. 2010–2284 Filed 2–2–10; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 75, No. 22
Wednesday, February 3, 2010

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.

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2009–BT–STD–0018]

RIN 1904–AC00

Energy Conservation Program: Energy Conservation Standards for Metal Halide Lamp Fixtures: Public Meeting and Availability of the Framework Document

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of extension of public comment period.

SUMMARY: In the December 30, 2009, issue of the **Federal Register**, the U.S. Department of Energy initiated the rulemaking and data collection process to establish amended energy conservation standards for certain metal halide lamp fixtures. This document announces that the period for submitting comments on the Framework Document is extended to February 5, 2010.

DATES: DOE will accept comments, data, and information regarding the Framework Document received by February 5, 2010.

ADDRESSES: Any comments submitted must identify the Framework Document for energy conservation standards for metal halide lamp fixtures and provide docket number EERE–2009–BT–STD–0018 and/or RIN number 1904–AC00. Comments may be submitted using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: MHLF-2009-STD-0018@ee.doe.gov.* Include docket number EERE–2009–BT–STD–0018 and/or RIN 1904–AC00 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC 20024. Please submit one signed original paper copy.

Docket: For access to the docket to read background documents or comments received, visit the U.S. Department of Energy, Resource Room of the Building Technologies Program, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Graves, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Phone: (202) 586–1851. E-mail: *linda.graves@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of General Counsel, GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Phone: (202) 586–5827. E-mail: *eric.stas@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On December 30, 2009, DOE published a notice of public meeting and availability of the Framework Document in the **Federal Register** (74 FR 69036) for energy conservation standards for metal halide lamp fixtures. The notice provided for the submission of comments by January 29, 2010, and comments were also accepted at a public meeting held on January 26, 2010. DOE received a request for a brief extension of the comment period from a number of commenters who felt that the comment period, which occurred over the New Years holiday in late December 2009–January 2010, was too short for them to adequately review the document and submit comments. DOE has determined that a brief extension is appropriate to allow all interested parties sufficient time to comment. DOE will consider any comments received by February 5, 2010, and deems any comments received between publication of the notice of public meeting and availability of the framework document and February 5, 2010, to be timely submitted.

Further Information on Submitting Comments

Under Title 10 of the Code of Federal Regulations (10 CFR) Part 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) A description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

Issued in Washington, DC, on January 29, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–2295 Filed 2–2–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSHA–2007–0032 (formerly Docket Nos. OSHA–S031–2006–0665 and OSHA–S–031)]

RIN 1218–AC09

Explosives

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Proposed rule; termination.

SUMMARY: In this notice, OSHA is terminating the rulemaking to amend its Explosives and Blasting Agents Standard at 29 CFR 1910.109. OSHA is taking this action because it has limited rulemaking resources, which are currently devoted to higher priority projects that will affect a more significant improvement in worker safety and health than would this rulemaking.

DATES: The effective date for terminating the rulemaking is February 3, 2010.

FOR FURTHER INFORMATION CONTACT: *General information and press inquiries:* Contact Ms. Jennifer Ashley, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

Technical inquiries: Contact Mr. Mark Hagemann, Office of Safety Standards, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2255; fax: (202) 693–1663.

Copies of this Federal Register notice. Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, are also available at OSHA's Web page at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In 1970, Congress enacted the Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) (the Act) directing OSHA to promulgate safety and health standards to assure, as far as possible, safe and healthful working conditions for every employee in the Nation. To expedite OSHA's mission, Congress directed the Secretary of Labor, through Section 6(a) of the Act (29 U.S.C. 655(a)), to promulgate safety and health standards within the first two years of the Act's enactment by summarily adopting existing national consensus and established Federal standards, without requiring the Agency to use the rulemaking procedures detailed in Section 6(b) of the Act, 29 U.S.C. 655(b).

On May 29, 1971, pursuant to Section 6(a) of the Act, OSHA promulgated its Explosives and Blasting Agents Standard at 29 CFR 1910.109 (36 FR 10553–10562). OSHA based the standard on two national consensus standards promulgated by the National Fire Protection Association (NFPA)—NFPA 495–1970, *Code for the Manufacture, Transportation, Storage, and Use of Explosives and Blasting Agents,* and NFPA 490–1970, *Code for the Storage of Ammonium Nitrate.* OSHA subsequently made several minor revisions to the standard (37 FR 6577, 57 FR 6356, and 63 FR 33450).

On July 29, 2002, the Institute of Makers of Explosives and the Sporting Arms and Ammunition Manufacturers' Institute petitioned OSHA to revise the standard, and, on April 13, 2007, OSHA published a **Federal Register** notice proposing a revision (72 FR 18792). On July 17, 2007, however, OSHA closed the comment period, stating that it needed to clarify the intent of the rulemaking, and that it planned to issue a new proposal at a later date (72 FR 39041).

II. Rationale for Terminating the Rulemaking

Continuing this rulemaking would have a limited safety and health benefit, while diverting OSHA resources from regulatory projects with a much more substantial hazard reduction potential.

A. Lack of Major Protective Benefits Afforded by Proposed Standard

The proposed rule would not result in a major safety or health improvement for workers. First, other Federal agencies already regulate explosives hazards in many situations; second, even in the areas subject to OSHA regulation, the proposal had a very limited scope; and finally, the proposal would not have amended many of the substantive requirements of OSHA's existing explosives standard.

1. Pursuant to Section 4(b)(1) of the OSH Act, 29 U.S.C. 653(b)(1), in most situations the Act does not apply where another Federal agency exercises "statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health." As described below, a number of Federal agencies other than OSHA exercise broad authority over explosives safety. Moreover, even with respect to industries regulated by OSHA, the proposed standard would affect only a small proportion of exposure to explosives hazards in general industry.

A significant amount of explosives use occurs in the mining industry. Pursuant to the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 *et seq.*), the Mine Safety and Health Administration is responsible for regulating the transportation, storage, and use of explosives at mining facilities. Its relevant standards are 30 CFR 56.6000 to 56.6905, 57.6000 to 57.6960, 75.1300 to 75.1328, and 77.1300 to 77.1304. Mining-related standards issued by the Department of the Interior's Office of Surface Mining regulate blast effects, such as flyrock and ground vibration, near surface mines (30 CFR 816, 817, and 850).

Other explosives hazards occur when explosives are being transported and stored. The Department of Transportation (DOT), under the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*), is responsible for regulating the safe transportation of explosives in intrastate, interstate, and foreign commerce. Although not all DOT regulations preempt OSHA standards, DOT's rules address hazards related to the movement of explosives in commerce, as well as the loading, unloading, and storage of explosives incidental to that movement (49 CFR parts 171 to 180 and 397). The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulates the import, manufacture, distribution, and storage of explosives (27 CFR part 555). ATF rules require manufacturers, importers, and dealers in explosives to obtain a Federal license from ATF, and require some users of explosives to obtain a Federal permit. ATF also regulates the safe and secure storage of explosives at approved facilities.

Several other Federal agencies also regulate explosives. In maritime settings, the United States Coast Guard regulates loading, unloading, transporting, and stowing explosives on vessels and at related land-side facilities (33 CFR part 126; 46 CFR part 194; and 49 CFR parts 171 to 173 and 176). The Consumer Product Safety Commission regulates consumer fireworks as part of its mission to protect the public from unreasonable risks of serious injury or death from consumer products. (16 CFR parts 1500 and 1507.) Its regulations contain construction, performance, and labeling requirements for consumer fireworks. The Environmental Protection Agency, under such statutes as the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), the Clean Water Act (33 U.S.C. 1251 *et seq.*), and the Clean Air Act (42 U.S.C. 7401 *et seq.*), regulates releases and

wastes involved in the manufacture, use, and disposal of explosives.

2. Even with respect to activities regulated by OSHA, the proposed rule had a limited scope. It would not have covered the sale or use of consumer and public display fireworks (72 FR 18799). OSHA's construction standards at 29 CFR 1926 subpart U cover the hazards associated with blasting in the construction and demolition industries. The general industry uses addressed by the proposal include blasting of rocks, slag pockets, and beaver dams, as well as blasting associated with metal hardening, stump removal, pond creation, and avalanche control, and various types of blasting used to create art sculptures. Compared to the use of explosives by the construction and demolition industries, these general industry uses do not require large amounts of explosives, and employers perform them relatively infrequently.

Moreover, employers engaged in the manufacture of explosives (other than blasting agents) and pyrotechnics must already meet the requirements contained in OSHA's Process Safety Management (PSM) Standard at 29 CFR 1910.119, which covers working conditions during the manufacture of highly hazardous chemicals (29 CFR 1910.109(k)). The PSM Standard addresses many of the hazards associated with the manufacture of explosives and pyrotechnics.

3. Finally, OSHA did not propose substantive changes to many of the requirements in the existing standard. Whether or not the rulemaking continues, the existing protective provisions addressing hazards associated with storing explosives; transporting explosives; using explosives and blasting agents; packing, marking, and storing explosives at piers, railway stations, and cars or vessels; mixing, storing, and transporting blasting agents; mixing water gel explosives; storing ammonium nitrate; and storing small arms ammunition, small arms primers, and small arms propellants, will remain in effect.

The limited scope of the rulemaking and the breadth of existing Federal protections necessarily constrained the relative safety benefits of the rulemaking, especially when compared with OSHA's higher priority rulemaking activities. The Preliminary Economic and Regulatory Screening Analysis conducted by OSHA in conjunction with the proposed rule supports this conclusion (72 FR 18828). In this analysis, OSHA examined the extent to which the proposed rulemaking would reduce the number of deaths and injuries attributable to explosive accidents in general industry by reviewing its accident-investigation reports for the years 1992–2002. OSHA concluded that compliance with the new requirements of the amended standard might have prevented only one of the 39 documented explosives accidents. Therefore, the proposed standard would have had limited benefit for workers exposed to explosive hazards.

B. Using Limited Resources Efficiently

In light of these limited benefits, OSHA cannot justify allocating the substantial resources it would need to utilize in order to issue a new proposal, analyze comments submitted by the regulated community, conduct a hearing, and promulgate an amended standard. As noted above, the existing standard already addresses many of the hazards associated with explosives, and much of the proposal involved clarifying the terms and scope of that standard. The proposal would have: (1) Increased the clarity and focus of the standard by rewriting requirements in plain language, correcting internal inconsistencies and duplicative requirements, and removing references to public safety that are beyond OSHA's regulatory authority; (2) increased harmonization with other Federal standards that regulate explosives; [1] and (3) addressed the scope of preemption by other Federal agencies (notably DOT and ATF) of OSHA authority over working conditions in the explosives industry. While these revisions could have reduced confusion among the regulated community regarding compliance and enforcement authority, they would have no substantive effect on the safety measures employers must take to control explosives hazards.

By withdrawing this proposal, OSHA can devote the resources that would have been utilized in completing the rulemaking to deservedly higher-priority projects. For example, OSHA recently announced a rulemaking to reduce combustible dust hazards in general industry. Combustible dust explosions have resulted in more than 130 deaths and 780 injuries since 1980. OSHA is also preparing to propose a standard governing occupational exposure to respirable silica. Inhalation of this substance, which is extremely widespread, causes lung disease, silicosis and lung cancer. Terminating the explosives rulemaking will free resources for these and other high-impact proceedings.

C. Conclusion

Based on the findings discussed in the preceding section, OSHA concludes that terminating the proposed rulemaking will not diminish worker protection because § 1910.109, along with other OSHA standards and the standards of other Federal agencies, provide workers with substantial protection from explosive hazards. In addition, alternatives exist to increase the protection afforded by, and to improve the clarity of the standard. Therefore, terminating the proposed rulemaking will enable OSHA to devote its limited resources to other rulemakings that will provide greater protection to workers from occupational hazards than would the proposed rulemaking.

III. Authority and Signature

David Michaels, PhD MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC, 20210, directed the preparation of this notice. It is issued pursuant to Sections 4, 6, and 8 of the Occupational and Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary's Order 5–2007 (72 FR 31160), and 29 CFR part 1911.

Signed at Washington, DC, on January 29, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–2273 Filed 2–2–10; 8:45 am]

BILLING CODE 4510–26–P

[1] For instance, by adopting the ATF system to classify explosives storage magazines, or by following the example of DOT, which adopted the United Nations Globally Harmonized System of Classification and Labeling of Chemicals to classify explosives. This rulemaking goal is actively being addressed, as OSHA recently issued a proposal to conform its Hazard Communication Standard, 29 CFR 1910.1200, to the GHS. (74 FR 50280.) This proposal generally adopts the GHS's requirements for classifying, labeling, and providing safety data sheets for explosives.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2009–0686; FRL–8796–7]

RIN 2070–AB27

Proposed Significant New Use Rule for Multi-walled Carbon Nanotubes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance identified generically as multi-walled

carbon nanotubes (P–08–199). This action would require persons who intend to manufacture, import, or process the substance 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 March 5, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2009–0686, 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–2009–0686. 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–2009–0686. 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 substance contained in this proposed rule. Potentially affected entities may include, but are not limited to:

- Manufacturers, importers, or processors of the subject chemical substance (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 March 5, 2010 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 this SNUR using notice and comment procedures. This SNUR will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of the specific multi-walled carbon nanotubes identified by the notice for any activity designated by this SNUR as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs.

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 this SNUR 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 chemical substance that is the subject of this proposed SNUR, EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, and the four bulleted factors listed in TSCA section 5(a)(2) in this Unit.

For the multi-walled carbon nanotubes described in P–08–199, EPA believes that certain changes from the use scenario described in the PMN could result in increased exposures, thereby constituting a "significant new use." EPA has determined that activities proposed as a "significant new use" satisfy the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities, "(i) are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified" for the PMN substance.

IV. Substance Subject to this Proposed Rule

EPA is proposing to establish significant new use and recordkeeping requirements for a chemical substance in 40 CFR part 721, subpart E. This SNUR applies only to the multi-walled carbon nanotubes described in P–08–199. In the past, some stakeholders have asked whether these types of SNURs apply to all variants of carbon nanotubes. This is not the case.

PMN Number P–08–199

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

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as an additive/filler for polymer composites and

support media for industrial catalysts. Based on test data on analogous respirable, poorly soluble particulates and on other carbon nanotubes (CNTs), EPA identified concerns for lung effects, immunotoxicity, and mutagenicity from exposure to the PMN substance. For the uses described in the PMN, worker inhalation and dermal exposures are minimal due to the use of adequate personal protective equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without the use of gloves and protective clothing, where there is a potential for dermal exposure; use of the substance without a National Institute for Occupational Safety and Health (NIOSH)-approved full-face respirator with an N100 cartridge, where there is a potential for inhalation exposure; or use other than as described in the PMN, may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of the following tests would help characterize the human health effects of the PMN substance: A bacterial reverse mutation test (OPPTS Harmonized Test Guideline 870.5100) *in vitro*; a mammalian erythrocyte micronucleus test (OPPTS Harmonized Test Guideline 870.5395 or Organisation for Economic Co-operation and Development (OECD) 474 test guideline) *in vivo*, in bone marrow, by the intraperitoneal route; an immunotoxicity test (OPPTS Harmonized Test Guideline 870.7800); and a 90–day inhalation toxicity test (OPPTS Harmonized Test Guideline 870.3465), including a post-exposure observation period of up to 3 months. Evaluation should include markers of damage, oxidant stress, cell proliferation, the degree/intensity and duration of pulmonary inflammation, and cytotoxic effects and histopathology of pulmonary issues, in addition to the standard requirements in the OPPTS Harmonized Test Guideline 870.3465.

CFR citation: 40 CFR 721.10183.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During review of the chemical substance P–08–199, EPA determined that one or more of the criteria of concern established at § 721.170 were met, as discussed in Unit IV.

B. Objectives

EPA is proposing this SNUR for a chemical substance that has 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.

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. Notice and Comment Procedures

EPA is issuing this SNUR by notice and comment procedure, as described in § 721.170(d)(4). In accordance with § 721.170(d)(4)(ii)(A), persons are being given the opportunity to submit comments on or before March 5, 2010 on whether EPA should establish notification requirements.

VII. Applicability of the 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. 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.

VIII. 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. EPA recommended certain testing in Unit IV. 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. To access the OPPTS harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/oppts* and select "Test Methods and Guidelines." 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*.

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 substance.
- Potential benefits of the chemical substance.
- Information on risks posed by the chemical substance compared to risks posed by potential substitutes.

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 has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substance subject to this proposed rule. EPA'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 a SNUR for a chemical substance that was the subject of a PMN. 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 this SNUR 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 this SNUR 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 reason 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: January 27, 2010.

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. Add § 721.10183 to subpart E to read as follows:

§ 721.10183 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–08–199) 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)(4), (a)(5) (National Institute for Occupational Safety and Health (NIOSH)-approved full-face respirators with N100 cartridges), (a)(6)(i), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (additive/filler for polymer composites and support media for industrial catalysts).

(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), and (i) 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.

[FR Doc. 2010–2256 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 23

[Docket No. OST–2010–0022]

RIN 2105–AD88

Participation by Disadvantaged Business Enterprises in Airport Concessions

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation is proposing to remove the "sunset" provision from its rule governing the airport concessions disadvantaged business enterprise program. The rule would instead provide for periodic program reviews. In addition, in the interest of initiating a program review, the Department is soliciting comments on any changes that should be made in the rule. These comments would assist the Department in reviewing the rule and, if warranted, proposing modifications to it in the future.

DATES: Comments on the proposal to remove the sunset provision must be received by March 5, 2010. Responses to the request for comments on potential modifications to the rule must be received by November 1, 2010. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments (identified by the agency name and DOT Docket ID Number OST–2010–0022) by any of the following methods:

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

Instructions: You must include the agency name (Office of the Secretary, DOT) and Docket number (OST–2010–0022) for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail or courier. Note that all comments received will be posted without change to *http://www.regulations.gov* including any

personal information provided and will be available to internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://DocketsInfo.dot.gov*.

Docket: For internet access to the docket to read background documents and comments received, go to *http://www.regulations.gov*. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Ave, SE., Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, Room W94–302, 202–366–9310, *bob.ashby@dot.gov*.

SUPPLEMENTARY INFORMATION: When the Department issued its final rule revising its ACDBE rule (49 CFR Part 23) in 2005, the rule included at section 23.7 a "sunset" provision. This provision said unless extended by the Department, the provisions of Part 23 would terminate and become inoperative on April 21, 2010. The preamble to the rule explained the rationale for this provision as follows:

> The Department is introducing a "sunset" provision into the final rule as a way of addressing the durational element of narrow tailoring. A narrowly-tailored rule is not intended to remain in effect indefinitely. Rather, the rule should be reviewed periodically to ensure that it continues to be needed and that it remains a constitutionally appropriate way of implementing its objectives. Consequently, this provision states that this rule will terminate and cease being operative in five years, unless the Department extends it. We intend, beginning four years from now, to review the rule to determine whether it should be extended, modified, or allowed to expire. Of course, the underlying DBE statute remains in place, and its requirements continue to apply regardless of the status of this regulation, absent future Congressional action. (70 FR 14502; March 22, 2005).

The Department believes that it would be useful to begin reviewing the provisions of Part 23 at this time, for the purpose of determining what, if any, modifications, are appropriate to improve its operations, in context of the "strict scrutiny" requirements of narrowly tailoring a program to meet a compelling need to combat discrimination and its effects. Consequently, with this notice, the Department is soliciting comments from interested parties concerning any and all changes to Part 23 they believe would be useful in helping the Department, airports, ACDBEs, and other airport-related businesses to achieve the ACDBE program's objectives. The Department will use the information we receive to assist us in determining whether to issue a proposed rule to modify the ACDBE regulation. In addition, the Department is planning to meet with stakeholders, at times and places to be determined, to discuss potential changes to Part 23.

However, the Department does not believe it is appropriate to retain the "sunset" provision itself. The Department can, and will, review the provisions of the rule without this provision being in place. Moreover, as the preamble discussion for section 23.7 itself pointed out, the ACDBE program is mandated by statute. The Department does not believe that it would be meaningful to eliminate a regulation when its underlying statutory mandate remains applicable to airports and other participants. Doing so would simply cause confusion and disruption, making it more difficult for all parties concerned to carry out their responsibilities under the statute, which is not self-executing. A regulatory framework is necessary for rational implementation of the statute. Periodic program reviews by the Department, as well as consideration from time to time of the continuing need for the program by Congress, meet the durational element of narrow tailoring satisfactorily.

Moreover, the Department is convinced that programs like those in 49 CFR part 23 and its companion DBE rule, 49 CFR part 26, remain necessary to redress discrimination and its effects in airport programs and to ensure a level playing field for small businesses owned and controlled by socially and economically disadvantaged individuals. The extensive evidence provided to a March 2009 hearing of the House Transportation and Infrastructure Committee on this subject, and the findings of continuing need for DBE programs in the House-passed version of the Federal Aviation Administration reauthorization bill (H.R. 915), as well as the Department's long-term experience in operating the program, support this conclusion.

For these reasons, the Department proposes to amend section 23.7 by removing the "sunset" language and substituting a requirement for program review. The current notice initiates such a review. The opportunity for stakeholder input and public comment is part of this review. The Department seeks comment on whether the final rule should state a specific interval for future program reviews or whether this determination should, as stated in the text of the proposed amendment to the rule, be left to the Department's discretion.

Regulatory Analyses and Notices

Administrative Procedure Act

Having considered the potentially high risk of disruption posed by the current "sunset" provision, the Department believes that the program review approach proposed by this NPRM provides a better way of achieving the objective of ensuring that the durational element of narrow tailoring is achieved. In order to ensure that all parties understand that the program and regulation will continue without interruption or uncertainty, the Department believes that it is important to propose removing the provision at this time and substituting the program review approach at this time. A short comment period is essential in order to permit a final rule to be issued before April 21, 2010. We also believe that beginning the program review now, rather than later, will serve the interests of the program and program participants well.

Executive Order 12866 and Regulatory Flexibility Act

The Department has determined that this action is not a significant regulatory action for purposes of Executive Order 12866 or the Department's regulatory policies and procedures. The rule would not impose any costs or burdens on grantees or other parties and would keep in place the opportunity for interested parties to participate in a program review. It makes no changes in the obligations of any party. For these reasons, the Department certifies that the rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule does not create any information collection requirements covered by the Paperwork Reduction Act.

List of Subjects in 49 CFR Part 23

Administrative practice and procedures, Airports, Civil rights, Government contracts, Grant programs—transportation, Minority business, Reporting and recordkeeping requirements.

Issued at Washington, DC this 20th day of January 2010.

Raymond F. LaHood,

Secretary of Transportation.

For reasons discussed in the preamble, the Department of Transportation proposes to amend Title 49 of the Code of Federal Regulations, Part 23, as follows:

PART 23—[AMENDED]

1. The authority citation for 49 CFR Part 23 continues to read as follows:

Authority: 49 U.S.C. 47107; 42 U.S.C. 2000d; 49 U.S.C. 322; Executive Order 12138.

2. Section 23.7 is proposed to be revised to read as follows:

§ 23.7 Program Reviews.

In 2010, and thereafter at the discretion of the Secretary, the Department will initiate a review of the ACDBE program to determine what, if any, modifications should be made to this Part.

[FR Doc. 2010–2293 Filed 2–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2010–0012

RIN 2127–AK58

Federal Motor Vehicle Safety Standards; Motor Vehicle Brake Fluids

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM proposes to amend FMVSS No. 116, *Motor Vehicle Brake Fluids,* so that brake fluids would be tested with ethylene, propylene, and diene terpolymer (EPDM) rubber, as this type of rubber is increasingly being used in brake fluid seals. This NPRM also updates references to standards issued by the Society of Automotive Engineers (SAE) and the American Society for Materials and Testing (ASTM) (no substantive changes to the standard would be made by these updates), and corrects minor errors in the standard.

DATES: Comments must be received on or before April 5, 2010.

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

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

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202–366–9324.

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

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

FOR FURTHER INFORMATION CONTACT:

For non-legal issues: Mr. Samuel Daniel, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590 (202–366–4921). Mr. Daniel's fax number is: (202) 366–7002.

For legal issues: Ms. Dorothy Nakama, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590 (202–366–2992). Ms. Nakama's fax number is: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Testing With Ethylene, Propylene, and Diene Terpolymer Rubber
III. Updating SAE Standard J1703
IV. Updating American Society for Testing and Materials Standards
V. Other Proposed Corrections and Updates to FMVSS No. 116
VI. Effective Date
VII. Rulemaking Analyses and Notices
VIII. Public Participation

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 116, *Motor Vehicle Brake Fluids* (49 CFR 571.116), specifies requirements for fluids for use in hydraulic brake systems of motor vehicles, containers for these fluids, and labeling of the containers. The purpose of the standard is to reduce failures in the hydraulic braking systems of motor vehicles that may occur because of the manufacture or use of improper or contaminated fluid. FMVSS No. 116 was developed from Society of Automotive Engineers (SAE) Standards J1703, J1704, and J1705, which address the performance requirements and test procedures for DOT3, DOT4, and DOT5 brake fluid, respectively. FMVSS No. 116 incorporates by reference or otherwise refers to particular editions (by date) of SAE J1703. FMVSS No. 116 also references several standards published by the American Society for Testing and Materials (ASTM) relating to test procedures and devices.

II. Testing With Ethylene, Propylene, and Diene Terpolymer Rubber

This document proposes to update FMVSS No. 116 so that brake fluids would be tested with the materials currently used in the manufacture of brake fluid seals. Over the past two decades, the motor vehicle industry has increasingly gone from using styrene-butadiene rubber (SBR) for the brake system seals to ethylene, propylene, and diene terpolymer (EPDM)(as characterized by SAE J1703 AUG2008) rubber because EPDM rubber is more heat resistant and less expensive to manufacture. At present, FMVSS No. 116 tests the effects of brake fluid on SBR, but not on EPDM rubber.[1] In this NPRM, we propose to include the testing of brake fluid on EPDM rubber. The following amendments are proposed.

a. Definition of "Brake Fluid"

To apply FMVSS No. 116 to brake fluid that contacts EPDM rubber, we propose to expand the definition of "brake fluid" at S4 of the standard to expressly state that "brake fluid" includes liquids that contact EPDM rubber in a hydraulic brake system.

b. Corrosion Test

The corrosion test in FMVSS No. 116 (S5.1.6 and S6.6) evaluates the corrosive effects of brake fluid on several

[1] In the early 1980s, SAE added testing of EPDM rubber to SAE J1703, Motor Vehicle Brake Fluid, and SAE J1704, Borate Ether Based Brake Fluid.

materials that are designed to come into contact with brake fluid, including iron, steel, aluminum, brass, copper, and SBR. Currently in the test, duplicate samples of metal corrosion test strips are assembled and placed along with an SBR wheel cylinder cup into a test jar, immersed in water-wet brake fluid, capped and placed in an oven at 100 degrees Celsius (212 degrees Fahrenheit) for 120 hours. Upon removal from the oven and cooling, the strips, SBR wheel cylinder cup and fluid are examined and tested. The performance results are based on an average of the results from each sample.

We propose to add an EPDM slab stock to each test jar and to use performance criteria and test procedures developed by the SAE and incorporated into SAE J1703, dated August 2008 ("SAE J1703 AUG2008")(see Appendix D), and SAE J1704, dated June 2003 ("SAE J1704 JUN2003").[2] NHTSA has evaluated these SAE standards and tentatively concludes that these standards will effectively evaluate the compatibility of brake fluid with EPDM for the following reasons. The SAE brake fluid standards are developed and edited by the SAE Brake Fluid Standards Committee. The Committee members are from the brake fluid manufacturing, packaging, and testing industries as well as from the motor vehicle manufacturing industry. The Committee members have considerable knowledge and experience with brake fluid products and brake fluid standards, and we believe it would be reasonable to rely on the Committee's knowledge and expertise. The agency has reviewed the material in SAE J1703 and J1704 and determined that it should be referenced in FMVSS No. 116.

c. Effect on Rubber

At present, the effect of brake fluid on SBR is tested by using two jars with two SBR wheel cylinder cups tested in each jar. One jar is heated to 70 degrees Celsius (158 degrees Fahrenheit) and the other is heated to 120 degrees Celsius (248 degrees Fahrenheit). We propose to amend this test by including two EPDM rubber specimens in two additional jars (see SAE J1704 JUN2003). Also, we propose adopting the performance requirements for EPDM rubber specimens in SAE Standard J1703 AUG2008, paragraphs 4.11.3 and 4.11.4. As previously stated, we tentatively conclude it would be reasonable to rely on the knowledge and expertise of the Brake Fluid Standards Committee in proposing to adopt the performance requirements for EPDM rubber specimens.

d. Continuing To Test SBR

We believe there is still a need for FMVSS No. 116 to continue to specify testing the effect of brake fluid on SBR. Based on limited inquiries to industry (to fewer than nine companies), NHTSA believes that industry has not completely converted to using EPDM rubber, and in some cases, manufacturers continue to use SBR in brake system seals. We note that under SAE Standards J1703 AUG2008 and J1704 JUN2003, the most recent versions of those standards, brake fluid is still tested for its effect on SBR. Since it appears that SBR is continued to be used in brake system seals, we propose to continue to test the effect of brake fluids on SBR in FMVSS No. 116.

III. Updating SAE Standard J1703

Since FMVSS No. 116 took effect in the early 1970's, we have referenced SAE standard J1703 as the source of the specifications for materials and procedures used in the specified FMVSS No. 116 tests. SAE has updated its standard over the years and the editions of the standard currently referenced in FMVSS No. 116 are not recent editions of the standard issued by that organization.

For example, FMVSS No. 116 specifies the use of materials and apparatus set forth in the tables and appendices of SAE Standard J1703 to conduct brake fluid testing. The current edition of J1703 is SAE Standard J1703 AUG2008, which has specifications for the corrosion test strips, the compatibility fluid, and styrene-butadiene rubber (SBR), in Appendices A, B, and C, respectively. However, FMVSS No.116 makes several references to SAE Standard J1703b, which is a 1971 edition of the SAE standard. FMVSS No. 116 also references SAE Standard J1703 NOV83 and other editions of SAE Standard J1703.

The contents of the appendices and figures of the older editions of SAE Standard J1703 are generally the same as the contents of the newer editions, although the compatibility fluid has been updated as necessary to be representative of current brake fluids. This NPRM proposes to amend FMVSS No. 116 to incorporate by reference the most recent version of the SAE brake fluid standard that contains the appropriate information. These updates make no substantive changes in the requirements, with the exception of the compatibility fluid, which has been changed from the JAN1995 version. We propose to reference the most recent version of SAE Standard J1703 because the most recent versions of the Standards are readily available from the SAE.

The following table summarizes the proposed references to the updated SAE Standard J1703.

TABLE 1—SUMMARY OF SAE J1703 REFERENCES IN FMVSS NO.116

Reference site	Current version	Proposed version	NHTSA comments
S6.2 Wet Equilibrium Boiling Point.	Appendix E of SAE J1703 NOV83	Appendix E of SAE J1703 AUG 2008.	No change in specifications.
S6.2.1 Triethylene Glycol Monomethyl Ether (TEGME—RM–71).			
S6.5 Fluid Stability	Appendix B of SAE J1703 JAN95	Appendix B of SAE J1703 AUG 2008.	Compatibility fluid is changed to be representative of recently marketed products.
S6.5.4.1 Materials—Compatibility Fluid.			
S6.6 Corrosion	Appendix C of SAE J1703b	Appendix A of SAE J1703 AUG 2008.	No change in specifications.
S6.6.3(a) Materials—Corrosion Test Strips.			
S6.10 Compatibility	Appendix B or SAE J1703 JAN95	Appendix B of SAE J1703 AUG 2008.	Compatibility fluid is changed periodically.
S6.10.1 Summary of Procedure—Compatibility Fluid.			

[2] We are proposing to update the current reference to SAE J1703 and add a reference to J1704 in the standard to refer to these August 2008 and June 2003 versions of the standards. See discussion in next section of this preamble.

TABLE 1—SUMMARY OF SAE J1703 REFERENCES IN FMVSS NO.116—Continued

Reference site	Current version	Proposed version	NHTSA comments
S6.11 Resistance to Oxidation .... S6.11.3(b) Reagents and Materials—Iron and aluminum test strips.	Appendix C of SAE J1703b	Appendix A of J1703 AUG 2008 ..	No change in specifications.
S6.12 Effect on SBR Cups ..... S6.12.2(c) SBR Cups. See S7.6.	Appendix B of SAE J1703b	Appendix C of SAE J1703 AUG 2008.	No change in specifications.
S6.13 Stroking Properties ..... S13.2 Apparatus and Equipment-Stroking Fixture Apparatus.	Figure 1 of J1703 NOV83	Figure 2 of SAE J1703 OCT2000	No change in specifications.
S7.6 Standard SBR Brake Cups-SBR compounding, vulcanization and physical properties.	Appendix B of SAE J1703b	Appendix C of J1703 AUG 2008 ..	No change in specifications.

IV. Updating American Society for Testing and Materials Standards

FMVSS No. 116 also references several standards published by the American Society for Testing and Materials (ASTM). These ASTM standards refer to equipment and equipment specifications for materials and apparatus used to conduct several of the brake fluid tests in FMVSS No. 116. The ASTM standards have been updated by ASTM committees. NHTSA proposes to update the editions of the ASTM standards referenced in FMVSS No. 116 because the most recent versions of the standards are readily available from ASTM. The following table summarizes the proposed updates to the ASTM Standards.

TABLE 2—ASTM STANDARDS REFERENCED IN FMVSS NO. 116

ASTM standard	Reference cited in FMVSS No. 116	Referenced version	Updated version	NHTSA Comments
ASTM D2515 Viscometers for Brake Fluid Testing.	S6.3.2(a) Viscometers	ASTM D2125–66	ASTM D446–07	Standard designation change; #116 information unchanged.
ASTM E1 Thermometers for Brake Fluid Testing.	S6.3.2(d) Thermometers	ASTM E1–68	ASTM E1–07	#116 information unchanged.
ASTM D445 Viscosity Test procedures.	S6.3.3(a) Thermometers	ASTM D445–65	ASTM D445–06	#116 information unchanged.
ASTM E77 Thermometer calibration.	S6.3.3(b) Thermometers	ASTM E77–66	ASTM E77–06	#116 information unchanged.
ASTM D1121 Equipment for ph testing.	S6.4.2 Apparatus	ASTM D1121–67	ASTM D1121–06	#116 information unchanged.
ASTM E298 Testing reagents for purity.	S6.11.3(a) Benzoyl peroxide.	ASTM E298–68	ASTM E298–01	#116 information unchanged.
ASTM D1193 Distilled Water Specifications.	S7.1 Distilled Water	ASTM D1193–70	ASTM D1193–06	#116 information unchanged.
ASTM D1123 Water Content.	S7.2 Water Content of Motor Vehicle Brake Fluids.	ASTM D1123–59	ASTM D1123–99(2003)	#116 Information unchanged.
ASTM D1415 Hardness Testing.	S7.4 Measuring Hardness of SBR and EPDM Cups.	ASTM D1123–68	ASTM D1123–99(2003)	#116 Information unchanged.

V. Other Proposed Corrections and Updates to FMVSS No. 116

Through our contact over the years with Transport Canada, vehicle manufacturers, brake fluid manufacturers and brake fluid testing facilities, we are aware that corrections and updates to FMVSS No. 116 are in order. The following are our proposed changes, with rationale for the proposed changes.

a. Correction to Reference in S6.3.2(a) Viscometers

At present, *S6.3.2 Viscometers,* states that the viscosity should be measured within the precision limits of S6.4.7. This reference is incorrect. The correct reference is S6.3.7. This NPRM would correct the reference so the regulatory text refers to S6.3.7.

b. Temperature Measurement Gradations

At present in FMVSS No. 116, there are two temperature measurement references (see S6.3.2(c), *Viscometer bath,* and S6.3.3(b), *Thermometers*) where accuracy to the nearest 0.01 degree Celsius (0.02 degrees Fahrenheit) is specified. In this NPRM, we propose to make the temperature control requirements and the gradations specified for thermometers consistent. Therefore, we propose that the temperature of the viscometer bath for the 100 degrees Celsius (212 degrees Fahrenheit) viscosity tests be allowed to vary by 0.05 degrees Celsius (0.1 degrees Fahrenheit). We propose to amend the text at S6.3.2(c) to allow an increase in temperature variation from 0.01 degrees Celsius (0.02 degrees Fahrenheit) to 0.05 degrees Celsius (0.1 degrees Fahrenheit). In addition, S6.3.3(b) *Thermometers,* currently refers to checking thermometers to the nearest 0.01 degree Celsius (0.02 degrees Fahrenheit) by direct comparison with a standardized thermometer. The thermometers specified in the standard for kinematic viscosity testing are listed in Table IV of

FMVSS No. 116 and have gradation of 0.05 degrees Celsius (0.1 degree Fahrenheit). To make S6.3.3(b) consistent with the Table IV thermometers, we propose to amend S6.3.3(b) so that the thermometers are checked to the nearest 0.05 degrees Celsius (0.1 degrees Fahrenheit). NHTSA believes this proposed change in temperature variation will not adversely affect the accuracy of the viscosity measurements. Comments are requested on this issue.

c. Timers

At present, S6.3.3(c), *Timers,* refers to signals broadcast by the National Bureau of Standards, Station WWV, Washington, DC. We propose to change the reference to the National Institute of Standards and Technology (NIST), which replaced the National Bureau of Standards, to update other references, and include a new reference to a government Web site that can be consulted for the correct time. Therefore, we propose to amend the information in the first sentence of S6.3.3(c) to read: "Time signals are broadcast by the National Institute of Standards and Technology (NIST), Station WWV, Fort Collins, Colorado at 2.5, 5, 10, 15, and 20 Mc/sec (MHz), or the following Web site: *http://www.time.gov*."

d. Reinstatement of Inadvertently Removed Paragraph

S5.1.10, *Compatibility,* describes the performance requirements for brake fluid when tested in accordance with S6.10.1(a), *At low temperature,* and S6.10.3(b), *At 60 degrees Celsius (140 degrees Fahrenheit*). At some point, S6.10.3(b) was inadvertently removed from FMVSS No. 116. In this NPRM, we propose to reinstate the paragraph.

VI. Effective Date

We propose that if made final, the amendments proposed in this NPRM become effective 180 days after publication of a final rule in the **Federal Register**. We solicit public comment on this issue.

VII. Rulemaking Analyses and Notices

a. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. It was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." Further, it is not significant for the purposes of the DOT policies and procedures. This proposed rule would update the standard so that it tests brake fluid with EPDM rubber specimens, updates references to SAE and ASTM Standards, and corrects errors. We believe brake fluid is already manufactured to be compatible with EPDM rubber, since the material is used in brake systems today. The costs of the proposed rule would be minimal. We estimate that there are 10 to 15 brake fluid manufacturers that provide brake fluid for the United States market, including OEM and aftermarket brake fluid, and a somewhat larger number of packagers of brake fluid. If this proposal is made final, the brake fluid manufacturers will need to conduct testing to determine whether their products meet the new requirements after these amendments become effective. However, the testing costs should not increase significantly because this proposal would require changes in relatively inexpensive test equipment, including the purchase of EPDM rubber.

b. Regulatory Flexibility Act

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) I hereby certify that this proposed rule, if made final, will not have a significant economic impact on a substantial number of small entities. The statement of the factual basis for this certification is that, as discussed above, brake fluid currently meets the proposed requirements for testing with EPDM rubber. The effects of this rulemaking would also have no significant economic impact because this rulemaking also simply updates references to SAE and ASTM Standards and would correct errors. For these reasons, the changes proposed would not have any significant economic impacts on small businesses, small organizations or small governmental jurisdictions.

c. National Environmental Policy Act

NHTSA has analyzed this proposed rule for the purposes of the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

d. Executive Order 13132 (Federalism)

NHTSA has examined today's NPRM pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has concluded that the proposed rule would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposal would 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 the responsibilities among the various levels of government."

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

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

e. Unfunded Mandates Act

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

requirements of sections 202 and 205 of the UMRA.

f. Executive Order 12778 (Civil Justice Reform)

Pursuant to Executive Order 12778, "Civil Justice Reform," we have considered whether this proposed rule, if made final, would have any retroactive effect. We conclude that it would not have such an effect. Under 49 U.S.C. section 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use.

49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

g. Paperwork Reduction Act

NHTSA has determined that this proposed rule will not impose any "collection of information" burdens on the public, within the meaning of the Paperwork Reduction Act of 1995 (PRA). This rulemaking action will not impose any filing or recordkeeping requirements on any manufacturer or any other party.

h. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [3] in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.,* the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. Consistent with the NTTAA, in this proposed rule, we propose to update references (in FMVSS No. 116) to SAE and ASTM standards, which are voluntary industry consensus standards.

[3] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as "performance-based or design-specific technical specifications and related management systems practices." They pertain to "products and processes, such as size, strength, or technical performance of a product, process or material."

i. Executive Order 13045 Economically Significant Rules Disproportionately Affecting Children

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. This regulatory action does not meet either of those criteria.

j. Plain Language

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

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

If you have any responses to these questions, please include them in comments to the docket number cited in the heading of this notice.

k. Regulation Identifier Number (RIN)

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

VIII. Public Participation

How do I prepare and submit comments?

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

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

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

Comments may also be submitted to the docket electronically by logging into *http://www.regulations.gov.* Follow the online instructions for submitting comments.

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

How can I be sure that my comments were received?

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

How do I submit confidential business information?

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

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket

Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

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

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

List of Subjects in 49 CFR Part 571

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

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

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

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

2. Section 571.116 is amended by:

a. Revising in S4, the definition of "brake fluid";

b. Adding in S5.1.6, paragraphs (j), (k) and (l);

c. Adding in S.5.1.12, paragraphs (d), (e) and (f);

d. Revising, in S6.2.1, the first sentence;

e. Revising, in S6.3.2, in paragraph (a), the first sentence;

f. Revising, in S6.3.2, in paragraph (c), the third and fourth sentences;

g. Revising, in S6.3.2, in paragraph (d), the first sentence;

h. Revising, in S6.3.3, in paragraph (b), the first sentence and third sentence;

i. Revising, in S6.3.3, the first sentence of paragraph (c);

j. Revising, in S6.4.2, the first sentence;

k. Revising, S6.5.4.1;

l. Revising in S6.6.3, the first sentence of paragraph (a) and paragraph (b);

m. Revising, in S6.6.4(b), the heading and adding at the end, the sentence set forth below;

n. Revising S6.6.5;

o. Revising, in S6.10.1, the first sentence;

p. Revising, in S6.10.2, paragraph (e);

q. Revising, in S6.10.3, in paragraph (a), the first sentence;

r. Adding, in S6.10.3, paragraph (b);

s. Revising, in S6.11.3, in paragraph (a), the second sentence;

t. Revising, in S6.11.3, paragraph (b);

u. Revising S6.12;

v. Redesignating, in S6.12.1, the existing paragraph as paragraph (a) and adding paragraph (b);

w. Revising, in S6.12.2, paragraph (c);

x. Redesignating, in S6.12.3, the existing sentence as paragraph (a), and adding paragraph (b);

y. Redesignating, in S6.12.4, the existing paragraph as paragraph (a) and adding paragraph (b);

z. Redesignating S6.12.5 *Calculation* as S6.12.5.1 *Calculation—SBR Cups.*

aa. Adding, after S6.12.5.1, S6.12.5.2 *Calculation—EPDM Rubber Specimens* and paragraphs (a), (b), and (c);

bb. Revising, in S6.13.2, the first sentence;

cc. Revising S7.1;

dd. Revising in S7.2, the first sentence;

ee. Revising, in S7.4.1, paragraph (b); and

ff. Revising in S7.6, the first sentence in the undesignated paragraph following the note, and adding a new sentence immediately following that sentence, to read as follows:

§ 571.116 Standard No. 116, Motor vehicle brake fluids.

* * * * *

S4. Definitions

* * * * *

Brake fluid means a liquid designed for use in a motor vehicle hydraulic brake system in which it will contact elastomeric components made of styrene-butadiene rubber (SBR), ethylene and propylene rubber (EPR), polychloroprene (CR) brake hose inner liner tube stock, natural rubber (NR) or ethylene, propylene, and diene terpolymer (EPDM) rubber.

* * * * *

S5.1.6 *Corrosion.*

* * * * *

(j) The EPDM rubber test specimens at the end of the test shall meet the requirements specified in paragraph 4.6.2 of SAE J1704 JUN2003 with respect to disintegration and sloughing.

(k) The EPDM rubber test specimens at the end of the test shall meet the requirements specified in paragraph 4.6.2 of SAE J1704 JUN2003 with respect to hardness.

(l) The EPDM rubber test specimens at the end of the test shall meet the requirements specified in paragraph 4.6.2 of SAE J1704 JUN2003 with respect to volume requirements.

* * * * *

S5.1.12 *Effects on SBR cups and EPDM rubber specimens.*

* * * * *

(d) EPDM rubber specimens tested as specified in S6.12.4 (of FMVSS No. 116) at 70 degrees Celsius (158 degrees Fahrenheit) shall meet the performance requirements for volume and hardness specified in paragraph 4.11.3 of SAE J1703 AUG 2008.

(e) EPDM rubber specimens tested as specified in S6.12.4 (of FMVSS No. 116) at 120 degrees Celsius (248 degrees Fahrenheit) shall meet the performance requirements for volume and hardness specified in paragraph 4.11.4 of SAE J1703 AUG2008.

(f) The EPDM rubber specimens shall show no disintegration as evidenced by stickiness, blisters or sloughing.

* * * * *

S6.2.1 *Summary of procedure.* A 350 ml. sample of the brake fluid is humidified under controlled conditions; 350 ml. of SAE triethylene glycol monomethyl ether (TEGME) as described in Appendix E of SAE J1703 AUG2008, "Motor Vehicle Brake Fluids," is used to establish the end point of humidification. * * *

* * * * *

S6.3.2 *Apparatus.*

(a) *Viscometers.* Calibrated glass capillary-type viscometers, ASTM D446–07, "Standard Specifications and Operating Instructions for Glass Capillary Kinematic Viscometers," measuring viscosity within the precision limits of S6.3.7 of FMVSS No. 116. * * *

* * * * *

(c) *Viscometer bath.* * * * For measurements within 15 degrees to 100 degrees Celsius (60 degrees to 212 degrees Fahrenheit) the temperature of the bath medium shall not vary by more than 0.05 degrees Celsius (0.1 degrees Fahrenheit) over the length of the viscometers, or between the positions of the viscometers, or at the locations of the thermometers. Outside this range, the variation shall not exceed 0.05 degrees Celsius (0.1 degrees Fahrenheit).

(d) *Thermometers.* Liquid-in-Glass Kinematic Viscosity Test Thermometers, covering the range of test temperatures indicated in Table IV and conforming to ASTM E1–07, "Standard Specifications for ASTM Liquid-in-Glass Thermometers," and in the IP

requirements for IP Standard Thermometers. * * *

* * * * *

S6.3.3 *Standardization.*

* * * * *

(b) *Thermometers.* Check liquid-in-glass thermometers to the nearest 0.05 degrees Celsius (0.1 degrees Fahrenheit) by direct comparison with a standardized thermometer. * * * (See ASTM E 77–98 (2003), "Standard Test Method for Inspection and Verification of Thermometers.")

(c) *Timers.* Time signals are broadcast by the National Institute of Standards and Technology (NIST), Station WWV, Fort Collins, Colorado at 2.5, 5, 10, 15, and 20 Mc/sec (MHz), or the following Web site: *http://www.time.gov.* * * *

* * * * *

S6.4.2 *Apparatus.* The pH assembly consists of the pH meter, glass electrode, and calomel electrode, as specified in ASTM D1121–07, "Standard Test Method for Reserve Alkalinity of Engine Coolants and Antirusts." * * *

* * * * *

S6.5.4.1 *Materials.* SAE RM–66–5 Compatibility Fluid as described in Appendix B of SAE J1703 AUG2008, "Motor Vehicle Brake Fluid."

* * * * *

S6.6.3 *Materials.*

(a) *Corrosion test strips.* Two sets of strips from each of the materials listed in Appendix A of SAE J1703 AUG2008. * * *

(b) *SBR cups and EPDM rubber specimens.* Two unused standard SAE SBR wheel cylinder (wc) cups as specified in S7.6 and two unused EPDM specimens 25.4 mm x 25.4 mm (1 inch x 1 inch) as specified in Appendix D of SAEJ1703 AUG2008.

* * * * *

S6.6.4 *Preparation.*

* * * * *

(b) *SBR WC cups and EPDM rubber specimens* * * * Determine the volume of each EPDM rubber specimen according to the procedure specified in paragraph 5.6.2 of SAE J1704 JUN2003 and the hardness of each specimen as specified in FMVSS No. 116, S7.4.

* * * * *

S6.6.5 *Procedure.* (a) Rinse the two SBR wheel cylinder cups and two EPDM specimens in ethanol (isopropanol when testing DOT 5 SBBF fluids) for not more than 30 seconds and wipe dry with a clean lint-free cloth. Place one SBR cup with lip edge facing up and one EPDM specimen in each jar. Insert a metal strip assembly inside each cup with the fastened end down and the free end extending upward. (See Figure 5.)

When testing brake fluids, except DOT 5 SBBF, mix 760 ml. of brake fluid with 40 ml. of distilled water. When testing DOT 5 SBBFs, humidify 800 ml. of brake fluid in accordance with S6.2 of FMVSS No. 116, eliminating determination of the ERBP. Using this water-wet mixture, cover each strip assembly to a minimum depth of 10 mm above the tops of the strips. Tighten the lids and place the jars for 120 ± 2 hours in an oven maintained at 100 degrees ± 2 degrees Celsius (212 degrees ± 3.6 degrees Fahrenheit). Allow the jars to cool at 23 degrees ± 5 degrees Celsius (73.4 degrees ± 9 degrees Fahrenheit) for 60 to 90 minutes.

(b) Immediately remove the strips from the jars using forceps, agitating the strip assembly in the fluid to remove loose adhering sediment. Examine the test strips and jars for adhering crystalline deposits. Disassemble the metal strips, and remove adhering fluid by flushing with water; clean each strip by wiping with a clean cloth wetted with ethanol (isopropanol when testing DOT 5 fluids). Examine the strips for evidence of corrosion and pitting. Disregard staining or discoloration.

(c) Place the strips in a dessicator containing silica gel or other suitable dessicant, maintained at 23 degrees ± 5 degrees Celsius (73.4 degrees ± 9 degrees Fahrenheit) for at least one hour. Determine the change in weight of each metal strip. Average the results for the two strips of each type of metal. Immediately following the cooling period, remove the SBR cups and EPDM specimens for the jars with forceps. Remove loose adhering sediment by agitation of the cups and specimens in the mixture.

(d) Rinse the SBR cups and EPDM specimens in ethanol (isopropanol when testing DOT 5 fluids) and air-dry. Examine the SBR cups and EPDM specimens for evidence of sloughing, blisters and other forms of disintegration. Measure the base diameter and hardness of each SBR cup within 15 minutes after removal from the mixture. Within 15 minutes after removal from the mixture, weigh the EPDM specimens; calculate the volume change as specified in paragraph 5.6.2 of SAE J1704 JUN2003 and test for hardness (See FMVSS No. 116, S7.4).

(e) Examine the mixture for gelling. Agitate the mixture to suspend and uniformly disperse sediment. From each jar, transfer a 100 ml. portion of the mixture to an ASTM cone-shaped centrifuge tube. Determine the percent sediment after centrifuging as described in S7.5. Measure the pH value of the corrosion test fluid according to S6.4.6 of FMVSS No. 116. Measure the pH value of the test mixture according to S6.4.6 of FMVSS No. 116.

* * * * *

S6.10.1 *Summary of procedure.* Brake fluid is mixed with an equal volume of SAE RM–66–05 Compatibility Fluid, then tested in the same way as the water tolerance (See S6.9 of FMVSS No. 116) is tested, except that the bubble flow time is not measured. * * *

S6.10.2 *Apparatus and materials.*

* * * * *

(e) *SAE RM–66–05 Compatibility Fluid.* As described in Appendix B of SAE Standard J1703 AUG2008, "Motor Vehicle Brake Fluid."

S6.10.3 *Procedure.*

(a) *At low temperature.* Mix 50 ± 0.5 mL of brake fluid with 50 ± 0.5 mL of SAE RM–66–05 Compatibility Fluid. * * *

(b) *At 60 degrees Celsius (140 degrees Fahrenheit).* Place tube and test fluid from S6.10.3(a) of FMVSS No. 116 for 24 ± 2 hours in an oven maintained at 60 degrees Celsius ± 2 degrees Celsius (140 degrees Fahrenheit ± 3.6 degrees Fahrenheit). Remove the tube and immediately examine the contents for evidence of stratification. Determine percent sediment by centrifuging as described in S7.5 of FMVSS No. 116.

* * * * *

S6.11.3 *Reagents and materials.*

(a) *Benzoyl peroxide, reagent grade, 96 percent.* * * * Reagent strength may be evaluated by ASTM E298–01, "Standard Test Methods for Assay of Organic Peroxides."

(b) *Corrosion test strips.* Two sets of cast iron and aluminum metal test strips as described in Appendix A of SAE J1703 AUG2008.

* * * * *

S6.12 *Effects on SBR cups and EPDM rubber specimens.* The effects of a brake fluid in swelling, softening, and otherwise affecting standard SBR wheel cylinder cups and EPDM specimens shall be evaluated by the following procedure.

S6.12.1 *Summary of the procedure.*

* * * * *

(b) Four EPDM specimens, 25.4 mm × 25.4 mm (one inch × one inch) are measured, weighed, and their hardness determined. The specimens, two to a jar, are immersed in the test brake fluid. One jar is heated for 70 hours at 70 degrees Celsius (158 degrees Fahrenheit) and the other jar is heated for 70 hours at 120 degrees Celsius (248 degrees Fahrenheit). Afterwards, the specimens are washed, examined for disintegration, measured again, weighted again, and tested again for hardness.

S6.12.2 *Equipment and supplies.*

* * * * *

(c) SBR cups and EPDM rubber specimens. For rubber cup specimens, see S7.6 of FMVSS No. 116. For EPDM rubber specimens, see Appendix D of SAE Standard J1703 AUG2008.

* * * * *

S6.12.3 *Preparation.*

* * * * *

(b) Measure the base diameters of the SBR cups as described in S6.6.4(b) of FMVSS No. 116 and the hardness of each as described in S7.4 of FMVSS No. 116. Determine the volume of each EPDM rubber specimen as specified in paragraph 5.11.3 of SAE J1703 AUG2008 and the hardness of each EPDM rubber specimen as described in S7.4 of FMVSS No. 116.

S6.12.4 *Procedure.*

* * * * *

(b) Wash the EPDM rubber specimens in 90 percent ethanol (isopropanol when testing DOT 5 fluids) (See S7.3 of FMVSS No. 116) for not longer than 30 seconds and quickly dry with a clean, lint-free cloth. Using forceps, place two specimens in each of two jars, add 75 ml of brake fluid to each jar and cap tightly. Place one jar in an oven held at 70 degrees ± 2 degrees Celsius (158 degrees ± 3.6 degrees Fahrenheit) for 70 ± 2 hours). Place the other jar in an oven held at 120 degrees ± 2 degrees Celsius (248 degrees ± 3.6 degrees Fahrenheit) for 70 degrees ± 2 hours. Allow each jar to cool for 60 to 90 minutes at 23 degrees ± 5 degrees Celsius (73.4 degrees ± 9 degrees Fahrenheit). Remove specimens, wash with ethanol (isopropanol when testing DOT 5 fluids) for not more than 30 seconds, and quickly dry. Examine specimens for disintegration, as evidenced by stickiness, blisters, or sloughing. Measure each specimen, test the hardness of each specimen, and complete the procedure for determining percent change in volume (paragraph 5.11.3 of SAE J1703 AUG2008) of each specimen within 15 minutes after removal from the fluid.

S6.12.5.1 *Calculation—SBR Cups.*

* * * * *

S6.12.5.2 *Calculation—EPDM rubber specimens.*

(a) Calculate the percentage change in volume of each specimen as specified in paragraphs 5.11.3 of SAE J1703 AUG2008.

(b) Calculate the change in hardness for each specimen. (See S7.4 of 49 CFR 571.116.)

(c) Note disintegration as evidenced by stickiness, blisters, or sloughing.

* * * * *

S6.13.2 *Apparatus and equipment.* The stroking fixture type apparatus shown in Figure 1 of SAE J1730 OCT2000 with components arranged as shown in Figure 2 of SAE J1703 OCT2000. * * *

* * * * *

S7.1 *Distilled water.* Nonreferee reagent water as specified in ASTM 1193–06, "Standard Specification for Reagent Water," or water of equal purity.

S7.2 *Water content of motor vehicle brake fluid.* Use analytical methods based on ASTM D1123–99 (2003), "Standard Test Methods for Water in Engine Coolant Concentrate by the Karl Fischer Reagent Method," for determining the water content of brake fluids, or other methods of analysis yielding comparable results. * * *

* * * * *

S7.4.1 *Apparatus.*

* * * * *

(b) *Hardness tester.* A hardness tester meeting the requirements for the standard instrument as described in ASTM D1415–06, "Standard Test Method for Rubber Property-International Hardness" and graduated directly in IRHD units.

* * * * *

S7.6 *Standard styrene-butadiene rubber (SBR) brake cups.* * * * Compounding, vulcanization, physical properties and other details of the finished cups shall be as specified in Appendix C of SAE J1703 AUG2008. The size of the finished cups shall be as specified in Figures 4, 5 and 6 of SAE J1703 OCT2000. * * *

* * * * *

Issued on: January 26, 2010.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 2010–1958 Filed 2–2–10; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 75, No. 22
Wednesday, February 3, 2010

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

Forest Service

Information Collection; Disposal of Mineral Materials

AGENCY: Forest Service, USDA.

ACTION: Notice; Request for Comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection; Disposal of Mineral Materials.

DATES: Comments must be received in writing on or before April 5, 2010 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Ivette Torres, Liaison Specialist, Minerals and Geology Management, Mail Stop 1126, 1601 N. Kent Street–5th Floor, Forest Service, USDA, Arlington, VA 22209.

Comments also may be submitted via facsimile to 703–605–1575 or by e-mail to: *ietorres@fs.fed.us.*

The public may inspect comments received at the Office of the Director, Minerals and Geology Management, 1601 N. Kent Street–5th Floor, Forest Service, USDA, Arlington, VA during normal business hours. Visitors are encouraged to call ahead to 703–605–4792 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Ivette Torres, Minerals and Geology Management Staff at 703–605–4792 to facilitate entry to the building. Individuals who use TDD may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Disposal of Mineral Materials.

OMB Number: 0596–0081.

Expiration Date of Approval: July 31, 2010.

Type of Request: Extension of a currently approved collection.

Abstract: The Mineral Materials Act of 1947, as amended, and the Multiple Use Mining Act of 1955, as amended, authorize the Secretary of Agriculture to dispose of petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders, clay, and other similar materials on lands administered by the USDA Forest Service. The collected information enables the Forest Service to document planned operations, to prescribe the terms and conditions the Agency deems necessary to protect surface resources, and to affect a binding contract agreement. Forest Service employees will evaluate the collected information to ensure that entities applying to mine mineral materials are financially accountable and will conduct their activities in accordance with the mineral regulations at Part 228, subpart C of Title 36 of the Code of Federal Regulations.

Individuals, organizations, companies, or corporations interested in mining mineral materials on National Forest System lands may contact their local Forest Service office to inquire about opportunities, to learn about areas on which such activities are permitted, and to request form FS–2800–9 (Contract of Sale for Minerals Materials). Interested parties are asked to provide information that includes the purchaser's name and address, the location and dimensions of the area to be mined, the kind of material that will be mined, the quantity of material to be mined, the sales price of the mined material, the payment schedule, the amount of the bond, and the period of the contract. If this information is not collected, the Forest Service would not comply with Federal regulations and operations to mine mineral materials could cause undue damage to surface resources.

Estimate of Annual Burden: 2.5 hours.

Type of Respondents: Mineral materials operators.

Estimated Annual Number of Respondents: 4,125.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 10,313.

Comment Is Invited: Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the 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 the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: January 29, 2010.

Gloria Manning,

Associate Deputy Chief, NFS.

[FR Doc. 2010–2236 Filed 2–2–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–09–0072]

Notice of Funds Availability (NOFA) Inviting Applications for the Specialty Crop Block Grant Program—Farm Bill (SCBGP–FB)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) announces the availability, of $55,000,000 in grant funds, less USDA administrative costs, to solely enhance the competitiveness of specialty crops. SCBGP–FB funds are authorized by the Food, Conservation, and Energy Act of 2008 (the Farm Bill). State departments of agriculture are encouraged to develop their grant applications promptly. State departments of agriculture interested in obtaining grant program funds are invited to submit applications to USDA. State departments of agriculture, meaning agencies, commissions, or

departments of a State government responsible for agriculture within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands are eligible to apply.

DATES: Applications must be received between January 29, 2010, and not later than July 29, 2010.

FOR FURTHER INFORMATION CONTACT: Trista Etzig, Phone: (202) 690–4942, e-mail: *trista.etzig@usda.gov* or your State department of agriculture listed on the SCBGP and SCBGP–FB Web site at *http://www.ams.usda.gov/fv/*.

SUPPLEMENTARY INFORMATION: SCBGP–FB is authorized under Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note) and amended under Section 10109 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246 (the Farm Bill). SCBGP–FB is currently implemented under 7 CFR Part 1291 (published March 27, 2009; 74 FR 13313).

The SCBGP–FB assists State departments of agriculture in solely enhancing the competitiveness of U.S. specialty crops. Specialty crops are defined as fruits and vegetables, dried fruit, tree nuts, horticulture, nursery crops (including floriculture).

AMS encourages states to develop projects solely to enhance the competitiveness of specialty crops pertaining to the following issues affecting the specialty crop industry: Increasing child and adult nutrition knowledge and consumption of specialty crops; improving efficiency and reducing costs of distribution systems; assisting all entities in the specialty crop distribution chain in developing "Good Agricultural Practices", "Good Handling Practices", "Good Manufacturing Practices", and in cost-share arrangements for funding audits of such systems for small farmers, packers and processors; investing in specialty crop research, including research to focus on conservation and environmental outcomes; enhancing food safety; developing new and improved seed varieties and specialty crops; pest and disease control; and development of organic and sustainable production practices.

States may wish to consider submitting grants that increase the competitiveness of specialty crop farmers, including Native American and disadvantaged farmers. Increasing competitiveness may include developing local and regional food systems, and improving food access in underserved communities.

Projects that support biobased products and bioenergy and energy programs, including biofuels and other alternative uses for agricultural and forestry commodities (development of biobased products) should see the USDA energy Web site at: *http://www.energymatrix.usda.gov/* for information on how to submit those projects for consideration to the energy programs supported by USDA. Also, agricultural cooperatives, producer networks, producer associations, local governments, nonprofit corporations, public health corporations, economic development corporations, regional farmers' market authorities and Tribal governments that are interested in submitting projects that support farmers' markets that do not solely enhance the competitiveness of eligible specialty crops should visit the Farmers' Market Promotion Program (FMPP) Web site at: *http://www.ams.usda.gov/fmpp* for information on how to submit those projects for consideration to FMPP.

Each interested State department of agriculture must submit an application for SCBGP–FB grant funds anytime between February 3, 2010 and on or before July 29, 2010, through *http://www.grants.gov.* AMS will work with each State department of agriculture and provide assistance as necessary.

Other organizations interested in participating in this program should contact their local State department of agriculture. State departments of agriculture specifically named under the authorizing legislation should assume the lead role in SCBGP–FB projects, and use cooperative or contractual linkages with other agencies, universities, institutions, and producer, industry or community-based organizations as appropriate.

Additional details about the SCBGP–FB application process for all applicants are available at the SCBGP–FB Web site: *http://www.ams.usda.gov/fv/*.

To be eligible for a grant, each State department of agriculture's application shall be clear and succinct and include the following documentation satisfactory to AMS: (a) One SF–424 "Application for Federal Assistance".

(b) SF–424A "Budget Information—Non-Construction Programs" showing the budget for each project.

(c) One SF–424B "Assurances—Non-Construction Program."

(d) Completed applications must also include one State plan to show how grant funds will be utilized to solely enhance the competitiveness of specialty crops. The State plan shall include the following:

(1) Cover page and granting processes. Include the point of contact and lead agency for administering the plan. Provide a description of the affirmative steps taken to conduct outreach to socially disadvantaged farmers and beginning farmers. Describe how these groups were identified and the methods used to reach out to them. Identify if an award was made to either a socially disadvantaged farmer or a beginning farmer. If steps were not taken to conduct outreach to these groups, provide a justification for why not. Provide a description of the affirmative steps taken to conduct a competitive grant process. Include the steps taken to conduct outreach to specialty crop stakeholders to receive and consider public comment to identify their priority needs in enhancing the competitiveness of specialty crops. Identify the methods used to solicit proposals that meet specialty crop stakeholders' needs, including any focus on multi-state projects. Include a description of the process used to review proposals in a fair and equitable manner. State departments of agriculture may also provide a copy of the issued request for proposals. If a competitive grant process was not used, provide a justification why not.

(2) Project title, partner organization name, abstract. Include the title of the project, the partner organization's name that plans to oversee the project, and an abstract of 200 or fewer words for each project.

(3) Project purpose. For each project, clearly state the purpose of the project. Describe the specific issue, problem, interest, or need to be addressed. Explain why the project is important and timely. If funding is being directed at a state marketing program, describe how the state will ensure that funding is being used solely to enhance the competitiveness of specialty crops as defined in 7 CFR 1291.2(n). If a project builds on a previous Specialty Crop Block Grant Program (SCBGP) or SCBGP–FB project, indicate clearly how the new project compliments previous work. For each project, indicate if the project will be or has been submitted to or funded by another Federal or State grant program.

(4) Potential impact. Discuss the number of people or operations affected, the intended beneficiaries of each project, and/or potential economic impact if such data are available and relevant to the project.

(5) Expected Measurable Outcomes. For each project, describe at least one distinct, quantifiable, and measurable outcome-oriented objective that directly and meaningfully supports the project's

purpose. The measurable outcome-oriented objective must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public. Outcome measures may be long term that exceed the grant period. Describe how performance toward meeting outcomes will be monitored. For each project, include a performance-monitoring plan to describe the process of collecting and analyzing data to meet the outcome-oriented objectives.

(6) Work Plan. For each project, explain briefly the activities that will be performed to accomplish the objectives of the project. Be clear about who will do the work. Include appropriate time lines.

(7) Budget Narrative. Provide in sufficient detail information about the budget categories listed on SF–424A for each project to demonstrate that grant funds are being expended on eligible grant activities that meet the purpose of the program. Indirect costs for this grant period should not exceed 10 percent of any proposed budget. Provide a justification if administrative costs are higher than 10 percent.

(8) Project Oversight. Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration for each project.

(9) Project Commitment. Describe how all grant partners commit to and work toward the goals and outcome measures of each proposed project(s).

(10) Multi-state Projects. If the project is a multi-state project, describe how the states are going to collaborate effectively with related projects with one state assuming the coordinating role. Indicate the percent of the budget covered by each state.

Each State department of agriculture that submits an application that is reviewed and approved by AMS is to receive a base grant of $181,210.00 to solely enhance the competitiveness of specialty crops. In addition, AMS will allocate the remainder of the grant funds based on the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production using the latest available (2008 National Agricultural Statistics Service (NASS) cash receipt data for the 50 States and the Commonwealth of Puerto Rico, 2007 Census of Agriculture cash receipts for Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and 2002 Census of Agriculture cash receipts for American Samoa) specialty crop production data in all States whose applications are accepted.

The amount of the base grant plus value of production available to each State department of agriculture shall be:

(1) Alabama	$433,614.25
(2) Alaska	$197,114.26
(3) American Samoa	$218,019.57
(4) Arizona	$1,166,388.43
(5) Arkansas	$270,128.00
(6) California	$17,127,418.72
(7) Colorado	$768,209.85
(8) Connecticut	$442,964.50
(9) Delaware	$251,106.99
(10) District of Columbia	$181,210.00
(11) Florida	$4,755,910.19
(12) Georgia	$1,007,860.65
(13) Guam	$183,095.84
(14) Hawaii	$414,690.78
(15) Idaho	$1,030,188.08
(16) Illinois	$643,888.15
(17) Indiana	$397,831.21
(18) Iowa	$275,455.74
(19) Kansas	$281,914.52
(20) Kentucky	$272,434.98
(21) Louisiana	$351,899.77
(22) Maine	$418,723.36
(23) Maryland	$430,505.24
(24) Massachusetts	$500,051.53
(25) Michigan	$1,404,392.60
(26) Minnesota	$797,130.77
(27) Mississippi	$292,545.23
(28) Missouri	$341,505.95
(29) Montana	$291,949.91
(30) Nebraska	$352,417.68
(31) Nevada	$230,612.76
(32) New Hampshire	$259,755.08
(33) New Jersey	$834,447.41
(34) New Mexico	$394,228.29
(35) New York	$1,244,624.63
(36) North Carolina	$1,139,042.15
(37) North Dakota	$661,274.92
(38) Northern Mariana Islands	$182,642.19
(39) Ohio	$670,646.08
(40) Oklahoma	$368,159.36
(41) Oregon	$1,750,251.40
(42) Pennsylvania	$1,061,441.53
(43) Puerto Rico	$398,251.58
(44) Rhode Island	$224,083.53
(45) South Carolina	$521,099.28
(46) South Dakota	$208,568.67
(47) Tennessee	$517,731.71
(48) Texas	$1,785,844.77
(49) Utah	$308,658.51
(50) Vermont	$228,276.36
(51) Virgin Islands	$182,394.46
(52) Virginia	$510,241.75
(53) Washington	$3,712,628.26
(54) West Virginia	$213,306.50
(55) Wisconsin	$1,048,311.07
(56) Wyoming	$205,910.99

Funds not obligated will be allocated pro rata to the remaining States which applied during the specified grant application period to be solely expended on projects previously approved in their State plan. AMS will notify the States as to the procedures for applying for the reallocated funds.

AMS requires applicants to submit SCBGP–FB applications electronically through the central Federal grants Web site, *http://www.grants.gov* instead of mailing hard copy documents. Original signatures are not needed on the SF–424 and SF–424B when applying through *http://www.grants.gov* and applicants are not required to submit any paper documents to AMS. Applicants are strongly urged to familiarize themselves with the Federal grants Web site and begin the application process well before the application deadline. For information on how to apply electronically, please consult *http://www.grants.gov/applicants/get_registered.jsp.* AMS will send an email confirmation when applications are received by the AMS office.

SCBGP–FB is listed in the "Catalog of Federal Domestic Assistance" under number 10.170 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all federally assisted programs.

Authority: 7 U.S.C. 1621 note.

Dated: January 28, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–2218 Filed 1–29–10; 11:15 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of a Meeting of the Northeast Oregon Forests Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463), the Northeast Oregon Forest Resource Advisory Committee (RAC) will meet on February 22–23, 2010 in La Grande, Oregon. The purpose of the meeting is to meet as a Committee to discuss selection of Title II projects under Public Law 110–343, H.R. 1424, the Reauthorization of the Secure Rural Schools and community Self-Determination Act of 2000 (16 U.S.C 500 note; Pub. L. 106–393), also called "Payments to States" Act.

DATES: The meeting will be held on February 22 from 9 a.m to 5 p.m., and February 23, 2010 from 8 a.m. until 3 p.m.

ADDRESSES: The meeting will be held in the Blue Mountain Conference Center, 404 12th Street, La Grande, Oregon.

FOR FURTHER INFORMATION CONTACT: Kurt Wiedenmann, Designated Federal Official, USDA, Wallowa-Whitman National Forest, La Grande Ranger

District, 3502 Highway 30, La Grande, Oregon 97850; Telephone: (541) 962–8582.

SUPPLEMENTARY INFORMATION: This will be the first meeting of the Committee since reauthorization of Public Law 106–393. The meeting will focus on introducing new Committee members, becoming familiar with duties and responsibilities, selecting a chairperson, reviewing and recommending 2009 and 2010 project proposals that meet the intent of the Act. The meeting is open to the public. A public input opportunity will be provided, and individuals will have the opportunity to address the committee at that time.

Dated: January 27, 2010.

Jen Fitzpatrick,

Acting Forest Supervisor.

[FR Doc. 2010–2277 Filed 2–2–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) That Has Been Granted to the Plymouth Village Water & Sewer District, New Hampshire

AGENCY: Rural Utilities Service, U.S. Department of Agriculture.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture (USDA) grants a project waiver of the Buy American Requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the Plymouth Village Water & Sewer District, New Hampshire ("District") for the purchase of a foreign manufactured rotary sludge dewatering press. This is a project specific waiver and only applies to the use of the specified product for the ARRA project being proposed. Any other ARRA recipient that wishes to use the same product must apply for a separate waiver based on project specific circumstances. The District's proposed wastewater treatment facility improvements will include a replacement of the existing belt filter press for sludge generated at the plant. Based upon information submitted by the District and its consultants, it was determined that a rotary press sludge dewatering unit, manufactured by Fournier Industries of Quebec, Canada, will meet the District's design and performance specifications. The Secretary is making this determination based on the review and recommendations of the Rural Development Buy American Coordinator. The District through its design engineer has provided sufficient documentation to support its request. The Undersecretary for Rural Development concurred on this decision to waive Section 1605 of ARRA. This action permits the purchase of a 6 channel rotary press sludge dewatering unit, manufactured by Fournier Industries, by the District, as specified in its October 7, 2009 waiver request, as part of the improvements to the wastewater treatment facility.

DATES: *Effective Date:* February 3, 2010.

ADDRESSES: Dallas Tonsager, Undersecretary, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, Room 205–W, Washington, DC 20250–0107, (202) 720–4581.

FOR FURTHER INFORMATION CONTACT: Benjamin Shuman, Senior Environmental Engineer, Engineering and Environmental Staff, (202) 720–1784, Rural Utilities Service, U. S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1571.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c) and pursuant to Section 1605(b)(2), USDA hereby provides notice that it is granting a project specific waiver of the Buy American Requirements of ARRA, to the Plymouth Village Water & Sewer District ("District"), New Hampshire for the purchase of a rotary press sludge dewatering unit, manufactured by Fournier Industries of Quebec, Canada.

I. Background

Section 1605(a) of ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project is produced in the United States, or unless a waiver is provided to the recipient by the head of the appropriate department or agency, here the Secretary of USDA. A waiver may be granted if the Secretary determines that (1) Applying these requirements would be inconsistent with public interest; (2) iron, steel, and manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent. The District has requested a waiver from the Buy American Requirement for the purchase of a foreign made rotary press sludge dewatering unit as part of its wastewater treatment plant improvement project.

The purchase of the new rotary sludge press is intended to replace the existing belt filter press which is approaching the end of its useful life. The estimated cost of the overall improvements to the District's wastewater treatment plant is $5.2 million, of which the cost of the foreign made rotary sludge press unit is priced at $330,000. In designing the wastewater treatment plant, the District's design engineers evaluated the various technologies based on the following factors:

- Maintain the current annual average dewatered sludge cake solids of approximately 25% or higher.
- Improve environmental working conditions in the dewatering area by minimizing worker exposure to odorous and hazardous gases released from the sludge as well as exposure to bioaerosols and pathogens. Enclosed dewatering equipment will achieve this goal.
- Automatically adjust for variation in feed solids concentrations and sludge mix ratios to provide consistent and optimum cake solids.
- Allow for unattended, automatic operation freeing up operators for other needed tasks.
- Keep the dewatering operation as simple as possible while still maintaining optimum dewatering performance.
- Allow for some degree of backup capacity during periods of equipment failure and routine maintenance.
- Equipment must have a proven track record of low annual operation and maintenance costs and reliability.

As part of the review of potentially viable sludge dewatering units, four technologies were considered by the District and their consultants based on the above listed criteria: (1) Rotary press; (2) screw press; (3) centrifuge; and (4) belt filter press. Of the four technologies, the District determined that a rotary sludge press is the desired technology because it ranked the highest in terms of meeting the key criteria highlighted above. According to data submitted by the District's design engineers and reviewed by USDA, the foreign made rotary press sludge dewatering unit meets the District's technical specifications for design and performance of a rotary press sludge dewatering unit as part of its wastewater treatment plant improvement project.

The technical specifications for the proposed wastewater treatment facility states: "[t]he Contractor shall furnish, install and field test a complete rotary press sludge dewatering system." According to the District, the only rotary press sludge dewatering unit that meets that above described technical specifications is not manufactured in the United States. As a result, the District requested a waiver of the ARRA Buy American provisions on the basis of nonavailability of a U.S. manufactured product that will meet the design and performance criteria specified for this rotary press sludge dewatering unit.

II. Nonavailability Finding

The Secretary has determined that, based on the information available, and to the best of USDA's knowledge, there do not appear to be other rotary press sludge dewatering units manufactured in the United States that are available at this time to meet the District's design specifications and performance requirements for this project.

The evaluation by USDA's technical review team and engineers supports the District's claim that a suitable rotary press sludge dewatering unit which meets the specifications for this project is not available in sufficient and reasonably available commercial quantities of a satisfactory quality that is manufactured in the United States. USDA's technical review team and engineers reviewed a memorandum submitted by the District describing the foreign equipment that fits the technical specifications for the rotary press sludge dewatering unit and the process the District followed in adopting the rotary press design. USDA's technical review team and engineers conducted a nationwide review of equipment vendors, manufacturers' representatives, and associated resources typically relied on by engineers who design wastewater treatment facilities. The purpose of USDA's review process was to determine whether there were any sludge dewatering rotary presses manufactured in the United States that meet the District's design specifications and performance requirements. In addition, USDA's technical review team and engineers interviewed the District's design engineer and sales engineers for a United States manufacturer that produced a dewatering rotary press. It was determined that the one domestically manufactured rotary press located by USDA engineers was not suitable for the District's performance requirements. As a result of its review, to the best of the USDA's knowledge there are no sludge dewatering presses manufactured in the United States that meet the District's design specifications and performance requirements for the District's wastewater treatment plant.

The Rural Development Buy American Coordinator has reviewed this waiver request and has determined that the supporting documentation provided by the District established a proper basis that the manufactured good was not available from a producer in the United States able to meet the design specifications and performance requirements for the proposed project.

III. Waiver

Having established a proper basis that this manufactured good was not available from a producer in the United States, the District is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5. This waiver permits use of ARRA funds for the purchase of the specified Fournier Industries 6 channel rotary press sludge dewatering unit documented in District's waiver request submittal dated October 7, 2009 as part of its wastewater treatment plant improvements. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers "based on a finding under subsection (b)."

Authority: Public Law 111–5, section 1605.

Thomas J. Vilsack,

Secretary, United States of America.

[FR Doc. 2010–2217 Filed 2–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Report of Building or Zoning Permits Issued for New Privately-Owned Housing Units.

OMB Control Number: 0607–0094.

Form Number(s): C–404.

Type of Request: Revision of a currently approved collection.

Burden Hours: 17,539.

Number of Respondents: 19,375.

Average Hours per Response: 9 minutes.

Needs and Uses: The Census Bureau is requesting a three-year extension of a currently approved collection of the Form C–404, otherwise known as the Building Permits Survey (BPS), with minor revisions to the data collection form.

The Census Bureau produces statistics used to monitor activity in the large and dynamic construction industry. Given the importance of this industry, several of the statistical series are key economic indicators. Three such series are dependent on the BPS: (1) Housing Units Authorized by Building Permits, (2) Housing Starts, and (3) New One-Family Houses Sold. These statistics help state, local, and federal governments, as well as private industry, analyze this important sector of the economy. The building permit series are available monthly based on a sample of building permit offices, and annually based on the entire universe of permit offices. Published data from the survey can be found on the Census Bureau's Web site at *http://www.census.gov/permits.*

The Census Bureau collects these data primarily by mail using the Form C–404. Data are also collected via Internet web pages and receipt of electronic files. Form C–404 requests information on the number and valuation of new residential housing units authorized by building permits. The current form is titled "Report of New Privately-Owned Residential Building or Zoning Permits Issued". We plan to change the title to "Report of Building or Zoning Permits Issued for New Privately-Owned Housing Units" to clarify the data being requested.

The proposed form includes several minor changes to the version of Form C–404 currently in use. Item 2 of the current form instructs respondents to provide details about geographic coverage changes in the Comments section; on the proposed new form, there are spaces in Item 2 itself to enter the same information. The checkboxes in Item 3a were revised for clarity, and Item 3f (the total of Items 3b–3e) was removed because we determined that respondents need not calculate these totals. The limit on the dollar valuation of permits which require additional information in Item 4 was adjusted for inflation. Other minor improvements were made to the format and layout of the form. The instructions on the back of the form were also modified to improve their clarity and completeness. These changes to the form will not have a measurable effect on respondent burden.

The Census Bureau uses the Form C–404 to collect data that will provide estimates of the number and valuation of new residential housing units authorized by building permits. About one-half of the permit offices are

requested to report monthly. The remainder is surveyed once per year. We use the data, a component of the index of leading economic indicators, to estimate the number of housing units started, completed, and sold (single-family only). The Census Bureau also uses these data to select samples for its demographic surveys. In addition, the Census Bureau uses the detailed geographic data in the development of annual population estimates which are used by government agencies to allocate funding and other resources to local areas. Policymakers, planners, businessmen/women, and others use the detailed geographic data to monitor growth and plan for local services, and to develop production and marketing plans. The BPS is the only source of statistics on residential construction for states and smaller geographic areas.

Affected Public: State, local or Tribal governments.

Frequency: Monthly and annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: January 29, 2010.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–2224 Filed 2–2–10; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Foreign Fishing Vessels Operating in Internal Waters

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 5, 2010.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mi Ae Kim, (301) 713–9090 or *Mi.Ae.Kim@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Foreign fishing vessels, granted permission by a governor of a State to engage in fish processing within the internal waters of that State, are required to report the tonnage and location of fish received from vessels of the United States. Fish processing includes, in addition to processing, other activity relating to fishing such as preparation, supply, storage, refrigeration, or transportation. This reporting is required by the Magnuson-Stevens Fishery Conservation and Management Act. Weekly reports are submitted to the National Marine Fisheries Service Regional Administrator to allow monitoring of fish received by foreign vessels.

II. Method of Collection

Reports may be submitted by fax or e-mail.

III. Data

OMB Number: 0648–0329.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 6.

Estimated Time per Response: 30 minutes per weekly response.

Estimated Total Annual Burden Hours: 36.

Estimated Total Annual Cost to Public: $216.00 in reporting costs.

IV. Request for Comments

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

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

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–2202 Filed 2–2–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 0911041393–0040–02]

NOAA Cooperative Institutes (CIs): (1) A CI To Support NOAA Research Facilities in the Pacific Northwest, (2) A CI for Southwestern U.S. Marine Ecosystems, Climate and Ocean Studies, and (3) A Southeastern Regional CI for Atmospheric and Marine Studies

AGENCY: Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice; extension of application deadlines dates.

SUMMARY: On November 13, 2009, the Office of Oceanic and Atmospheric Research (OAR) published a notice of availability of funds to establish three new NOAA cooperative institutes (CIs): (1) A CI To Support NOAA Research Facilities in the Pacific Northwest, (2) A CI for Southwestern U.S. Marine Ecosystems, Climate and Ocean Studies, and (3) A Southeastern Regional CI for Atmospheric and Marine Studies. OAR publishes this notice to announce an extension to the application solicitation period. The date when applications must be received at NOAA is being extended from February 10, 2010 until February 12, 2010.

DATES: Proposals must be received no later than February 12, 2010, 5 p.m.,

E.T. Proposals submitted after that date will not be considered.

ADDRESSES: Applicants are strongly encouraged to apply online through the Grants.gov Web site (*http://www.grants.gov*). Paper submissions are acceptable only if Internet access is not available. Grants.gov requires applicants to register with the system prior to submitting an application. This registration process can take several weeks, involving multiple steps. In order to allow sufficient time for this process, you should register as soon as you decide that you intend to apply, even if you are not yet ready to submit your proposal. If an applicant has problems downloading the application package from Grants.gov, contact Grants.gov Customer Support at (800) 518–4726 or *support@grants.gov.*

If a hard copy application is submitted, the original and two unbound copies of the proposal should be included. Paper submissions should be sent to: Dr. John Cortinas, NOAA/OAR, 1315 East-West Highway, Room 11326, Silver Spring, MD 20910; telephone (301) 734–1090. No e-mail or facsimile e-mail or facsimile proposal submissions will be accepted.

FOR FURTHER INFORMATION CONTACT: Dr. John Cortinas, 1315 East-West Highway, Room 11326, Silver Spring, Maryland 20910; telephone (301) 734–1090. Facsimile: (301) 713–3515; e-mail: *John.Cortinas@noaa.gov.*

SUPPLEMENTARY INFORMATION: OAR publishes this notice to announce an extension to the application solicitation period for its notice announcing funding availability for the NOAA Cooperative Institutes Program published in the **Federal Register** on November 13, 2009 (74 FR 58603–58607). The date when applications must be received at NOAA is being extended from February 10, 2010 until February 12, 2010. OAR extends the solicitation period to provide applicants with more time to prepare their applications for this program.

All other requirements and information listed in the original notice remain unchanged.

Classification: Pre-Award Notification Requirements for Grants and Cooperative Agreements.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696) are applicable to this solicitation.

Limitation of Liability

Funding for years 2–5 of the Cooperative Institute is contingent upon the availability of appropriated funds. In no event will NOAA or the Department of Commerce be responsible for application preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

Paperwork Reduction Act

This notification involves collection of information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF–LLL and CD–346 has been approved by the Office of Management and Budget (OMB) respectively under control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046 and 0605–0001. Notwithstanding any other provision of law, no person is required for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB Control Number.

Executive Order 12866

It has been determined that this notice is not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comments are not required pursuant to U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and none has been prepared.

Dated: January 28, 2010.

Mark E. Brown,

Chief Financial Officer/Chief Administrative Officer, Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2010–2314 Filed 2–2–10; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–951]

Certain Woven Electric Blankets From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

DATES: *Effective Date:* February 3, 2010.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain woven electric blankets (woven electric blankets) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated dumping margins are shown in the "Preliminary Determination" section of this notice.

FOR FURTHER INFORMATION CONTACT: Drew Jackson or Howard Smith, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4406 or 482–5193, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 2009, the Department received an antidumping duty petition concerning imports of woven electric blankets from the PRC filed in proper form by Jarden Consumer Solutions (Petitioner). *See* Petition for the Imposition of Antidumping Duties: Certain Woven Electric Blankets from the People's Republic of China, dated June 30, 2009 (Petition). The Department initiated an antidumping duty investigation of woven electric blankets from the PRC on July 20, 2009. *See Certain Woven Electric Blankets From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 74 FR 37001 (July 27, 2009) (*Initiation Notice*).

On July 20, 2009, the Department requested quantity and value (Q&V) information from the 30 companies that are identified in the petition as potential producers or exporters of woven electric blankets from the PRC. *See* "Respondent Selection in the Antidumping Duty Investigation of Woven Electric Blankets From the People's Republic of China," dated September 3, 2009 (Respondent Selection Memorandum). The

Department received timely responses to its Q&V questionnaire from the following companies: Hung Kuo Electronic (Shenzhen) Company Limited (Hung Kuo); Ningbo Zhonglei Maofangzhi Ranzheng Co., Ltd. (Ningbo Zhonglei); Zhejiang Hewei Knitting Technology Co., Ltd.; Ningbo Jifa Electrical Appliances Co., Ltd. (Jifa); Ningbo Jinchun Electric Appliances Co., Ltd. (Jinchun);[1] Ningbo V.K. Industry & Trading Co., Ltd. (Ningbo V.K.); and Chengdu Rainbow Appliance (Group) Sharers Co., Ltd. The Department confirmed that 19 of the 30 companies received the Q&V questionnaire, while the international courier service shipment tracking results showed that DHL had arranged for delivery of the Department's Q&V questionnaire to an additional 10 companies. *See* "Respondent Selection Memorandum." Additionally, one of the Department's Q&V questionnaires was returned to the Department due to an incorrect address provided by Petitioner. Only the above-named companies responded to the Department's Q&V questionnaire.

On August 13, 2009, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of woven electric blankets from the PRC. *See Woven Electric Blankets From China, Investigation No. 731–TA–1163 (Preliminary),* 74 FR 42323 (August 21, 2009). Also, in August 2009, Petitioner submitted comments to the Department regarding the physical characteristics of subject merchandise that it argued should be used in comparing sales prices with normal value (NV).

On September 3, 2009, the Department selected Hung Kuo as the mandatory respondent and issued an antidumping questionnaire to the company. *See* "Respondent Selection Memorandum." Hung Kuo submitted timely responses to the Department's questionnaire on September 3, 2009, October 16, 2009, and October 27, 2009. On September 25, 2009, the Department received properly filed separate-rate applications from Jifa, Jinchun, and Ningbo V.K.

The Department issued supplemental questionnaires to, and received responses from Hung Kuo, Jifa, Jinchun, and Ningbo V.K. from October through January 2010. Petitioner submitted comments to the Department regarding Hung Kuo's questionnaire and supplemental questionnaire responses from June 2009, through January 2010.

On October 30, 2009, the Department released a memorandum to interested parties which listed potential surrogate countries and invited interested parties to comment on surrogate country and surrogate value selection. During November and December 2009, and January 2010, Petitioner and Hung Kuo submitted comments on the appropriate surrogate country and surrogate values. The submitted surrogate value data submitted by Petitioner and Hung Kuo are for India.

On November 5, 2009, Petitioner requested postponement of the preliminary determination. On November 16, 2009, the Department extended this preliminary determination by fifty days. *See Certain Woven Electric Blankets From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation,* 74 FR 60236 (November 20, 2009). On January 14, 2010, Hung Kuo requested that the Department extend the final determination in this case. *See* the "Postponement of Final Determination" section of this notice below.

Period of Investigation

The period of investigation (POI) is October 1, 2008, through March 31, 2009. This period corresponds to the two most recently completed fiscal quarters prior to the month in which the petition was filed (*i.e.,* June 2009). *See* 19 CFR 351.204(b)(1).

Scope of the Investigation

The scope of this investigation covers finished, semi-finished, and unassembled woven electric blankets, including woven electric blankets commonly referred to as throws, of all sizes and fabric types, whether made of man-made fiber, natural fiber or a blend of both. Semi-finished woven electric blankets and throws consist of shells of woven fabric containing wire. Unassembled woven electric blankets and throws consist of a shell of woven fabric and one or more of the following components when packaged together or in a kit: (1) Wire; (2) controller(s). The shell of woven fabric consists of two sheets of fabric joined together forming a "shell." The shell of woven fabric is manufactured to accommodate either the electric blanket's wiring or a subassembly containing the electric blanket's wiring (*e.g.,* wiring mounted on a substrate).

A shell of woven fabric that is not packaged together, or in a kit, with either wire, controller(s), or both, is not covered by this investigation even though the shell of woven fabric may be dedicated solely for use as a material in the production of woven electric blankets.

The finished, semi-finished and unassembled woven electric blankets and throws subject to this investigation are currently classifiable under subheading 6301.10.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, only the written description of the scope is dispositive.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of the signature date of that notice. *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997), *see also Initiation Notice.* Before the Department initiated the instant investigation, interested parties submitted comments regarding the proposed scope of the investigation; however, the Department made no changes to the proposed scope of the investigation. *See Initiation Notice.* After initiation, the Department received no additional comments concerning the scope of the woven electric blankets antidumping duty investigation, and, therefore, the Department has not modified the scope.

Non-Market Economy Treatment

The Department considers the PRC to be a non-market economy (NME) country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See, e.g., Tapered Roller Bearings and Parts Thereof (TRBs), Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 7500 (February 14, 2003), unchanged in *TRBs, Finished and Unfinished, From the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 70488 (December 18, 2003). The Department has not revoked the PRC's status as an NME country. Therefore, in this preliminary

[1] Jifa and Jinchun submitted a combined Q&V response. These companies stated that they should be collapsed for purposes of this investigation. *See* Jifa and Jichun's August 11, 2009, Q&V response. For further discussion of this issue, see the section entitled, "Separate Rates," below.

determination, we have treated the PRC as an NME country and applied our current NME methodology.

Surrogate Country and Value Comments

On October 30, 2009, the Department released a Policy Memorandum to interested parties identifying potential surrogate countries and provided parties with an opportunity to submit comments regarding the selection of a surrogate country in the instant investigation. *See* Memorandum to Howard Smith, Program Manager, AD/CVD Operations Office 4, from Kelly Parkhill, Acting Director for Policy, Office of Policy, "Request for A List of Surrogate Countries for an Antidumping Duty Investigation of Certain Woven Electric Blankets (WEB) from the People's Republic of China (PRC)," dated October 28, 2009 (Office of Policy Surrogate Country List Memorandum). The countries identified in that memorandum as being at a level of economic development comparable to the PRC for the specified POI are India, Indonesia, the Philippines, Colombia, Thailand, and Peru. On November 20, 2009, the Department received comments on surrogate country selection and surrogate value information from Petitioner and Hung Kuo. On December 4, 2009, Petitioner and Hung Kuo submitted rebuttal comments. Both Petitioner and Hung Kuo assert that the Department should select India as the appropriate surrogate country. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, *see* the "Surrogate Country" section below.

Surrogate Country

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOP) valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOP, the Department shall utilize, to the extent possible, the prices or costs of FOP in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the "Normal Value" section below.

The Department determined that India, the Philippines, Indonesia, Colombia, Thailand and Peru are countries comparable to the PRC in terms of economic development. *See* "Office of Policy Surrogate Country List Memorandum." Once the countries that are economically comparable to the PRC have been identified, we select an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether the data for valuing FOP is both available and reliable. *See id.* In their November 20, 2009, submissions, Hung Kuo and Petitioner stated that the Department should select India as a surrogate country because it satisfies the statutory requirements for the selection of a surrogate country since it is at a level of economic development that is comparable to the PRC, and is a significant producer of merchandise comparable to the merchandise under investigation. Hung Kuo and Petitioner also put information on the record demonstrating that the Department can value the major FOP for subject merchandise using reliable, publicly available data from Indian sources. *See* Hung Kuo's and Petitioner's November 20, 2009, surrogate country and surrogate value comments. No other party provided comments on the record concerning the surrogate country.

Based on evidence placed on the record, we have determined that it is appropriate to use India as a surrogate country pursuant to section 773(c)(4) of the Act based on the following: (1) It is at a level of economic development comparable to the PRC pursuant to section 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the FOP. *See* Hung Kuo's and Petitioner's November 20, 2009, surrogate country and surrogate value comments; *see also* Hung Kuo's and Petitioner's December 4, 2009, surrogate country and surrogate value rebuttal comments. Thus, to calculate NV, we are using Indian prices, when available and appropriate, to value the FOPs of Hung Kuo, the mandatory respondent. We have obtained and relied upon publicly available information wherever possible. *See* Surrogate Value Memorandum, dated January 26, 2010 (Surrogate Value Memorandum).

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping duty investigation, interested parties may submit publicly available information to value the FOP within 40 days after the date of publication of the preliminary determination.[2]

Separate Rates

In the *Initiation Notice,* the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in NME investigations. The process requires exporters and producers to submit a separate-rate status application.[3]

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less*

[2] In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

[3] *See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005),* available at *http://ia.ita.doc.gov,* which states: "While continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applied both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation."

Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) (*Sparklers*), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

A. Separate Rate Applicants [4]

1. Wholly Foreign-Owned

Hung Kuo, the mandatory respondent, reported that it is wholly owned by individuals or companies located in a market economy in its separate rate application. *See* Hung Kuo's September 29, 2009, Section A questionnaire response at 6. Therefore, because the record indicates that it is wholly foreign-owned, and we have no evidence otherwise indicating that it is under the control of the PRC government, in accordance with Department practice, we determined that further separate rates analysis is not necessary to determine whether this company is independent from government control. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China,* 64 FR 71104–05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate). Accordingly, we have preliminarily granted a separate rate to Hung Kuo Electronics (Shenzhen) Company Limited.

2. Wholly Chinese-Owned

One separate rate applicant, Ningbo V.K., stated that it is a wholly Chinese-owned company. *See* Ningbo V.K.'s September 25, 2009 Separate Rate Application (Ningbo V.K.'s SRA) at 7–10. Therefore, the Department must analyze whether this respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

3. Joint Ventures Between Chinese and Foreign Companies

Two companies, Jifa and Jinchun, submitted a combined separate rate application. In the separate rate application, Jifa reported that it is a joint venture company invested by one Chinese legal person and one Hong Kong individual; Jinchun reported that it is wholly-owned by a Hong Kong individual. *See* Jifa and Jinchun's September 25, 2009, separate rate application (Jifa/Jinchun's SRA) at 8. Jifa and Jinchun also reported that they are affiliated through common ownership and that they share the same board members and general managers. *See* Jifa and Jinchun's November 19, 2009, supplemental questionnaire response, at 1–2. Thus, the record supports a preliminary finding that Jifa and Jichun meet the definition of affiliated parties pursuant to sections 771(33)(G) of the Act. Further, pursuant to 19 CFR 351.401(f)(1), we preliminarily find that it is appropriate to treat Jifa and Jinchun as a single entity because: (1) They have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (2) there is a significant potential for the manipulation of price or production. In accordance with 19 CFR 351.401(f)(2) we preliminarily find that a significant potential for the manipulation of price or production exists because Jifa and Jinchun share a high level of common ownership, share a general manager and a board member, and share production facilities and employees.

Because the Jifa/Jinchun collapsed entity is a joint venture between a PRC and a foreign (*i.e.,* Hong Kong) company, the Department has also analyzed whether the Jifa/Jinchun collapsed entity has demonstrated the absence of *de jure* and *de facto* governmental control over its respective export activities.

a. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers,* at 20589.

Ningbo V.K. and the collapsed Jifa/Jinchun entity provided evidence demonstrating the following: (1) An absence of restrictive stipulations associated with each exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of each company; and (3) and there are formal measures by the government decentralizing control of each company. *See* Ningbo V.K.'s SRA at 7–10. *See also* Jifa/Jinchun's SRA at 7–10. Accordingly, based on this record evidence, we preliminarily find that Ningbo V.K. and the collapsed Jifa/Jinchun entity have demonstrated an absence of *de jure* governmental control.

b. Absence of *De Facto* Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide* at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We have determined that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control with respect to Ningbo V.K., and the collapsed Jifa/Jinchun entity, based on record statements and supporting documentation showing that the companies: (1) Set their own export prices independent of the government and without the approval of a government authority; (2) retain the proceeds from their sales and make independent decisions regarding disposition of profits or financing of losses; (3) have the authority to negotiate and sign contracts and other agreements; and (4) have autonomy from the government regarding the selection of management. *See* Ningbo V.K.'s SRA at 10–17; Jifa/Jinchun's SRA at 11–18; *see also* Ningbo V.K's November 10, 2009, supplemental questionnaire response.

The evidence placed on the record of this investigation by Hung Kuo, Ningbo V.K., and the collapsed Jifa/Jinchun entity, demonstrate an absence of ownership by NME residents or entities, and an absence of *de jure* and *de facto* government control with respect to the

[4] All separate rate applicants receiving a separate rate are hereby referred to collectively as the "SR Recipients."

exporters' exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide.* Therefore, we have preliminarily granted Hung Kuo, Ningbo V.K., and the collapsed Jifa/Jinchun entity, separate rate status. Consistent with Department practice, we calculated a company-specific dumping margin for Hung Kuo and assigned this margin to Ningbo V.K., and the collapsed Jifa/Jinchun entity. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube From the People's Republic of China,* 73 FR 5500 (January 30, 2008), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube From the People's Republic of China,* 73 FR 35652 (June 24, 2008) (*LWR from the PRC*).

The PRC-Wide Entity

The Department has data indicating that there were more exporters of woven electric blankets from the PRC than those responding to our request for Q&V information during the POI. *See* "Respondent Selection Memorandum." We issued our request for Q&V information to 30 potential Chinese exporters of the merchandise under investigation, in addition to posting the Q&V questionnaire on the Department's website. While information on the record of this investigation indicates that there are other producers/exporters of woven electric blankets in the PRC, we received only seven timely filed Q&V responses. *See id.* Although all exporters were given an opportunity to provide Q&V information, not all exporters provided a response to the Department's Q&V letter. Therefore, the Department has preliminarily determined that there were exporters/producers of the merchandise under investigation during the POI from the PRC that did not respond to the Department's request for information. We have treated these PRC producers/exporters as part of the PRC-wide entity because they did not qualify for a separate rate. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China,* 70 FR 77121, 77128 (December 29, 2005), unchanged in *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China,* 71 FR 29303 (May 22, 2006).

Section 776(a)(2) of the Act provides that the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified.

As noted above, the PRC-wide entity withheld information requested by the Department. As a result, pursuant to section 776(a)(2)(A) of the Act, we find it appropriate to base the PRC-wide dumping margin on facts otherwise available. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam,* 68 FR 4986 (January 31, 2003), unchanged in *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam,* 68 FR 37116 (June 23, 2003).

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See Statement of Administrative Action,* accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, Vol. I at 843 (1994) (*SAA*), reprinted in 1994 U.S.C.C.A.N. 4040 at 870. *See also, Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation,* 65 FR 5510, 5518 (February 4, 2000). Because the PRC-wide entity did not respond to the Department's requests for information, the Department has concluded that the PRC-wide entity has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

Section 776(b) of the Act authorizes the Department to rely upon, as adverse facts available (AFA): (1) Information derived from the petition; (2) the final determination from the LTFV investigation; (3) a previous administrative review; or (4) any other information placed on the record. In selecting a rate for AFA, the Department selects one that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." *See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909 (February 23, 1998). It is the Department's practice to select, as AFA, the higher of: (a) The highest margin alleged in the petition or (b) the highest calculated rate for any respondent in the investigation, to the extent that it can be corroborated (assuming the rate is based on secondary information). *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From the People's Republic of China,* 65 FR 34660 (May 31, 2000), and accompanying Issues and Decisions Memorandum at Facts Available. In the instant investigation, as AFA, we have preliminarily assigned to the PRC-wide entity, the highest corroborated margin alleged in the Petition, which is 174.85 percent. The dumping margin for the PRC-wide entity applies to all entries of the merchandise under investigation except for entries of subject merchandise produced and exported by Hung Kuo, Ningbo V.K., and Jifa/Jinchun.

Companies Not Receiving a Separate Rate

In the *Initiation Notice,* the Department requested that all companies wishing to qualify for separate rate status in this investigation submit a separate rate status application. *See Initiation Notice.* Two exporters, Zhejiang Hewei Knitting Technology Co., Ltd. and Ningbo Zhonglei Maofangzhi Ranzheng Co., submitted timely responses to the Department's Q&V questionnaire but did not provide separate rate applications, and, therefore, have not demonstrated their eligibility for separate rate status in this investigation. As a result, the Department is treating these Chinese exporters as part of the PRC-wide entity.

Corroboration of Information

Section 776(c) of the Act provides that, when the Department relies on

secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described as "information derived from the petition that gave rise to the investigation or review, the final determination concerning merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this investigation." [5] To "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[6]

The AFA rate that the Department used for the PRC-wide entity is from the Petition. Based on our examination of information on the record, including United States price and NV, we find that there is a sufficient basis to find that the Petition margin selected as the AFA rate, 174.85 percent, has probative value. In this case, we have selected a margin that is not so much greater than the highest CONNUM-specific margin calculated for Hung Kuo in this proceeding that it can be considered not to have probative value. *See* "Hung Kuo Analysis Memorandum." Petitioners' methodology for calculating the United States price and NV in the Petition is discussed in the *Initiation Notice.* Accordingly, we conclude that, using Hung Kuo's highest CONNUM-specific margin as a limited reference point, the highest Petition margin that can be corroborated within the meaning of the statute is 174.85 percent, which is sufficiently adverse so as to induce cooperation such that an uncooperative party does not benefit from its failure to cooperate.[7]

Fair Value Comparisons

In accordance with section 777(A) of the Act, to determine whether Hung Kuo, the mandatory respondent, sold woven electric blankets to the United States at LTFV, we compared the weighted-average constructed export price (CEP) of the woven electric blankets to the NV of the woven electric blankets, as described in the "U.S. Price," and "Normal Value" sections of this notice.

U.S. Price

Constructed Export Price

Although Hung Kuo reported that it made both export price (EP) and CEP sales to the United States during the POI, the Department has preliminarily determined that all of Hung Kuo's reported sales were, in fact, CEP sales. *See* Hung Kuo's October 16 2009, Section C Questionnaire Response at 8–9. According to section 772(a) of the Act, if the foreign producer or exporter makes a sale to the first unaffiliated U.S. customer prior to importation of subject merchandise into the United States, then the sale shall be classified as an EP sale. However, pursuant to section 772(b) of the Act, if the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, then the sale shall be classified as a CEP sale. Additionally, CEP sales can be made by either the foreign producer/exporter or the foreign producer/exporter's U.S. affiliate, while EP sales "can only be made by the producer or exporter of the merchandise," (sales "made by a U.S. affiliate can only be CEP"). *See AK Steel v. United States,* 226 F.3d 1361 (Fed. Cir. 2000). Accordingly, the primary focus of the analysis the Department undertakes to determine whether a sale is properly classified as EP or CEP is: (1) Whether the sale or transaction takes place inside or outside the United States; and (2) whether the sale or transaction is made by an exporter's United States affiliate. *See id* at 1370.

The record indicates that the first sales or transactions to an unaffiliated customer occurred in the United States. *See* Hung Kuo's December 4, 2009, supplemental questionnaire response at Exhibit 4. Additionally, the record also indicates that such sales or transactions to unaffiliated customers were made by Hung Kuo's U.S. affiliate, Biddeford Blankets. *See id.* For a discussion of the proprietary details of Hung Kuo's reported EP transactions, *see* "Hung Kuo Analysis Memorandum," dated January 26, 2010. Accordingly, although Hung Kuo reported certain sales as EP transactions, rather than CEP transactions, because we determined, based on the record evidence, that all first sales to unaffiliated customers occurred in the United States and were between Biddeford Blankets and the unaffiliated U.S. customers, pursuant to section 772(b) of the Act, we classified all reported EP sales as CEP sales for the purposes of this preliminary determination.

In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States: sales discounts, foreign inland freight from plant to the port of exportation, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight from port to the warehouse, U.S. customs duty, other U.S. transportation costs, and U.S. brokerage and handling. Further, in accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), where appropriate, we deducted from the starting price the following selling expenses associated with economic activities occurring in the United States: credit expenses, inventory carrying costs, warranty expenses, other direct selling expenses, and indirect selling expenses. We calculated Hung Kuo's credit expenses and inventory carrying costs based on a short-term interest rate for commercial and industrial loans by commercial banks published by the Federal Reserve. We reduced movement expenses, where appropriate, by the amount of freight revenue paid by the customer to Hung Kuo's U.S. affiliate, Biddeford Blankets. In accordance with our practice in the recently completed administrative review of polyethylene retail carrier bags from the PRC, we capped the amount of freight revenue deducted at no greater than the amount of movement expenses in the U.S. market. *See Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 6857 (February 11, 2009). In addition,

[5] *See Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China,* 73 FR 6479, 6481 (February 4, 2008), quoting SAA at 870.

[6] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (March 13, 1997).

[7] *See Wire Decking from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination* 75 FR 1597, 1603 (January 12, 2010).

pursuant to sections 772(d)(3) and 772(f) of the Act, we made an adjustment to the starting price for CEP profit.

We note that Petitioner argued that the Department should deduct, as a direct selling expense, the value of Hung Kuo's reported accommodation returns and defective returns, which Hung Kuo reported as quantity adjustments. *See* Petitioner's December 10, 2009, submission to the Department. Based on record evidence and in accordance with the Department's treatment of warranty expenses, we have preliminarily determined that it is appropriate to deduct, as a direct selling expense, the full value of refunds issued to customers for Hung Kuo's reported defective returns. *See* Hung Kuo's January 20, 2010, supplemental questionnaire response. With respect to Hung Kuo's reported accommodation returns, however, there is no record evidence that Hung Kuo or its U.S. affiliate incurs any direct selling expense attributable to these returns, other than repacking expenses associated with re-entering the merchandise into inventory for resale. Therefore, the Department has only deducted repacking expenses from the starting price to account for these returns. *See id.* at 2–6. For a detailed description of all adjustments, *see* "Hung Kuo Analysis Memo," dated January 26, 2010.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from a NME country and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Thus, in accordance with section 773(c) of the Act, because available information did not permit the NV to be determined under section 773(a) of the Act, we constructed NV from the FOPs employed by Hung Kuo to manufacture subject merchandise during the POI. Specifically, we calculated NV by adding together the value of the FOPs, general expenses, profit, and packing costs. We relied upon the FOPs reported by Hung Kuo with the exception of the per-unit consumption of woven textile reported for king size blankets. Our review of the record indicates that the per-unit consumption of woven textile for king size blankets has been misreported (*i.e.,* the per-unit consumption rate of king size was less than that of blankets of a smaller size). Thus, pursuant to section 776(a) of the Act, as facts otherwise available, we replaced the per-unit consumption of woven textile reported by Hung Kuo for king size blankets with an average per-unit consumption that is based on the per-unit consumption of woven textile reported by Hung Kuo for queen, twin, and full size blankets adjusted to account for differences between the dimensions of these products and the dimensions of the king size blanket. *See* "Hung Kuo Analysis Memorandum"; *see also* Hung Kuo's January 13, 2010 submission to the Department at Exhibit 2. We valued the FOPs using prices and financial statements from the surrogate country, India. If market economy suppliers, who were paid in a market economy currency, supplied over 33 percent of the total volume of a material input purchased from all sources during the POI, pursuant to Department practice, we based the input value on the actual price charged by the supplier. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716 (October 19, 2006); *see also* "Hung Kuo Analysis Memorandum." In selecting surrogate values, we followed, to the extent practicable, the Department's practice of choosing values which are non-export average values, contemporaneous with, or closest in time to, the POI, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004). We also considered the quality of the source of surrogate information in selecting surrogate values. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Preliminary Results of the 2007–2008 Administrative Review of the Antidumping Duty Order,* 74 FR 32539 (July 8, 2009), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2007–2008 Administrative Review of the Antidumping Duty Order,* 75 FR 844 (January 6, 2010).

We valued material inputs and packing by multiplying the amount of the factor consumed in producing subject merchandise by the average unit value of the factor. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401, 1407–1408 (Fed. Cir. 1997). *See* "Hung Kuo Analysis Memorandum." Where we could only obtain surrogate values that were not contemporaneous with the POI, we inflated (or deflated) the surrogate values using the Indian Wholesale Price Index (WPI) as published in the International Financial Statistics of the International Monetary Fund.

Further, in calculating surrogate values from Indian imports, we disregarded imports from Indonesia, South Korea, and Thailand because in other proceedings the Department found that these countries maintain broadly available, non-industry-specific export subsidies. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China,* 67 FR 11670 (March 15, 2002); *see also Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China,* 69 FR 20594 (April 16, 2004).[8] Therefore, it is reasonable to infer based on information available that all exports to all markets from these countries may be subsidized, and we have not used prices from these countries in calculating the Indian import-based surrogate values.

Consistent with Department practice, we valued raw materials and packing

[8] In addition, we note that legislative history explains that the Department is not required to conduct a formal investigation to ensure that such prices are not subsidized. *See* Omnibus Trade and Competitiveness Act of 1988, Conference Report to accompany H.R. Rep. 100–576 at 590 (1988) reprinted in U.S.C.C.A.N. 1547, 1623–24. As such, it is the Department's practice to base its decision on information that is available to it at the time it makes its determination. *See e.g. Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value,* 73 FR 24552 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less than Fair Value,* 73 FR 55039 (September 24, 2008).

materials using Indian import statistics that are contemporaneous with the POI, except as noted below.

We valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication entitled "Electricity Tariff & Duty and Average Rates of Electricity Supply in India", dated March 2008. These electricity rates represent actual countrywide, publicly available information on tax-exclusive electricity rates charged to industries in India. As the rates listed in this source became effective on a variety of different dates, we are not adjusting the average value for inflation. *See* "Surrogate Value Memorandum."

We valued fuel oil/diesel using the prices for petrol from Indian Oil Corp. Ltd. from June 2007, after inflating the value using the WPI for the POI. *See* "Surrogate Value Memorandum."

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), we valued labor using the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in December 2009, available at *http://ia.ita.doc.gov/wages/index.html.* Since this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by Hung Kuo. *See* "Surrogate Value Memorandum."

We valued truck freight expenses using a per-unit average rate calculated from data on the infobanc Web site: *http://www.infobanc.com/logistics/logtruck.htm.* The logistics section of this Web site contains inland freight truck rates between many large Indian cities. The value is contemporaneous with the POI. *See* "Surrogate Value Memorandum."

We valued brokerage and handling using a simple average of the brokerage and handling costs reported in public submissions filed in three antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative review of certain lined paper products from India, Essar Steel Limited in the 2006–2007 antidumping duty administrative review of hot-rolled carbon steel flat products from India, and Himalaya International Ltd. in the 2005–2006 administrative review of certain preserved mushrooms from India. Since the resulting value is not contemporaneous with the POI, we inflated the rate using the WPI. *See* "Surrogate Value Memorandum."

We valued international freight and marine insurance using purchase prices. *See* "Surrogate Value Memorandum."

We valued factory overhead, selling, general, and administrative (SG&A) expenses, and profit, using the 2007–2008 audited financial statements provided by Hung Kuo for Bawa Woollen and Spinning Mills, Ltd. and Prakash Woollen Mills, Ltd., producers of non-electric blankets. *See* "Surrogate Value Memorandum." Petitioner submitted the financial statement of Videocon Industries Ltd. (Videocon), a producer of consumer electronics and home appliances that is also involved in the production of crude oil and natural gas. *See* Petitioner's November 20, 2009, surrogate value submission at Exhibit 9. Videocon's statement indicates that, in addition to the production of crude oil and natural gas, it produces, *inter alia,* color televisions, video products, washing machines, refrigerators, and air conditioners. We have not included Videocon's financial data in our financial expense calculation because we have preliminarily determined that the products produced by Bawa Woollen and Spinning Mills, Ltd., and Prakash Woollen Mills, Ltd., are more comparable products to the subject merchandise produced by Hung Kuo than the production and fossil fuel extraction activities of Videocon. Thus, in accordance with section 773(c)(1) of the Act, the financial statements of Bawa Woollen and Spinning Mills, Ltd. and Prakash Woollen Mills, Ltd. represent the best information available to the Department for this preliminary determination.

In accordance with 19 CFR 351.301(c)(3)(i), interested parties may submit publicly available information with which to value FOP in the final determination within 40 days after the date of publication of the preliminary determination.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

Combination Rates

In the *Initiation Notice,* the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See Initiation Notice.* This change in practice is described in *Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries,* available at *http://ia.ita.doc.gov/.*

Preliminary Determination

The weighted-average dumping margins are as follows:

Exporter & producer	Weighted-average margin percent
Hung Kuo Electronic (Shenzhen) Company Limited Produced by: Hung Kuo Electronic (Shenzhen) Company Limited	90.32
Ningbo V.K. Industry & Trading Co., Ltd. Produced by: Ningbo V.K. Industry & Trading Co., Ltd	90.32
Ningbo Jifa Electrical Appliances Co., Ltd. or Ningbo Jinchun Electric Appliances Co., Ltd. Produced by: Ningbo Jifa Electrical Appliances Co., Ltd. or Ningbo Jinchun Electric Appliances Co., Ltd	90.32
PRC-Wide Rate	174.85

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of woven electric blankets from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.** We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated above.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of woven electric blankets, or sales (or the likelihood of sales) for importation, of the subject merchandise under investigation within 45 days of our final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, no later than five days after the deadline for submitting case briefs. *See* 19 CFR 351.309(c)(1)(i) and (d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing three days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties that wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on January 14, 2010, Hung Kuo requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. Additionally, on January 15, 2010, Hung Kuo requested that the Department extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a 4-month period to a 6-month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), we are granting the request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register** because: (1) Our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist. Suspension of liquidation will be extended accordingly.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: January 26, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–2309 Filed 2–2–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XU14

Taking and Importing Marine Mammals; Navy Training Activities Conducted in the Gulf of Alaska

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to military readiness training activities to be conducted in the Gulf of Alaska (GOA) Temporary Maritime Activities Area (TMAA) for the period beginning December 2010 and ending December 2015. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than March 5, 2010.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648–XU14@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 713–2289, ext. 166.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the Navy's application may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. The Navy's Draft Environmental Impact Statement (DEIS) for the GOA TMAA was made available to the public on December 11, 2009, and may be viewed at *http://www.gulfofalaskanavyeis.com/*. During the initial 45–day public comment period, the Navy hosted five public hearings.

Background

In the case of military readiness activities, sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as:

> an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

With respect to military readiness activities, the MMPA defines "harassment" as:

> (i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or

marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

In March 2009, NMFS received an application from the Navy requesting authorization to take individuals of 20 species of marine mammals (15 cetaceans and 5 pinnipeds) incidental to upcoming training activities to be conducted in the GOA TMAA, which is a polygon roughly the shape of a 300 nm by 150 nm rectangle oriented northwest to southeast in the long direction, over the course of 5 years. NMFS subsequently requested additional information, which was provided in the form of a revised application in November, 2009. These training activities are classified as military readiness activities. The Navy states that these training activities may expose some of the marine mammals present in the area to sound from various active tactical sonar sources or to pressure from underwater detonations. The Navy requests authorization to take individuals of 20 species of cetaceans and pinnipeds by Level B Harassment. Further, the Navy requests authorization to take 3 individual beaked whales (of any of the following species: Baird's beaked whale, Cuvier's beaked whale, Stejneger's beaked whale) annually by serious injury or mortality.

Specified Activities

In the application submitted to NMFS, the Navy requests authorization to take marine mammals incidental to conducting training activities utilizing mid- and high frequency active sonar sources and explosive detonations. These sonar and explosive sources will be utilized during Anti-submarine Warfare (ASW) Tracking and Torpedo Exercises, Extended Echo Ranging, Improved Extended Echo Ranging, and Advanced Extended Echo Ranging (EER/IEER/AEER) events, Missile Exercises, Gunnery Exercises, Bombing Exercises, and Sinking Exercises. Table 1–7 in the application lists the activity types, the equipment and platforms involved, and the duration and potential locations of the activities.

The training activities will take place during the summer months, in the form of one or two major exercises or focused activity periods. These exercises or activity periods would each last up to 21 days and consist of multiple component training activities. Unlike Navy Training activities in other areas, the GOA TMAA is not a Range Complex and as such, there are no other or ongoing small scale Navy Training activities conducted outside these activity periods.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). All information, suggestions, and comments related to the Navy's GOA TMAA request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the Navy's GOA TMAA activities will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization.

Dated: January 28, 2010.

P. Michael Payne,

Chief, Division of Permits, Conservation, and Education, Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–2286 Filed 2–2–10; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Request for New Collection—3038–NEW, Registration Under the CEA—Proposed Questionnaire to Regulation 30.10 Relief Recipients (17 CFR Part 30)

AGENCY: Commodity Futures Trading Commission

ACTION: Notice—proposed questionnaire.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for comment in response to the notice. The Division of Clearing and Intermediary Oversight (DCIO) of the Commodity Futures Trading Commission (CFTC) is proposing to send a questionnaire to obtain updated information on the current laws and market developments of each jurisdiction in which exemptive relief was granted by the Commission pursuant to Regulation 30.10.

DATES: Comments must be received by April 5, 2010.

ADDRESSES: Interested persons should submit their views and comments to Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to number (202) 418–5521, or by electronic mail to *secretary@cftc.gov.* Reference should be made to "Commission Regulation 30.10 Questionnaire."

FOR FURTHER INFORMATION CONTACT: Andrew Chapin, Associate Director, or Andrea Musalem, Attorney-Advisor, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5167.

SUPPLEMENTARY INFORMATION:

I. Background

CFTC Regulation 30.10 allows persons located and doing business outside the U.S., who are subject to a comparable regulatory framework in the country in which they are located, to seek an exemption from the application of certain of the Part 30 regulations. Regulation 30.10 expressly states that, upon petition, the Commission may exempt any person from any requirement of the Part 30 regulations. If the Commission grants an exemption, persons located and doing business outside the U.S. may solicit or accept orders directly from U.S. customers for foreign futures or options transactions without registering under the Act as FCMs.

A petition for exemption pursuant to Regulation 30.10 is typically filed on behalf of persons located and doing business outside the U.S. that seek access to U.S. customers by (1) a governmental agency responsible for implementing and enforcing the foreign regulatory program, or (2) a self-regulatory organization (SRO) of which such persons are members. A petitioner who seeks an exemption pursuant to Regulation 30.10, based on substituted compliance with a non-U.S. regulatory framework that is comparable to the Act and rules thereunder, must set forth with particularity the comparable regulations applicable in the jurisdiction in which that person is located. In essence, a petitioner under Regulation 30.10 must present, with particularity, the factual basis for a finding of comparability and the reasons why the policies and purposes of the Commission's regulatory program are met, notwithstanding any differences of degree or kind in the petitioner's regulatory program.

Appendix A to Part 30 (Appendix A) articulates standards to be used by staff in assessing whether a foreign

regulatory system is comparable.[1] These standards involve inquiry into the following areas: (1) Registration, authorization or other form of licensing, fitness review or qualification of persons through which customer orders are solicited and accepted; (2) minimum financial requirements for those persons that accept customer funds; (3) protection of customer funds from misapplication; (4) recordkeeping and reporting requirements; (5) minimum sales practice standards, including disclosure of the risks of futures and options transactions and, in particular, the risk of transactions undertaken outside the jurisdiction of domestic law; (6) compliance; and (7) information-sharing.

II. The Proposed Questionnaire

Currently, there are 13 foreign entities[2] (two regulators and 11 futures exchanges) that have a Regulation 30.10 exemption some of which date back to the late eighties, early nineties. Consequently, the Commission's Division of Clearing and Intermediary Oversight (DCIO) would like to embark upon a program whereby each year, DCIO sends out a questionnaire to exemption recipients inquiring as to material and other relevant changes that impacted our could impact the fundamentals for which exemptive relief was granted in the first place.

The proposed 2010 Questionnaire will ask the following questions:

The following questions relate to material changes that have occurred since the original filing of the 30.10 petition. Please answer the following questions in detail.

1. Have there been any material changes with regards to the identity or organization of the original Petitioner (i.e. change in control, change in name, change in structure, etc.)?

2. Has there been a change in the role of the government, the regulator, or the self-regulatory organization(s) which has or could potentially impact their supervision of and their enforcement powers over the exchange and its members?

3. Has there been any material change in the legal framework which impacted or could impact any of the following:

a. Registration, authorization or other form of licensing, fitness review or qualification of persons through which customer orders are solicited and accepted;

b. Minimum financial requirements for those persons that accept customer funds;

c. Protection of customer funds from misapplication;

d. Recordkeeping and reporting requirements;

e. Minimum sales practice standards, including disclosure of risks of futures and options transactions and, in particular, the risk of transactions undertaken outside the jurisdiction of domestic law; and

f. Compliance (i.e. any change in oversight structure which impacted or could impact the governmental authority or the self-regulatory organization's ability to audit Part 30 firms for compliance with, or take action against persons that violate the requirements of the Part 30 program).

4. What changes, if any, have occurred in insolvency laws as they affect futures customers? If there have been changes to insolvency laws, have the changes occurred within the past two to three years? To what extent do you view any recently proposed changes to insolvency laws as resulting from the 2008–09 financial crisis?

5. Security futures products have both an equity component and a futures component. Consequently, in what accounts are security futures products held (i.e. the equity account, the futures account, or a combined account)? Are security futures products subject to separate disclosure and margin requirements than those required for plain vanilla futures products?

6. Please provide an updated list of all firms with relief under the Regulation 30.10 exemption.

7. Since the granting of the original exemption, please affirm whether 30.10 firms have been subject to arbitration and/or disciplinary proceedings arising from transactions with U.S. customers. To the best extent possible, please provide the number of times and a brief description of such proceedings.

8. Please provide the name and contact information for individuals to whom follow up questions might be directed.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–611, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[3] The proposed Questionnaire discussed herein would affect foreign futures exchanges and/or foreign securities regulators who sought and obtained Regulation 30.10 exemptive relief on behalf of its members and/or regulatees. Foreign regulators and exchanges are not included in the definition of "small entities" per 47 FR 18618 and 66 FR 42256. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b) that this proposed Questionnaire will not have an economic impact on a small entities. Nonetheless, the Commission specifically requests comment on the impact this proposed Questionnaire may have on small entities. Nonetheless, the Commission specifically requests comment on the impact this proposed Questionnaire may have on small entities—New Collection—3038.XXXX.

B. Paperwork Reduction Act

When publishing a proposed questionnaire, the Paperwork Reduction Act of 1995[4] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act, the Commission, through this Questionnaire proposal, solicits comments to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (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 the 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.

The Commission has submitted this proposed Questionnaire and its associated information collection requirements to the Office of Management and Budget. The burden associated with this entire New Collection—3038–XXXX—including this proposed Questionnaire, is as follows:

Average burden hours per response: one hour/question
Number of questions: 13
Number of respondents: 13
Frequency of response: Annually

Persons wishing to comment on the estimated paperwork burden associated with this proposed Questionnaire should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the

[1] "Interpretative Statement With Respect to the Commission's Exemptive Authority Under § 30.10 of its Rules," l7 C.R Part 30, Appendix A.

[2] The 13 foreign entities are represented by the following jurisdictions: The United Kingdom, Australia, Brazil, Germany, Canada, France, Spain, New Zealand, Singapore, Taiwan, and Japan.

[3] 47 FR 18618–18621 (April 30, 1982).

[4] Public Law 104–13 (May 13, 1995).

information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5160.

Dated: January 28, 2010.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2010–2238 Filed 2–2–10; 8:45 am]

BILLING CODE P

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Flammability Standards for Clothing Textiles and Vinyl Plastic Film

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (Commission) announces that it has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information associated with the Commission's flammability standards for clothing textiles and vinyl plastic film.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by March 5, 2010.

ADDRESSES: Written comments on this request for extension of approval of information collection requirements should be captioned "Clothing Textiles and Film, Collection of Information" and submitted by March 5, 2010 to (1) the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for CPSC, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340, and (2) the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, by e-mail at *cpsc-os@cpsc.gov,* or by mail or by facsimile at (301) 504–0127.

FOR FURTHER INFORMATION CONTACT: Copies of this request for extension of the information collection requirements and supporting documentation are available from Linda Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7671 or by e-mail to *lglatz@cpsc.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 29, 2009 (74 FR 55819), the Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) to announce the agency's intention to seek extension of approval of the collection of information required in the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) and the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611). These regulations establish requirements for testing and recordkeeping for manufacturers and importers who furnish guaranties for products subject to the flammability standards for clothing textiles and vinyl plastic film. See 16 CFR Part 1610, Subpart B, and 16 CFR Part 1611, Subpart B.

The Commission uses the information compiled and maintained by firms that issue these guaranties to help protect the public from risks of injury or death associated with clothing and fabrics and vinyl film intended for use in clothing. More specifically, the information helps the Commission arrange corrective actions if any products covered by a guaranty fail to comply with the applicable standard in a manner that creates a substantial risk of injury or death to the public. The Commission also uses this information to determine whether the requisite testing was performed to support the guaranties.

OMB approved the collection of information in the regulations implementing the standards for clothing textiles and vinyl plastic film under control number 3041–0024. The Commission proposes to request an extension of approval for the collection of information in those regulations.

Additional Information About the Request for Extension of Approval of a Collection of Information

Agency address: Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

Title of information collection: Standard for the Flammability of Clothing Textiles, 16 CFR Part 1610; Standard for the Flammability of Vinyl Plastic Film, 16 CFR Part 1611.

Type of request: Extension of approval without change.

General description of respondents: Manufacturers and importers of garments, fabrics, and related materials subject to the flammability standards for clothing textiles and vinyl plastic film.

Estimated number of respondents: 1,000 per year.

Estimated average number of hours per respondent: 101.6 per year.

Estimated number of hours for all respondents: 101,600 per year.

Estimated cost of collection for all respondents: $5.8 million per year.

Dated: January 28, 2010.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2010–2302 Filed 2–2–10; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Quadrennial Defense Review Independent Panel

AGENCY: Department of Defense (DoD).

ACTION: Disestablishment of Federal advisory committee.

SUMMARY: The Department of Defense announced on October 1, 2009 (74 FR 50781) that the Quadrennial Defense Review Independent Panel (hereafter referred to as the Panel), which was established by 10 U.S.C. 118f, would operate under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b). The Department has determined that the Panel is a legislative advisory committee that works for and reports to the Legislative Branch; therefore, the Department is withdrawing the Panel's charter.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: After further consideration the Office of the Committee Management Officer for the Department of Defense, in consultation with the Office of the General Counsel for the Department of Defense, has determined that the Panel is in fact a legislative advisory committee; that is, it works for and reports to the Legislative Branch.

Therefore, the Panel is not subject to the provisions of the Federal Advisory Committee Act of 1972 or the Government in the Sunshine Act of 1976. Accordingly, the Department of Defense is withdrawing the Panel's charter that was filed with the Committee Management Secretariat for the General Services Administration, the congressional oversight committees and the Library of Congress.

The removal of the Panel's charter and its status under the Federal Advisory Committee Act of 1972 has no

impact on the provisions of 10 U.S.C. 118f, as amended, that require the establishment of the Panel and its subsequent recommendations to Congress.

Dated: January 29, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–2258 Filed 2–2–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0008]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Defense Logistics Agency is proposing to amend a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective without further notice on March 5, 2010 unless comments are received which would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's system of record notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the contact under **FOR FURTHER INFORMATION CONTACT.**

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

Dated: January 29, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S500.60

SYSTEM NAME:

Defense Logistics Agency Hotline Program Records (March 26, 2007; 72 FR 14085).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Director, DLA Accountability Office (DA), Headquarters, Defense Logistics Agency, ATTN: DA, 8725 John J. Kingman Road, Stop 2358, Fort Belvoir, VA 22060–6221, and at the offices of the designated Hotline Points of Contact of DLA Field Activities or DLA Headquarters Elements. Official mailing addresses may be obtained from the system manager below."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are destroyed/deleted 10 years after completion of case."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Director, DLA Accountability Office, Headquarters, Defense Logistics Agency, ATTN: DA, 8725 John J. Kingman Road, Stop 2358, Fort Belvoir, VA 22060–6221."

NOTIFICATION PROCEDURE:

Delete entry and replace with "individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the DLA Privacy Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals are required to provide their full name, address, and either a notarized signature or a signed and dated unsworn declaration, in accordance with 28 U.S.C. 1746, stating under penalty of perjury under U.S. law that the information contained in the request, including their identity, is true and correct."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the DLA Privacy Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals are required to provide their full name, address, and either a notarized signature or a signed and dated unsworn declaration, in accordance with 28 U.S.C. 1746, stating under penalty of perjury under U.S. law that the information contained in the request for access, including their identity, is true and correct."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The DLA rules for accessing records, for contesting contents, and appealing initial Agency determinations are contained in 32 CFR part 323 or may be obtained from the DLA Privacy Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221."

* * * * *

S500.60

SYSTEM NAME:

Defense Logistics Agency Hotline Program Records.

SYSTEM LOCATION:

Director, DLA Accountability Office (DA), Headquarters, Defense Logistics Agency, ATTN: DA, 8725 John J. Kingman Road, Stop 2358, Fort Belvoir, VA 22060–6221, and at the offices of the designated Hotline Points of Contact of DLA Field Activities or DLA Headquarters Elements. Official mailing addresses may be obtained from the system manager below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered include complainants, subjects, witnesses, and contractor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records resulting from the receipt of a DoD/DLA Hotlines and resulting inquiries including the date of the complaint, the Hotline control number; the name of the complainant(s), the name of the suspect(s), and the actual allegations; Hotline documents from components transmitting the DoD/DLA Hotline Reports, which normally contain the name of the examining official(s) assigned to conduct the inquiry; background information

regarding the inquiry itself, such as the scope of the inquiry, relevant facts discovered, information received from witnesses, and specific source documents reviewed; the examining official's findings, conclusions, and recommendations; the disposition of the inquiry; and internal DLA Hotline forms documenting review and analysis of Hotline Reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 133, Under Secretary of Defense for Acquisition, Technology, and Logistics; 5 U.S.C., Appendix 3, Inspector General Act of 1978, as amended; DOD Directive 5106.1, Inspector General of the Department of Defense; DOD Directive 7050.1, Defense Hotline Program; DOD Instruction 7050.7, Defense Hotline Procedures; DOD Instruction 7050.8, Defense Hotline Quality Assurance Review (QAR) Program; DOD Directive 5505.6, Investigations of Allegations Against Senior Officials of the Department of Defense; and DLA Enterprise Hotline Program Instruction.

PURPOSE(S):

To conduct inquiries of reported instances of alleged/suspected fraud, waste, abuse, or mismanagement; to compile statistical information to disseminate on an as needed basis to DLA HQ Elements, DLA Field Activities, and the Defense Hotline, DoD; and to provide a record of hotline disposition. Hotlines appearing to involve criminal wrongdoing will be referred to the Defense Criminal Investigative Service or other criminal investigative units of DoD Components.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, state, and local agencies having jurisdiction over or investigative interest in the substance of the allegations for investigative, corrective action, debarment, or reporting purposes.

To Government contractors employing individuals who are subjects of a hotline.

To DLA contractors or vendors when the Hotline pertains to a person they employ or to a product or service they provide to DoD when disclosure is necessary to accomplish or support corrective action.

The DoD "Blanket Routine Uses" apply to this system of records.

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

STORAGE:

Records may be retained in either hard copy or electronic/image format.

RETRIEVABILITY:

Records are retrieved by name of complainant, name of subject/offender, hotline topic, inquiry number, witness, National Stock Number, Contract Number, and contractor name and contractor employee name.

SAFEGUARDS:

Physical entry is restricted by the use of guards, locks, and administrative procedures. System is password controlled with system-generated, forced password-change protocols or also equipped with "Smart Card" technology that requires the insertion of an embedded identification card and entry of a PIN. In addition, computer screens lock after a preset period of inactivity with re-entry controlled by passwords. The DLA Enterprise Hotline Program Database is also password controlled. Access to the database is limited to those DLA Enterprise Hotline Program personnel who require the records in the performance of their official duties. Employees are periodically briefed on their responsibilities regarding privacy information. All individuals granted access to this system of records are to have taken Privacy Act training.

RETENTION AND DISPOSAL:

Records are destroyed/deleted 10 years after completion of case.

SYSTEM MANAGER(S) AND ADDRESS:

Director, DLA Accountability Office, Headquarters, Defense Logistics Agency, ATTN: DA, 8725 John J. Kingman Road, Stop 2358, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the DLA Privacy Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals are required to provide their full name, address, and either a notarized signature or a signed and dated unsworn declaration, in accordance with 28 U.S.C. 1746, stating under penalty of perjury under U.S. law that the information contained in the request, including their identity, is true and correct.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the DLA Privacy Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals are required to provide their full name, address, and either a notarized signature or a signed and dated unsworn declaration, in accordance with 28 U.S.C. 1746, stating under penalty of perjury under U.S. law that the information contained in the request for access, including their identity, is true and correct.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial Agency determinations are contained in 32 CFR part 323 or may be obtained from the DLA Privacy Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is provided by the Defense Hotline, subjects/offenders, complainants, witnesses, investigators, examining officials, personnel interviewed, and the Federal/State/DOD/DLA Hotline Program Offices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information, except to the extent that disclosure would reveal the identity of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with

requirements of 5 U.S.C. 553(b)(1), (2), and 3, (c) and (e) and published in 32 CFR part 323. For more information, contact the DLA Privacy Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

[FR Doc. 2010–2222 Filed 2–2–10; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0894; FRL–9108–6]

Agency Information Collection Activities; Proposed Collection; Comment Request; Registration of Fuels and Fuel Additives—Requirements for Manufacturers; EPA ICR No. 0309.13, OMB Control No. 2060–0150

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on July 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 April 5, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0894, 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) 566–1741.
- *Mail:* Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2006–0894, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0894. 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: James W. Caldwell, Office of Transportation and Air Quality, Mailcode: 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9303; fax number: (202) 343–2801; email address: *caldwell.jim@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–2006–0894, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the 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 the manufacturers of motor-vehicle gasoline, motor-vehicle diesel fuel, and additives for those fuels.

Title: Registration of Fuels and Fuel Additives—Requirements for Manufacturers.

ICR numbers: EPA ICR No. 0309.13, OMB Control No. 2060–0150.

ICR status: This ICR is currently scheduled to expire on July 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: In accordance with the regulations at 40 CFR Part 79, Subparts A, B, C, and D, Registration of Fuels and Fuel Additives, manufacturers (including importers) of motor-vehicle gasoline, motor-vehicle diesel fuel, and additives for those fuels, are required to have these products registered by the EPA prior to their introduction into commerce. Registration involves providing a chemical description of the fuel or additive, and certain technical, marketing, and health-effects information. The development of health-effects data, as required by 40 CFR Part 79, Subpart F, is covered by a separate information collection. Manufacturers are also required to submit periodic reports (annually for additives, quarterly and annually for fuels) on production volume and related information. The information is used to identify products whose evaporative or combustion emissions may pose an unreasonable risk to public health, thus meriting further investigation and potential regulation. The information is also used to ensure that gasoline additives comply with EPA requirements for protecting catalytic converters and other automotive emission controls. The data have been used to construct a comprehensive data base on fuel and additive composition. The Mine Safety and Health Administration of the Department of Labor restricts the use of diesel additives in underground coal mines to those registered by EPA. Most of the information is confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average two 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: 1500.

Frequency of response: On occasion, quarterly, annually.

Estimated total average number of responses for each respondent: 6.

Estimated total annual burden hours: 19,700.

Estimated total annual costs: $2.2 million. This includes an estimated burden cost of $2.17 million and an estimated cost of $0.04 million for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

There is an increase of 2,550 hours in the total estimated annual respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's updating of burden estimates. The increase is due to an increase in the number of registered fuels.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: January 27, 2010.

Margo Tsirigotis Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. 2010–2249 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0123; FRL–8805–9]

Methyl Bromide; Amendments to Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of products containing the pesticide methyl bromide listed in Table 1, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This order follows a September 30, 2009 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 to amend to terminate post-harvest methyl bromide uses in or on alfalfa hay and cottonseed for these product registrations. These are the last products containing the pesticide methyl bromide registered for use on alfalfa hay and cotton seed in the United States. In the September 30, 2009 notice, EPA indicated that it would issue an order implementing the amendments to terminate uses, unless the Agency received substantive comments within the 30–day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests within this period. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order,

including any existing stocks provisions.

DATES: The cancellations are effective February 3, 2010.

FOR FURTHER INFORMATION CONTACT: Susan Bartow, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0065; fax number: (703) 308–8090; e-mail address: *bartow.suan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0123. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This notice announces the amendments to terminate uses, as requested by registrants, of products registered under section 3 of FIFRA. These registrations are listed in ascending order by registration number in Table 1 of this unit.

TABLE 1.—METHYL BROMIDE PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

EPA Registration Number	Product Name
5785–11	Meth-O-Gas 100
5785–41	Meth-O-Gas Q
8536–15	Methyl Bromide 100
8536–29	Methyl Bromide Quarantine Fumigant
8622–16	Metabrom 100
8622–55	Metabrom Q

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in ascending order by EPA company number.

TABLE 2.—REGISTRANTS OF AMENDED PRODUCTS

EPA Company Number	Company Name and Address
5785	Great Lakes Chemical Corporation P.O. Box 2200 West Lafayette, IN 47996–2200
8536	Soil Chemicals Corporation (doing business as Cardinal Professional Products) P.O. Box 782 Hollister, CA 95024–9487
8622	ICL-IP America, Inc. 95 MacCorkle Avenue, S.W. South Charleston, WV 25303–1411

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the September 30, 2009 **Federal Register** notice announcing the Agency's receipt of the requests for amendments to terminate uses of products listed in Table 1.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested amendments to terminate uses of methyl bromide registrations identified in Table 1 of Unit II. Accordingly, the Agency orders that the product registrations identified in Table 1 of Unit II. are hereby amended to terminate the affected uses. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

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

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

VI. Provisions for Disposition of Existing Stocks

The registrants requested the following provisions for sale, distribution, and use of existing stocks and the Agency approves the requested provisions for sale, distribution, and use of existing stocks:

1. All sale or distribution by the registrant of existing stocks labeled for post-harvest alfalfa hay and post-harvest cottonseed uses is prohibited after October 31, 2009, unless that sale or distribution is solely for the purpose of facilitating disposal or export of the product.

2. Existing stocks labeled for post-harvest alfalfa hay and post-harvest cottonseed uses may be sold and distributed by persons other than the registrant until October 31, 2010.

3. Existing stocks labeled for post-harvest alfalfa hay and post-harvest cottonseed uses may be used until all such stocks are exhausted, provided that such use complies with the EPA-approved label of the product.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 19, 2010.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–1991 Filed 2–2–10; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0206; FRL–8806–6]

Fipronil; Product Cancellation Order and Amendment to Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's cancellation order and amendment to terminate uses of products containing the pesticide fipronil, pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows the November 15, 2009 expirations of conditional registrations and in one case expiration of a use. These are not the last fipronil products registered for use in the United States. Any distribution, sale, or use of the fipronil products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The expirations occurred on November 15, 2009.

FOR FURTHER INFORMATION CONTACT: Richard Gebken, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6701; fax number: (703) 305–6920; e-mail address: *gebken.richard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0206. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This notice announces the expiration of certain corn-in-furrow and turfgrass end-use fipronil products registered under section 3 of FIFRA. This notice also announces the amendment to terminate uses of all corn-in-furrow end-use fipronil products registered under section 3 of FIFRA, and this notice serves as a cancellation order to provide for existing stocks of affected products. These registrations are listed in sequence by registration number in Tables 1 and 2 of this unit.

TABLE 1.—FIPRONIL PRODUCT CANCELLATIONS

EPA Registration Number	Product Name
7969-206	Regent 1.5G
7969-208	Regent 80WG
7969-212	H&G 61748 / "Over n Out"432-1451 BES 1000 Insecticide

TABLE 2.—FIPRONIL PRODUCT REGISTRATION AMENDMENT TO TERMINATE USES

EPA Registration Number	Product Name
7969-207	Regent 4SC

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Tables 1 and 2 of this unit, in sequence by EPA company number.

TABLE 3.—REGISTRANTS OF CANCELLED AND/OR AMENDED FIPRONIL PRODUCTS

EPA Company Number	Company Name and Address
432	Bayer Environmental Science2 T. W. Alexander Drive Research Triangle Park, NC 27709
7969	BASF Corporation P.O. Box 1352826 Davis Drive Research Triangle Park, NC 27709

III. Cancellation Order

Pursuant to FIFRA section 3, EPA hereby announces the expirations, of fipronil registrations identified in Table 1 of Unit II and expiration of the corn-in-furrow use for the registration in Table 2 of Unit II. The Agency considers the expiration of a time limited registration to be a cancellation under section 3 of FIFRA, for purposes of section 6(a)(1) of FIFRA. Any distribution, sale, or use of existing stocks of the cancelled products or terminated uses identified in Tables 1 and 2 of Unit II in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit IV will be considered a violation of FIFRA.

IV. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The cancellation order issued in this notice includes the following existing stocks provisions.

1. The registrant may continue to sell or distribute existing stocks of fipronil products identified in Tables 1 and 2 of Unit II with previously approved labeling until May 15, 2011.

2. Persons other than the registrant may continue to sell or distribute existing stocks of fipronil products identified in Tables 1 and 2 of Unit II with previously approved labeling until such stocks are exhausted.

3. Persons other than the registrant may use existing stocks of fipronil products identified in Tables 1 and 2 of Unit II until existing stocks are exhausted. Any use of existing stocks must be in a manner consistent with the previously approved labeling for that product.

List of Subjects

Environmental protection, Pesticides and pests, Cancellation order.

Dated: January 19, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Program.

[FR Doc. 2010–2147 Filed 2–2–10; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9108–9]

Notice of a Regional Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Albany County Sewer District (ACSD), NY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Regional Administrator of EPA Region 2 is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the Albany County Sewer District (ACSD), New York for the purchase of a foreign manufactured Organic Rankine Cycle (ORC) turbine generator to recover waste heat from the sludge incineration operation at the ACSD's North Plant wastewater treatment plant (WWTP), and to produce electrical power for on-site consumption. The ACSD, through its consultant engineers, has indicated that no United States manufacturer produces an alternative that meets the ACSD's technical specifications; specifically, no ORC turbine generator manufactured in the United States is of adequate capacity to meet the electrical power output specifications for the proposed WWTP waste heat recovery and on-site electricity generation project. The foreign ORC turbine generators under consideration are manufactured by (1) Turboden, in Italy, (2) Ormat Technologies, Inc, in Israel, and (3) Adoratec, in Germany. This is a project specific waiver and only applies to the use of the identified product for the ARRA funded project being proposed. Any other ARRA project that may wish to use the same product must apply for a separate waiver based on the project specific circumstances. The Regional Administrator is making this determination based on the review and recommendations of the Region 2 State Revolving Fund Program Team. The ACSD has provided sufficient documentation to support its request. The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the ACSD to purchase an ORC turbine generator manufactured by (1) Turboden (Italy), (2) Ormat Technologies, Inc. (Israel) or (3) Adoratec (Germany) for the proposed WWTP waste heat recovery and on-site electricity generation project being implemented by the ACSD.

DATES: *Effective Date:* January 19, 2010.

FOR FURTHER INFORMATION CONTACT: Jane Leu, Environmental Engineer, (212) 637–3815, State Revolving Fund Program Team, Division of Environmental Planning and Protection, U.S. EPA, 290 Broadway, New York, NY 10007.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c) and pursuant to Section 1605(b)(2) of Public Law 111–5, Buy American requirements, the EPA hereby provides notice that it is granting a project waiver to the Albany County Sewer District (ACSD), New York, for the acquisition of an Organic Rankine Cycle (ORC) turbine generator manufactured by any of the following foreign manufacturers: Turboden (Italy), Ormat Technologies, Inc. (Israel), or Adoratec (Germany) to meet the ACSD's technical design specifications for its proposed North Plant wastewater treatment plant (WWTP) waste heat recovery and on-site electricity generation project.

Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States, unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that (1) Applying these requirements would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

The ACSD proposes to modify its North Plant WWTP, which has been in operation since 1974, to provide additional energy savings through the installation of a Combined Heat and Power (CHP) system. The proposed project and design involves the capture of waste heat from the solids handling process and a system that ducts the exhaust gas flow and transports it to a waste-heat-oil heater and ORC system. The ACSD has requested a waiver from the Buy American provision of ARRA for a foreign manufactured ORC turbine generator to recover waste heat from the sludge incineration operation at the ACSD's North Plant WWTP, and to produce electrical power for on-site consumption. ACSD's waiver request stated that the ORC turbine generators manufactured in the United States are not of adequate capacity to meet the electrical power output specifications for the project. The project specifications require that the ORC turbine generator has a maximum electrical generation net power output of 1,000 kilowatt (kW) and a minimum electrical generation net power output of 826 kW. The New York State Environmental Facilities Corporation administers the Clean Water State Revolving Fund on behalf of the New York State Department of Environmental Conservation, and has identified this project for ARRA funding.

ACSD's waiver request included a design and performance specification matrix comparing foreign and domestic ORC turbine generator manufacturers consisting of three foreign (Turboden, Ormat Technologies, Inc, and Adoratec) and four domestic manufacturers (UTC Power, Infinity Turbine, TurboGenix and Barber-Nichols, Inc.). The matrix provides evidence that three of the four domestic manufacturers do not meet the electrical power generation output required by the project specifications. The fourth domestic manufacturer, Barber-Nichols, Inc (BNI), was identified as a potential domestic manufacturer of ORC turbine generators. The ACSD's revised waiver request, however, indicated that BNI was no longer a viable domestic candidate for the ORC turbine generator based upon the following: (1) An e-mail from BNI to ACSD dated July 17, 2008, stating that BNI does not provide complete turbine generator packages (as required in the project specifications), and (2) an e-mail from BNI to ACSD dated August 13, 2008, declining ACSD's invitation to bid on this project.

The information provided to EPA by the ACSD was confirmed through a technical review by EPA's national contractor of the submitted documentation. To the best of EPA's knowledge at this time, there does not

appear to be any American-manufactured ORC turbine generator available to meet the ACSD's project design specifications for its North Plant WWTP. The ACSD's submission clearly articulates entirely functional reasons for its technical specifications, and has provided sufficient documentation that the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantity and of a satisfactory quality to meet its technical specifications.

The April 28, 2009, EPA Headquarters Memorandum, "Implementation of Buy American provisions of Public Law 111–5, the 'American Recovery and Reinvestment Act of 2009' ", defines: *reasonably available quantity* as "the quantity of iron, steel, or the relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design," and *satisfactory quality* as "the quality of iron, steel, or the relevant manufactured good as specified in the project plans and designs."

Based on additional research conducted by the State Revolving Fund Program Team of the Division of Environmental Planning and Protection and to the best of the Region's knowledge at the time of the review, there do not appear to be other ORC turbine generators manufactured domestically that would meet the ACSD's technical specifications.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are "shovel ready" by requiring potential SRF eligible recipients, such as the ACSD, to revise their design standards and specifications. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay construction is in direct conflict with the fundamental purpose of the ARRA, which is to preserve and create jobs and promote economic recovery.

The State Revolving Fund Program Team has reviewed this waiver request and has determined that the supporting documentation provided by the ACSD establishes both a proper basis to specify the particular good required and that the manufactured good was not available from a producer in the United States to meet the design specifications for the proposed project. The information provided is sufficient to meet the criteria listed under Section 1605(b), OMB's regulation at 2 CFR 176.100, and in the EPA Headquarters April 28, 2009, Memorandum, "Implementation of Buy American provisions of Public Law 111–5, the 'American Recovery and Reinvestment Act of 2009':" Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

The basis for this project waiver is the authorization provided in Section 1605(b)(2). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the ACSD's technical specifications, a waiver from the Buy American requirement is justified.

The Administrator's March 31, 2009, delegation of authority memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, the ACSD is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5 for the purchase of an ORC turbine generator from any of the following foreign manufacturers: Turboden (Italy), Ormat Technologies, Inc. (Israel), or Adoratec (Germany) to meet the ACSD's technical design specifications for its North Plant WWTP waste heat recovery and on-site electricity generation project using ARRA funds, as specified in the ACSD's request of September 30, 2009, and as revised on October 28, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers "based on a finding under subsection (b)."

Authority: Public Law 111–5, section 1605.

Dated: January 19, 2010.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2010–2253 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9108–8]

Notice of a Regional Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the West Milford Township Municipal Utilities Authority (WMTMUA), New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Regional Administrator of EPA Region 2 is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the WMTMUA, New Jersey, for the purchase of a membrane bio-reactor (MBR) unit that uses flat-plate membrane cartridges. The WMTMUA's proposed upgrade of its Awosting Sewage Treatment Plant to a MBR facility requires utilizing flat-plate membrane cartridges. No United States manufacturer produces a MBR unit with flat-plate membrane cartridges that meet the specifications for the project. The only MBR unit that incorporates the flat-plate membrane cartridges and meets the WMTMUA's specifications is manufactured in Japan by Kubota. This is a project specific waiver and only applies to the use of the identified product for the ARRA funded project being proposed. Any other ARRA project that may wish to use the same product must apply for a separate waiver based on the project specific circumstances. The Regional Administrator is making this determination based on the review and recommendations of the Region 2 State Revolving Fund Program Team. The WMTMUA has provided sufficient documentation to support its request. The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the purchase of a Kubota MBR unit that uses flat-plate MBR membrane cartridges for the ARRA-funded project being implemented by WMTMUA, New Jersey.

DATES: *Effective Date:* January 19, 2010.

FOR FURTHER INFORMATION CONTACT: Jane Leu, Environmental Engineer, (212) 637–3815, State Revolving Fund

Program Team, Division of Environmental Planning and Protection, U.S. EPA, 290 Broadway, New York, NY 10007.

SUPPLEMENTARY INFORMATION:

In accordance with ARRA Section 1605(c) and pursuant to Section 1605(b)(2) of Public Law 111–5, Buy American requirements, the EPA hereby provides notice that it is granting a project waiver to the WMTMUA, New Jersey, for the acquisition of a MBR unit that utilizes flat-plate membrane cartridges manufactured in Japan by Kubota, to meet the WMTMUA's technical design specifications for its sewage treatment plant upgrade project.

Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States, unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that (1) Applying these requirements would be inconsistent with public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

The WMTMUA has requested a waiver from the Buy American Provision for the purchase of a MBR unit that incorporates flat-plate membrane cartridges manufactured by Kubota of Japan, as part of WMTMUA's proposed upgrade of its Awosting Sewage Treatment Plant to a MBR facility. The MBR unit is comprised of flat-plate membrane cartridges, membrane blowers, fine screens, and other auxiliary components integral to the efficient operation of the wastewater treatment process. The rationale behind WMTMUA's design specification requiring flat-plate MBR membrane cartridges was based on a comprehensive engineering evaluation and assessment of the plate membrane technical data analysis. The specifications required that the MBR membranes meet design removal standards for conventional pollutants and an anticipated, stringent Total Phosphorus effluent limit resulting from a Total Maximum Daily Loads (TMDL) for the receiving waters. Another criterion used was the demonstrated installation and operation of the MBR technology. During the WMTMUA's design research process, information was obtained from facility operators at installations of similar size with several years of operating experience. No American manufacturer of MBR units had a large enough installed base of MBR membranes to demonstrate successful operation of flat-plate MBR membrane cartridges. The Kubota MBR unit was determined to meet the sizing dimensions and design of the WMTMUA sewage treatment plant upgrade project

The information provided to EPA by the WMTMUA was confirmed through a technical review by EPA's national contractor of the submitted documentation. To the best of EPA's knowledge at this time, there does not appear to be any American-manufactured MBR unit utilizing flat-plate MBR membrane cartridges available that meets the WMTMUA's project design specifications for its proposed sewage treatment plant upgrade. The WMTMUA provided a list of membrane manufacturers with recognized experience in treating wastewater, with both types of membranes, hollow fiber and flat plates considered. The WMTMUA 's technical analysis included an "equivalent" specification, to allow the bidder to utilize any one of the various types of membranes (geometry of tankage for both the membranes and the supporting process tanks) in meeting the design specifications. No single domestic manufacturer was able to meet the required geometry of the tankage and supporting process tanks, as each manufacturer requires its own particular geometry. The WMTMUA's submission clearly articulates entirely functional reasons for its technical specifications, and has provided sufficient documentation that the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantity and of a satisfactory quality to meet its technical specifications.

The April 28, 2009, EPA Headquarters Memorandum, "Implementation of Buy American provisions of Public Law 111–5, the 'American Recovery and Reinvestment Act of 2009' ", defines: *reasonably available quantity* as "the quantity of iron, steel, or the relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design," and *satisfactory quality* as "the quality of iron, steel, or the relevant manufactured good as specified in the project plans and designs."

Based on additional research conducted by the State Revolving Fund Program Team of the Division of Environmental Planning and Protection and to the best of the Region's knowledge at the time of the review, there does not appear to be any American-manufactured MBR unit utilizing flat-plate MBR membrane cartridges that meets the WMTMUA's exact technical specifications.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are "shovel ready" by requiring potential State Revolving Fund eligible recipients, such as the WMTMUA, to revise their design standards and specifications. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay construction is in direct conflict with the fundamental purpose of the ARRA, which is to preserve and create jobs and promote economic recovery.

The State Revolving Fund Program Team has reviewed this waiver request and has determined that the supporting documentation provided by the WMTMUA establishes both a proper basis to specify the particular good required and that the manufactured good was not available from a producer in the United States to meet the design specifications for the proposed project. The information provided is sufficient to meet the criteria listed under Section 1605(b), OMB's regulation at 2 CFR 176.100, and in the EPA Headquarters April 28, 2009, Memorandum, "Implementation of Buy American provisions of Public Law 111–5, the 'American Recovery and Reinvestment Act of 2009':" Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The basis for this project waiver is the authorization provided in Section 1605(b)(2). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the WMTMUA's technical specifications, a waiver from the Buy American requirement is justified.

The Administrator's March 31, 2009, delegation of authority memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients.

Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, the WMTMUA is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5 for the purchase of a Kubota MBR unit that incorporates flat-plate MBR membrane cartridges using ARRA funds, as specified in the WMTMUA 's request of June 5, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers "based on a finding under subsection (b)."

Authority: Pub. L. 111–5, section 1605.

Dated: January 19, 2010.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2010–2252 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9109–3]

Notice of a Regional Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the City of Richland (the City), WA for the Purchase of Aerostrip® Fine Pore [Bubble] Diffusers Manufactured Outside of the United States Under the Section 1605 Waiver Authority Based on the Conclusion That Iron, Steel, and the Relevant Manufactured Goods Are Not Produced in the United States in Sufficient and Reasonably Available Quantities and of a Satisfactory Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Acting Regional Administrator of EPA Region 10, is hereby granting a waiver of the Buy America requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the City for the purchase of Aerostrip® Fine Pore Diffusers supplied by Treatment Equipment Company in Bellevue, Washington and manufactured in Austria. This is a project specific waiver and only applies to the use of the specified product for the ARRA project being proposed. Any other ARRA recipient that wishes to use the same product must apply for a separate waiver based on project specific circumstances. The applicant indicates that Aerostrip® Fine Pore Diffusers are the only feasible equipment to retrofit Richland's existing Waste Water Treatment Facility aeration basins. The Aerostrip® Fine Pore Diffusers are only manufactured in Austria. No other fine pore diffusers are available or capable of meeting the aeration process design requirements. The Acting Regional Administrator is making this determination based on the review and recommendations of the Grants & Strategic Planning Unit. The City has provided sufficient documentation to support their request.

DATES: *Effective Date:* December 16, 2009.

FOR FURTHER INFORMATION CONTACT: Bryan Fiedorczyk, CWSRF ARRA Program Analyst, Grants & Strategic Planning Unit, Office of Water & Watersheds (OWW), (206) 553–0506, U.S. EPA Region 10 (OWW–137), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

SUPPLEMENTARY INFORMATION:

In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(b)(2) of Public Law 111–5, Buy American requirements, to the City for the acquisition of Aerostrip® Fine Pore Diffusers supplied by Treatment Equipment Company in Bellevue, Washington and manufactured in Austria. The applicant indicates that Aerostrip® Fine Pore Diffusers are the only feasible equipment to retrofit Richland's existing Waste Water Treatment Facility aeration basins. The Aerostrip® Fine Pore Diffusers are only manufactured in Austria. No other fine pore diffusers are available or capable of meeting the aeration process design requirements. Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project is produced in the United States unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that (1) Applying these requirements would be inconsistent with public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

This ARRA-funded project involves upgrading the aeration system in one of the Waste Water Treatment Facility's existing aeration basins, AB2 (replacement of an existing mechanical aeration system with a fine bubble strip membrane diffuser aeration system) and installation of additional fine bubble strip membrane aeration diffusers in the facility's other existing aeration basin, AB1. This project will thus complete the facility's aeration system upgrade originally designed (using proprietary strip membrane diffusers) to replace the mechanical aeration systems in the facility's two aeration basins. Important objectives of the project's improvements are to reduce energy consumption by more than 70% and reduce the discharge of suspended solids, biochemical oxygen demand and nitrogen into the Columbia River. Further requirements of the project dictated by the constraints of the existing facility include (1) Retrofit installation in the existing sloped wall basins, (2) compatibility with the aeration diffusers installed in a previous system upgrade, and (3) limiting the size of the associated aeration system blower upgrade to the available capacity of the facility's existing electrical system infrastructure. The objectives described above reflect appropriate and desirable performance upgrades central to the function of the facility, and are a justifiable basis for specifications to achieve those objectives. Similarly, the requirements for compatibility with various features of the existing facility are justified as appropriate and necessary specifications for a retrofit project.

The applicant states that the engineer for the original project design evaluated fine bubble diffusers available from four manufacturers, and concluded that the Aerostrip® diffusers were the best selection for the project because:

☐ The project would require smaller aeration blowers since the Aerostrip® diffusers:

○ Generate smaller bubbles (creating a higher oxygen transfer surface area and efficiency).

○ Operate at lower air flow per surface area to provide the required dissolved oxygen concentration to the wastewater under aeration.

○ Use lower minimum air flow to open the pores of the diffuser.

☐ The smaller aeration blower requirement resulting from the use of the Aerostrip® diffusers allows the blower equipment to be implemented without requiring an upgrade to the facility's electrical power system.

☐ The strip configuration of the Aerostrip® diffusers (available in several dimensional configurations) is compatible with physical retrofit requirements of the project (i.e., some diffusers require installation on sloped walls of the existing aeration basins).

Information provided by the applicant also indicates that the Aerostrip® diffuser is preferable for the project because:

☐ It is compatible with the aeration diffuser upgrade previously implemented in AB1 (which will allow for symmetrical flow/Biochemical Oxygen Demand (BOD) loading to the two aeration basins, simplifying the operation of the treatment plant).

☐ It will provide the requisite aeration capacity for the upgrade project within the facility's existing two aeration basins (i.e., use of an alternate fine bubble diffuser would require the design and construction of a third aeration basin to provide the required aeration capacity for the design BOD loading).

The April 28, 2009 EPA HQ Memorandum, Implementation of Buy American provisions of Public Law 111–5, the "American Recovery and Reinvestment Act of 2009", defines "reasonably available quantity" as the quantity of iron, steel, or relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design. The City has incorporated specific technical design features for the proposed project based on the performance characteristics of the Aerostrip® diffusers to meet the highest flow and loading demands of the Richland Waste Water Treatment Facility and the appropriate constraints of a retrofit project in an existing facility while minimizing energy consumption, operating costs and future capital improvements.

The City has provided information to the EPA representing that there are currently no fine pore diffusers of comparable quality available from a domestic manufacturer to meet its specifications.

Based on additional research by EPA's consulting contractor (Cadmus), and to the best of the Region's knowledge at this time, there does not appear to be other fine pore diffusers available to meet the City's specifications.

Furthermore, the purpose of the ARRA provisions was to stimulate economic recovery by funding current infrastructure construction, not to delay projects that are already shovel ready by requiring entities, like the City, to revise their design and potentially choose a more costly and less efficient project. The imposition of ARRA Buy American requirements on such projects eligible for CWSRF assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay construction is in direct conflict with the most fundamental economic purposes of ARRA; to create or retain jobs.

The Grants & Strategic Planning Unit has reviewed this waiver request and has determined that the supporting documentation provided by the City is sufficient to meet the following criteria listed under Section 1605(b), 2 CFR 176.60–176.170, and in the April 28, 2009, Implementation of Buy American provisions of Public Law 111–5, the "American Recovery and Reinvestment Act of 2009" Memorandum: Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

The basis for this project waiver is the authorization provided in Section 1605(b)(2), due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the City's design specifications. The March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, the City is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5 for the purchase of Aerostrip® Fine Pore Diffusers supplied by Treatment Equipment Company in Bellevue, Washington and manufactured in Austria as specified in the City's request of November 6, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

Authority: Public Law 111–5, section 1605.

Dated: December 21, 2009.

Michelle L. Pirzadeh,

Acting Regional Administrator, EPA, Region 10.

[FR Doc. 2010–2255 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9109–1]

Science Advisory Board Staff Office; Request for Public Nominations of Experts To Conduct a Peer Review of EPA's Draft Document "An Advisory Value for Conductivity Using Field Data: An Adaptation of the U.S. EPA's Standard Methodology for Deriving Water Quality Criteria"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for additional public nominations.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office is seeking public nomination of experts to conduct a peer review of EPA's draft document "An Advisory Value for Conductivity using Field Data: An Adaptation of the U.S. EPA's Standard Methodology for Deriving Water Quality Criteria"

DATES: Nominations should be submitted by February 17, 2010 per the instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this request for nominations may contact Mr. Edward Hanlon, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 343–9946; by fax at (202) 233–0643 or via email at *hanlon.edward@epa.gov.* General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at: *http://www.epa.gov/sab.* Any inquiry regarding EPA's Office of Research and Development (ORD) draft document entitled "An Advisory Value for Conductivity using Field Data: An Adaptation of the U.S. EPA's Standard Methodology for Deriving Water Quality Criteria" should be directed to Dr. Michael Slimak, ORD's Associate Director of Ecology, National Center for Environmental Assessment (NCEA), who may be contacted via telephone at (703) 347–8524 or by e-mail at *slimak.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: Recent published scientific information indicates that discharges from mountaintop mining and valley-fill operations in Southern Appalachia may be linked to degraded water quality and adverse impacts on in-stream biota. Discharges from surface coal mining, valley-fills and associated operations are regulated under the Clean Water Act (CWA) and under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Under the CWA, discharges from mountaintop mining

and valley-fill operations require an NPDES permit that either meets technology-based effluent limits or water quality-based limits that are developed from ambient water quality criteria. Ambient Water Quality Criteria are developed for specific pollutants, and their application takes into account the conditions of a waterbody that are designed to protect the designated uses of the waterbody.

EPA's ORD has developed a report that uses field data to derive an aquatic life advisory value for conductivity (a measure of salinity) that may be applied to waters in the Appalachian Region that are dominated by salts of SO_4^{2-} and HCO_3^-. This advisory value is intended to protect the biological integrity of waters in the region. It is derived by a method modeled on EPA's standard methodology for deriving water quality criteria. In particular, the methodology was adapted for use of field data.

ORD is requesting the SAB to peer review this draft conductivity document. In a **Federal Register** Notice (Volume 74, Number 185, Pages 48952—48953) published on September 25, 2009, the SAB Staff Office solicited public nominations for a proposed SAB expert Panel to provide advice on ORD's draft assessment of ecological impacts related to mountaintop mining and valley-fill operations. Since the mountaintop mining assessment report and the conductivity advisory document are related, the SAB Staff Office is forming one expert panel under the auspices of the SAB to cover the necessary expertise for the review of both reports.

Request for Nominations: In addition to the expertise previously sought in the above noted **Federal Register** Notice, the SAB Staff office is seeking public nominations of experts with nationally recognized expertise, knowledge, and experience in statistics with emphasis in management of empirical data sets associated with aquatic ecology or water quality criteria.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals in the areas of expertise described above for possible service on this expert *ad hoc* Panel. Nominations should be submitted in electronic format (which is preferred over hard copy) following the instructions for "Nominating Experts to Advisory Panels and Ad Hoc Committees Being Formed" provided on the SAB Web site. The instructions can be accessed through the "Nomination of Experts" link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab.* To receive full consideration, nominations should include all of the information requested.

EPA's SAB Staff Office requests: contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vita; sources of recent grant and/or contract support; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other national advisory committees or national professional organizations.

Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact Mr. Edward Hanlon, DFO, as indicated above in this notice. Nominations should be submitted in time to arrive no later than February 17, 2010.

The EPA SAB Staff Office will acknowledge receipt of nominations. The names and biosketches of qualified nominees identified by respondents to this **Federal Register** notice and to the September 25, 2009 **Federal Register** Notice (Volume 74, Number 185, Pages 48952—48953), and additional experts identified by the SAB Staff, will be posted in an Updated List of Candidates on the SAB Web site at *http://www.epa.gov/sab.* Public comments on this Updated List of Candidates will be accepted for 21 calendar days. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

For the EPA SAB Staff Office, a balanced subcommittee or review panel includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. In establishing this expert *ad hoc* Panel to provide advice on the ecological impacts related to mountaintop mining and valley-fill operations and on deriving an aquatic life ambient water quality advisory value for conductivity using field data, the SAB Staff Office will consider public comments on the List of candidates, information provided by the candidates themselves, and background information independently gathered by the SAB Staff Office. Selection criteria to be used for Panel membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a lack of impartiality; and (e) skills working in committees, subcommittees and advisory panels; and, for the Panel as a whole, (f) diversity of scientific expertise and viewpoints. 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.

The SAB Staff Office's evaluation of an absence of financial conflicts of interest will include a review of the "Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency" (EPA Form 3110–48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address *http://www.epa.gov/sab/pdf/epaform3110–48.pdf.*

The approved policy under which the EPA SAB Office selects subcommittees and review panels is described in the following document: *Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board* (EPA–SAB–EC–02–010), which is posted on the SAB Web site at *http://www.epa.gov/sab/pdf/ec02010.pdf.*

Dated: January 27, 2010.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2010–2250 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 28, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this

opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Persons wishing to comments on this information collection should submit comments on or before April 5, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Judith B. Herman, Federal Communications Commission (FCC). To submit your PRA comments by e–mail send them to: PRA@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to web page: http://www.reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the FCC list appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, OMD, 202–418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0758.

Title: Sections 5.55, 5.61, 5.75, 5.85 and 5.93, Rules for the Experimental Radio Service, Part 5, ET Docket No. 96–256.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for–profit, not–for–profit institutions, and state, local or tribal government.

Number of Respondents: 428 respondents; 4,524 responses.

Estimated Time Per Response: .25 – 2.5 hours.

Frequency of Response: On occasion and one–time reporting requirements and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i), 303(c), 303(f), 303(g) and 303(r).

Total Annual Burden: 681 hours.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: The Experimental Licensing System database is publicly accessible and in general, respondents do not have any assurances of confidentiality. However, applicants may request that certain portions of their application be kept confidential. In these instances, the Commission established rules in 47 CFR 0.459 regarding how to file such requests.

Need and Uses: The Commission is submitting this expiring information collection to the Office of Management and Budget at the end of this 60 day comment period in order to obtain the full three year clearance from them. There is no change in the reporting and/or third party disclosure requirements. There are no changes to the Commission's burden estimates.

Section 5.55(c) requires that each application for experimental radio authorization shall be specific and complete with regard to: station location, proposed equipment, power, antenna height, and operating frequency; and other information required by the application form and rules.

Section 5.61(c) requires that an application for experimental special temporary authority shall contain name, address, phone number of the applicant, description of why the STA is needed, description of the operation to be conducted and its purpose, time and dates of proposed operation, classes of station and call sign, description of the location, equipment to be used, frequency desired, power desired, and antenna height information.

Section 5.75 requires that if a blanket experimental radio license is granted licensees are required to notify the Commission of specific details of each individual experiment. Specific details should include location, number of base and mobile units, power, emission designator, and any other pertinent technical information not specified by the blanket license.

Section 5.85(d) when applicants are using public safety frequencies to perform experiments of a public safety nature, the license may be conditioned to require coordination between the experimental licensee and appropriate frequency coordinator and/or all public safety licensees in its area of operation.

Section 5.85(e) states that the Commission may at its discretion condition any grant of an experimental license or special temporary authority (STA) on the requirement that before commencing operation, the new licensee must coordinate its proposed facility with other licensees that may receive interference as a result of the new licensee's operations; and

Section 5.93(b) unless otherwise stated in the instrument of authorization licenses granted for the purpose of limited market studies require the licensee to inform anyone participating in the experiment that the service or device is granted under an experimental authorization and is strictly temporary.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2010–2227 Filed 2–2–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission, Comments Requested

January 29, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Persons wishing to comments on this information collection should submit comments on or before April 5, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Judith B. Herman, Federal Communications Commission (FCC). To submit your PRA comments by e–mail send them to: PRA@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, OMD, 202–418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0953.

Title: Sections 95.1111 and 95.1113, Frequency Coordination/Coordinator, Wireless Medical Telemetry Service.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit and not–for–profit institutions.

Number of Respondents: 2,728 respondents; 2,728 responses.

Estimated Time Per Response: 4 hours (average).

Frequency of Response: On occasion reporting requirement, third party disclosure requirement, and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 10,912 hours.

Total Annual Cost: $545,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Need and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) as an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements). The Commission's burden estimate for the number of respondents increased from 2,500 to 2,728 with this submission to the OMB. This adjustment in the number of respondents is to reflect more accurate estimates that the Commission has obtained over time.

On June 12, 2000, the Commission adopted rules which allocated spectrum for Wireless Medical Telemetry Service (WMTS) that allows potentially life–critical equipment to operate in an interference–protected basis. Medical telemetry equipment is used in hospitals and health care facilities to transmit patient measurement data such as pulse and respiration rate to a nearby receiver, permitting greater patient mobility and increased comfort. The Commission designated a frequency coordinator, who maintains a database of all WMTS equipment. All parties using equipment in the WMTS are required to coordinate/register their operating frequency and other relevant technical operating parameters with the designated coordinator. The database provides a record of the frequencies used by each facility or device to assist parties in selecting frequencies to avoid interference. Without the database, there would be no record of WMTS usage because WMTS transmitters will not be individually licensed. The designated frequency coordinator has the responsibility to maintain an accurate engineering database of all WMTS transmitters, identified by location (coordinates, street address, building), operating frequency, emission type and output power, frequency range(s) used, modulation scheme used, effective radiated power, number of transmitters in use at the health care facility at the time of registration, legal name of the authorized health care provider, and point of contact for authorized health care provider. The frequency coordinator will make the database available to WMTS users, equipment manufacturers and the public. The coordinator will also notify users of potential frequency conflicts.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2010–2231 Filed 2–2–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission, Comments Requested

January 28, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Persons wishing to comments on this information collection should submit comments on or before April 5, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at

Nicholas_A._Fraser@omb.eop.gov and to Judith B. Herman, Federal Communications Commission (FCC). To submit your PRA comments by e–mail send them to: PRA@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to web page: http://www.reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the FCC list appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, OMD, 202–418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0895.

Title: Section 52.15, Numbering Resource Optimization, CC Docket No. 99–200.

Form No.: FCC Form 502.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents: 2,780 respondents; 7,385 responses.

Estimated Time Per Response: 1 – 44.4 hours.

Frequency of Response: On occasion and semi–annual reporting requirements and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in 47 U.S.C. sections 151, 153, 154, 201–205, and 251.

Total Annual Burden: 131,782 hours.

Total Annual Cost: $3,462,800.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Disaggregated, carrier specific forecast and utilization data will be treated as confidential and will be exempt from public disclosure under 5 U.S.C. 552(b)(4).

Need and Uses: The Commission is requesting an extension (no change in the reporting and/or recordkeeping requirements) in order to obtain the full three year clearance from the Office of Management and Budget (OMB). There is no change to the Commission's burden estimates.

The data collected on FCC Form 502 helps the Commission manage the ten–digit North American Numbering Plan (NANP), which is currently being used by the United States and 19 other countries. Under the Communications Act of 1934, as amended, the Commission was given "exclusive jurisdictions over those portions of the North American Numbering Plan that pertain to the United States." Pursuant to that authority, the Commission adopted a Report and Order in 2000 that among other things addressed regular reporting on numbering use by United States carriers.

There are seven information collection requirements in this submission to the OMB. They are: 1) utilization/forecast report; 2) application for initial numbering resources; 3) application for growth numbering resources; 4) recordkeeping requirement; 5) notification by state commissions; 6) demonstration to state commissions; and 7) petitions for additional delegation of numbering authority.

The data from this collection of information is used by the FCC, state regulatory commissions, and the NANPA to monitor numbering resource utilization by all carriers using the resource and to project the dates of area code and NANP exhaust.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2010–2232 Filed 2–2–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Submitted to the Office of Management and Budget (OMB) for Review, Comments Requested

January 29, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Persons wishing to comments on this information collection should submit comments on or before March 5, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Judith B. Herman, Federal Communications Commission (FCC). To submit your PRA comments by e–mail send them to: PRA@fcc.gov.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to web page: http://www.reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the FCC list appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, OMD, 202–418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0775.

Title: Section 64.1903, Obligations of All Incumbent Local Exchange Carriers (LECs).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents: 510 respondents; 510 responses.

Estimated Time Per Response: 500 – 6,056 hours.

Frequency of Response: Recordkeeping requirements.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in 47 U.S.C. sections 151, 152, 154, 201, 202, 251, 271, 272, and 303(r).

Total Annual Burden: 310,560 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: This is a recordkeeping requirement. There is no need for confidentiality.

Need and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) during this comment period in order to obtain the full three year clearance from them. There is no change in the recordkeeping requirement. However, there is a significant change in the Commission's burden estimates. The burden for this information collection increased by 250,000 hours and the estimated cost in the previous submission has been eliminated. The burden hour increase is due to 500 additional respondents and re–estimates of the burden calculations.

Section 64.1903 imposes recordkeeping requirements on independent local exchange carriers (LECs). Independent LECs wishing to offer international, interexchange services must comply with the separate affiliate requirements of the Competitive Carrier Fifth Report and Order in order to do so. One of these requirements is that independent LEC's international, interexchange affiliate must maintain books of account separate from such LEC's local exchange and other activities. This regulation does not require that the affiliate maintain books of account that comply wit the Commission's Part 32 rules; rather, it refers to the fact that as a separate legal entity, the international, interexchange affiliate must maintain its own books of account in the ordinary course of its business.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2010–2229 Filed 2–2–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission For Extension Under Delegated Authority, Comments Requested

January 28, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Persons wishing to comments on this information collection should submit comments on or before April 5, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Judith B. Herman, Federal Communications Commission (FCC). To submit your PRA comments by e–mail send them to: PRA@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to web page: http://www.reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the FCC list appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, OMD, 202–418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0308.

Title: Section 90.505, Developmental Operation, Showing Required.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit, not–for–profit institutions, and state, local or tribal government.

Number of Respondents: 10 respondents; 10 responses.

Estimated Time Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. section 308(b).

Total Annual Burden: 20 hours.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Need and Uses: Section 90.505 requires applicants proposing developmental operations to submit supplemental information showing why the authorization is necessary and what its use will be.

This requirement will be used by Commission personnel in evaluating the applicant's need for such frequencies and the interference potential to other stations operating on the proposed frequencies.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2010–2228 Filed 2–2–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201112–002.

Title: Lease and Operating Agreement between Philadelphia Regional Port Authority and Kinder Morgan Liquids Terminals LLC.

Parties: Philadelphia Regional Port Authority and Kinder Morgan Liquids Terminals, LLC.

Filing Party: Paul D. Coleman, Esq.; Hoppel, Mayer & Coleman; 1050 Connecticut Ave., NW., 10th Floor; Washington, DC 20036.

Synopsis: The amendment restates the lease to provide a new initial term until December 31, 2019, with five yearly renewal periods; set new rent terms; and makes other miscellaneous changes.

Agreement No.: 201118–002.

Title: Lease and Operating Agreement between Philadelphia Regional Port Authority and Kinder Morgan Linquest Terminals LLC.

Parties: Philadelphia Regional Port Authority and Penn Warehousing and Distribution, Inc.

Filing Party: Paul D. Coleman, Esq.; Hoppel, Mayer & Coleman; 1050 Connecticut Ave. NW., 10th Floor; Washington, DC 20036.

Synopsis: The amendment defines the lease year, clarifies the dockage fee, allows a credit to the Lessee if dockage fees collected reach a certain level, and make other miscellaneous changes.

Dated: January 29, 2010.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–2307 Filed 2–2–10; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; HIT Policy Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Policy Committee.

General Function of the Committee: To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The meeting will be held on February 17, 2010, from 10 a.m. to 4 p.m./Eastern Time.

Location: The Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC. The hotel telephone number is 202–234–0700.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov*. Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear comments from its workgroups, including the Meaningful Use Workgroup, the Certification/Adoption Workgroup, the NHIN Workgroup, the Privacy & Security Policy Workgroup, and the Strategic Plan Workgroup, on the Notice of Proposed Rulemaking (NPRM) on EHR Incentive Program for Medicare and Medicaid, and the Interim Final Rule (IFR) on Standards, Implementation Specifications, and Certification Criteria for EHRs. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posed on ONC's Web site after the meeting, at *http://healthit.hhs.gov*.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 10, 2010. Oral comments from the public will be scheduled between approximately 3:30 p.m. to 4:00 p.m. Time allotted for each presentation is limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: January 27, 2010.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2010–2213 Filed 2–2–10; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology

HIT Standards Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Standards Committee.

General Function of the Committee: To provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

Date and Time: The meeting will be held on February 24, 2010, from 9 a.m. to 4 p.m./Eastern Time.

Location: The Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC. The hotel telephone number is 202–234–0700.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear comments from its workgroups, including the Clinical Operations, Clinical Quality, Privacy & Security, and Implementation Workgroups, on the Interim Final Rule (IFR) on Standards, Implementation Specifications, and Certification Criteria for EHRs, and on the Notice of Proposed Rulemaking (NPRM) on EHR Incentive Program for Medicare and Medicaid. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posed on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 16, 2010. Oral comments from the public will be scheduled between approximately 3 p.m. and 3:30 p.m./Eastern Time. Time allotted for each presentation will be limited to three minutes each. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App. 2).

Dated: January 27, 2010.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2010–2214 Filed 2–2–10; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-10–09AL]

Proposed Data Collections Submitted for Public Comment and Recommendations

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 Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (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. Written comments should be received within 60 days of this notice.

Proposed Project

Environmental Health Impacts on Women and Children in Low-income Multifamily Housing—NEW—National Center for Environmental Health (NCEH) and Agency for Toxic Substances and Disease Registry (ATSDR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Green building principles and practices have been shown to reduce energy consumption, but their efficacy in reducing environmental agents such as pesticides, volatile organic compounds (VOCs), fungi, and indoor allergens is not clear. Furthermore, little research has been conducted on health impacts that might be related to green buildings, especially on a nationwide scale. Three main goals of this study are: (1) To compare levels of certain environmental chemical and biological agents in green vs. traditional, multi-family, low-income housing; (2) to ascertain differences in the health of the residents in these homes; and (3) to assess the economic impacts of the "greening" of housing—particularly those related to health. These goals will be accomplished in ongoing low-income multi-family building renovation programs sponsored by the Department of Housing and Urban Development (HUD). In partnership with HUD, the CDC will leverage this opportunity to collect survey and biomarker data from residents and to collect environmental measurements in their homes in order to evaluate associations between green housing and health (notably childhood asthma morbidity and premature/low birth weight outcomes).

This study directly supports the Healthy Homes' health protection goal of the Centers for Disease Control and Prevention (CDC). This investigation is also consistent with CDC's Health Protection Research Agenda, which

calls for research to identify the major environmental causes of disease and disability and related risk factors.

Indoor allergens such as those from cockroaches, dust mites, mice, and fungi have been associated with childhood asthma. Also, VOCs and pesticides have been associated with adverse birth outcomes (e.g., low birth weight and prematurity). Given that green principles such as improvement of ventilation systems and elimination of spray pesticides can directly affect the concentrations of chemical and biological agents in air, residents in green housing should theoretically have better health outcomes (e.g., asthma and birth outcomes). Better health outcomes will, in turn, lead to lower healthcare utilization resulting in overall costs to society.

Participants will include pregnant women and children living in HUD-subsidized housing that has either been rehabilitated in a green (e.g., case) or a traditional manner (e.g., control) from study sites across the United States. Pregnant women and children with asthma (ages 7–12 years) will donate blood samples (for assessment of allergy) and urine samples (for assessment of pesticide and VOC exposures). The children with asthma (ages 7–12 years) will be also tested for lung function and lung inflammatory markers. Questionnaires regarding home characteristics and respiratory symptoms will be administered at 3-month intervals over a 1-year period. Environmental sampling of the air and dust in the participants' homes will be conducted over a 1-year period (once in the home before rehabilitation (baseline 1), and then at three time points after rehabilitation has been completed: baseline 2, 6 months, and 12 months). Environmental sampling includes measurements of air exchange rate, pesticides, VOCs, indoor allergens, fungi, temperature, humidity, and particulate matter.

There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Mothers of enrolled children.	Screening questionnaire	800	1	10/60	133
	Baseline Questionnaire (Home Characteristics)	688	1	15/60	172
	Baseline Questionnaire (for Mother)	688	1	15/60	172
	Baseline Questionnaire (for Children with asthma 7–12 years).	688	1	15/60	172
	Baseline Questionnaire (for Children 0–6 years)	688	1	15/60	172
	3- and 9-month Phone contact	688	2	5/60	115
	6- and 12-month Follow-up Questionnaire (for environment).	688	2	10/60	229
	6- and 12-month Follow-up Questionnaire (for women).	688	2	10/60	229
	6- and 12-month Follow-up Questionnaire (for Children with asthma 7–12 years).	688	2	10/60	229
	6- and 12-month Follow-up Questionnaire (for children 0–6).	688	2	10/60	229
	Time/Activity form (for Children with asthma 7–12 years).	688	4	5/60	229
	Time/Activity form (for Children 0–6 years)	688	4	5/60	229
	Time/Activity form (for Pregnant women or mothers).	688	4	5/60	229
Pregnant women	Screening questionnaire	800	1	10/60	133
	Baseline Questionnaire (Home Characteristics)	688	1	15/60	172
	Baseline Questionnaire (for Pregnant woman)	688	1	15/60	172
	3- and 9-month Phone contact	688	2	5/60	115
	6- and 12-month Follow-up Questionnaire (for environment).	688	2	10/60	229
	6- and 12-month Follow-up Questionnaire (for women).	688	2	10/60	229
	Post-delivery questionnaire	688	1	5/60	57
	Time/Activity form (for Pregnant women or mothers).	688	4	5/60	229
Total					3,875

Dated: January 27, 2010.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–2275 Filed 2–2–10; 8:45 am]

BILLING CODE 4163–18–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: Protection and Advocacy for Individuals With Mental Illness (PAIMI) Final Rule, 42 CFR Part 51 (OMB No. 0930–0172)—Extension

These regulations meet the directive under 42 U.S.C. 10826(b) requiring the Secretary to promulgate final regulations to carry out the PAIMI Act. The regulations contain information collection requirements. The Act authorizes funds to support activities on behalf of individuals with significant (severe) mental illness (adults) or emotional impairment (children/youth) [42 U.S.C. 10802(4)]. Only entities that are designated by the governors of each State, the District of Columbia (Mayor), five (5) jurisdictions (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, The Commonwealth of Puerto Rico, and the U.S. Virgin Islands), and the American Indian Consortium (the Tribal Councils of the Hopi and Navajo Nations in the Southwest) to protect and advocate the rights of persons with developmental disabilities under Title I, Subtitle C—Protection and Advocacy of Individual Rights of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 150041 *et seq.*], are eligible to receive PAIMI Program grants [42 U.S.C. 10802 (2)]. These grants are based on a formula prescribed by the Secretary [42 U.S.C. at 10822(a)(1)(A)].

On January 1, each eligible State protection and advocacy (P&A) system is required to prepare a report that describes its activities, accomplishments, and expenditures to protect the rights of individuals with mental illness supported with payments from PAIMI Program allotments during the most recently completed fiscal year. The PAIMI Act at 42 U.S.C. 10824(a) requires that each P&A system transmit a copy of its annual report to the Secretary (via SAMHSA/CMHS) and to the State Mental Health Agency where the system is located. These annual PAIMI Program Performance Reports (PPR) to the Secretary must include the following information:

- The number of (PAIMI-eligible) individuals with mental illness served;
- A description of the types of activities undertaken;
- A description of the types of facilities providing care or treatment to which such activities are undertaken;
- A description of the manner in which the activities are initiated;
- A description of the accomplishments resulting from such activities;
- A description of systems to protect and advocate the rights of individuals with mental illness supported with payments from PAIMI Program allotments;
- A description of activities conducted by States to protect and advocate such rights;
- A description of mechanisms established by residential facilities for individuals with mental illness to protect such rights;
- A description of the coordination among such systems, activities and mechanisms;
- Specification of the number systems that are public and nonprofit systems established with PAIMI Program allotments;
- Recommendations for activities and services to improve the protection and advocacy of the rights of individuals with mental illness and a description of the need for such activities and services that were not met by the State P&A systems established under the PAIMI Act due to resource or annual program priority limitations.

** [The PAIMI Rules [42 CFR 51.32(b)] state that P&A systems may place restrictions on case or client acceptance criteria developed as part of its annual PAIMI priorities. Each P&A system is required to inform prospective clients of any such restrictions when he/she requests a service].

This PAIMI PPR summary must include a separate section, prepared by the PAIMI Advisory Council (PAC) that describes the council's activities and its assessment of the operations of the State P&A system [42 U.S.C. 10805(7)].

The estimated annual burden under the PAIMI Final Rule is summarized below:

42 CFR citation	Number of respondents	Responses per respondent	Burden/ response (hrs.)	Total hour burden
* 51.8(a)(2) Program Performance Report	57	1	26	(1482)
* 51.8(8)(a)(8) Advisory Council Report	57	1	10	(570)
51.10 Remedial Actions:.				
Corrective Action Plan	7	1	8	56
Implementation Status Reports	7	3	2	42
51.23(c) Reports, materials and fiscal data provided to the PAC	57	1	1	57
51.25(b)(3) Grievance Procedure	57	1	0.5	29
† 51.43 Written denial of access by P&A system	.....	.....	.....	.....
Total	57	.....	.....	184

* Responses and burden hours associated with these reports were approved under OMB Control No. 0930–0169.

Written comments and recommendations concerning the proposed information collection should be sent by March 5, 2010 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: January 27, 2010.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. 2010–2239 Filed 2–2–10; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office at (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Children's Hospitals Graduate Medical Education Payment Program (CHGME Payment Program) (OMB No. 0915–0247)—Extension

The CHGME Payment Program was enacted by Public Law 106–129 and reauthorized by Public Law 109–307 to provide Federal support for graduate medical education (GME) to freestanding children's hospitals. This legislation attempts to provide support for GME comparable to the level of Medicare GME support received by other, non-children's hospitals. The legislation indicates that eligible children's hospitals will receive payments for both direct and indirect medical education. Direct payments are designed to offset the expenses associated with operating approved graduate medical residency training programs and indirect payments are designed to compensate hospitals for expenses associated with the treatment of more severely ill patients and the additional costs relating to teaching residents in such programs.

Data are collected on the number of full-time equivalent residents in applicant children's hospitals' training programs to determine the amount of direct and indirect medical education payments to be distributed to participating children's hospitals. Indirect medical education payments will also be derived from a formula that requires the reporting of discharges, beds, and case mix index information from participating children's hospitals. Hospitals will be requested to submit such information in an annual application. Hospitals will also be requested to submit data on the number of full-time equivalent residents a second time during the Federal fiscal year to participate in the reconciliation payment process.

The estimated annual burden is as follows:

Form name	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours
HRSA 99–1 (Initial)	60	1	60	24.67	1,480.2
HRSA 99–1 (Reconciliation)	60	1	60	6	360
HRSA 99–2 (Initial)	60	1	60	11.33	679.8
HRSA 99–2 (Reconciliation)	60	1	60	3.67	220.2
HRSA 99–3 (Initial)	60	1	60	0.5	30
HRSA 99–3 (Reconciliation)	60	1	60	0.5	30
HRSA 99–4 (Reconciliation)	60	1	60	11	660
HRSA 99–5 (Initial)	60	1	60	0.33	19.8
HRSA 99–5 (Reconciliation)	60	1	60	0.33	19.8
Total	60		60		3,499.8

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the "attention of the desk officer for HRSA."

Dated: January 27, 2010.

Sahira Rafiullah,

Deputy Director, Division of Policy Review and Coordination.

[FR Doc. 2010–2245 Filed 2–2–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1341–NC]

Medicare and Medicaid Programs; Announcement of Applications From Hospitals Requesting Waiver for Organ Procurement Service Area

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

ACTION: Notice with comment period.

SUMMARY: Two hospitals have requested waivers of statutory requirements that would otherwise require the hospitals to enter into an agreement with their designated Organ Procurement Organization (OPO). Both requests were made in accordance with section 1138(a)(2) of the Social Security Act (the Act). This notice requests comments from OPOs and the general public for our consideration in determining whether we should grant the requested waivers.

DATES: *Comment Date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on April 5, 2010.

ADDRESSES: In commenting, please refer to file code CMS–1341–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the instructions under the "More Search Options" tab.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1341–NC, P.O. Box 8010, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1341–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850. [**Note:** This zipcode for express mail or courier delivery only. This zipcode specifies the agency's physical location.]

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850. [**Note:** This zipcode for express mail or courier delivery only. This zipcode specifies the agency's physical location.]

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Mark A. Horney, (410) 786–4554.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov*. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

Organ Procurement Organizations (OPOs) are not-for-profit organizations that are responsible for the procurement, preservation, and transport of transplantable organs to transplant centers throughout the country. Qualified OPOs are designated by the Centers for Medicare & Medicaid Services (CMS) to recover or procure organs in CMS-defined exclusive geographic service areas, pursuant to section 371(b)(1)) of the Public Health Service Act (42 U.S.C. 273(b)(1) and our regulations at 42 CFR 486.306. Once an OPO has been designated for an area, hospitals in that area that participate in Medicare and Medicaid are required to work with that OPO in providing organs for transplant, pursuant to section 1138(a)(1)(C) of the Social Security Act (the Act) and our regulations at 42 CFR 482.45.

Section 1138(a)(1)(A)(iii) of the Act provides that a hospital must notify the designated OPO (for the service area in which it is located) of potential organ donors. Under section 1138(a)(1)(C) of the Act, every participating hospital must have an agreement to identify potential donors only with its designated OPO.

However, section 1138(a)(2)(A) of the Act provides that a hospital may obtain a waiver of the above requirements from the Secretary under certain specified conditions. A waiver allows the hospital to have an agreement with an OPO other than the one initially designated by CMS, if the hospital meets certain conditions specified in section 1138(a)(2)(A) of the Act. In addition, the Secretary may review additional criteria described in section 1138(a)(2)(B) of the Act to evaluate the hospital's request for a waiver.

Section 1138(a)(2)(A) of the Act states that in granting a waiver, the Secretary must determine that the waiver—(1) is expected to increase organ donations; and (2) will ensure equitable treatment of patients referred for transplants within the service area served by the designated OPO and within the service area served by the OPO with which the hospital seeks to enter into an agreement under the waiver. In making a waiver determination, section 1138(a)(2)(B) of the Act provides that the Secretary may consider, among other factors: (1) Cost-effectiveness; (2) improvements in quality; (3) whether there has been any change in a hospital's designated OPO due to the changes made in definitions for metropolitan statistical areas; and (4) the length and continuity of a hospital's relationship with an OPO other than the hospital's designated OPO. Under section 1138(a)(2)(D) of the Act, the Secretary is required to publish a notice of any waiver application received from a hospital within 30 days of receiving the application, and to offer interested parties an opportunity to comment in writing during the 60-day period beginning on the publication date in the **Federal Register**.

The criteria that the Secretary uses to evaluate the waiver in these cases are the same as those described above under sections 1138(a)(2)(A) and (B) of the Act and have been incorporated into the regulations at § 486.308(e) and (f).

II. Waiver Request Procedures

In October 1995, we issued a Program Memorandum (Transmittal No. A–95–11) detailing the waiver process and discussing the information hospitals must provide in requesting a waiver. We indicated that upon receipt of a waiver request, we would publish a **Federal Register** notice to solicit public comments, as required by section 1138(a)(2)(D) of the Act.

According to these requirements, we will review the request and comments received. During the review process, we may consult on an as-needed basis with the Health Resources and Services Administration's Division of Transplantation, the United Network for Organ Sharing, and our regional offices. If necessary, we may request additional clarifying information from the applying hospital or others. We will then make a final determination on the waiver request and notify the hospital and the designated and requested OPOs.

III. Hospital Waiver Requests

As permitted by § 486.308(e), the following two hospitals have requested waivers in order to enter into an agreement with a designated OPO other than the OPO designated for the service area in which the hospital is located:

Valley View Medical Center (Medicare provider number 03–0117) of Fort Mohave, Arizona,

Hualapai Mountain Medical Center (Medicare provider number 03–0128) of Kingman, Arizona

These hospitals are requesting a waiver to work with: Donor Network of Arizona, 201 West Coolidge, Phoenix, Arizona 85013.

The Hospitals' Designated OPO is: Nevada Donor Network Inc., 2085 E. Sahara Avenue, Las Vegas, Nevada 89104.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance, and Program No. 93.778, Medical Assistance Program)

Dated: January 26, 2010.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2010–2000 Filed 2–2–10; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

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 meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Nathan Shock Centers.

Date: March 1, 2010.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Bita Nakhai, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel, Alzheimer's Disease Genetics.

Date: March 4, 2010.

Time: 7:30 p.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: William Cruce, PhD, Scientific Review Officer, National Institute on Aging, Scientific Review Branch, Gateway Building 2C–212, 7201 Wisconsin Ave., Bethesda, MD 20814, 301–402–7704, *crucew@nia.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel, Drug Development for Alzheimer's Disease.

Date: March 10, 2010.

Time: 12 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alexander Parsadanian, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *Parsadaniana@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 27, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–2196 Filed 2–2–10; 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 Meeting

Pursuant to section 10(a) 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 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: National Institute of Child Health and Human Development Special Emphasis Panel; Repository for Mouse Models for Cytogenetic Disorders.

Date: February 16, 2010.

Time: 2 p.m. to 3 p.m.

Agenda: To provide concept review of proposed concept review.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 5b01, Bethesda, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, 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: January 27, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–2197 Filed 2–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

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 meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; ZGM1 MBRS–X (GC).

Date: March 1–2, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, Bethesda, MD 20814.

Contact Person: John J. Laffan, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical

Sciences, National Institutes of Health, Natcher Building, Room 3AN18J, Bethesda, MD 20892, 301–594–2773, *laffanjo@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; K99 Pathway to Independence.

Date: March 1–2, 2010.

Time: 6 p.m. to 5 p.m..

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Meredith D. Temple-O'Connor, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12C, Bethesda, MD 20892, 301–594–2772, *templeocm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: January 27, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–2203 Filed 2–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

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 meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Hormones in Postmenopausal Women Ancillary Studies.

Date: February 26, 2010.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carol J. Goter-Robinson, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Training Grants in Digestive Diseases and Hepatology.

Date: April 9, 2010.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 26, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–2205 Filed 2–2–10; 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 Initial Review Group, Population Sciences Subcommittee.

Date: March 1–2, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Madison Hotel, 1177 Fifteenth Street, NW., Washington, DC 20005.

Contact Person: Carla T. Walls, PhD, 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) 435–6898, *wallsc@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: January 27, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–2204 Filed 2–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

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 meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Ethical, Legal, and Social Implications of Human Genetics Study Section.

Date: February 23, 2010.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Cheryl M. Corsaro, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204,

MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Immune Mechanisms.

Date: February 24, 2010.

Time: 9:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jian Wang, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Bioengineering.

Date: February 24–25, 2010.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark Caprara, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7844, Bethesda, MD 20892, (301) 435–1042, *capraramg@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Genetics and Others.

Date: February 26, 2010.

Time: 10:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Angela Y. Ng, MBA, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, (For courier delivery, use MD 20817) Bethesda, MD 20892, (301) 435–1715, *nga@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Calcium Handling, Cardioprotection, Remodeling and Stem Cells.

Date: February 26, 2010.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lawrence E. Boerboom, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–8367, *boerboom@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 27, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–2198 Filed 2–2–10; 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 Initial Review Group, Pediatrics Subcommittee.

Date: March 18, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Rita Anand, PhD, 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) 496–1487, *anandr@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: January 27, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–2199 Filed 2–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Part C Early Intervention Services Grant Under the Ryan White HIV/AIDS Program

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of noncompetitive award of Part C funds for Saint Michael's Medical Center.

SUMMARY: HRSA will be providing Part C Funds for Saint Michael's Medical Center as a noncompetitive extension in order to ensure continuity of critical HIV medical and clinical care and treatment services to clients in Metropolitan Newark, Essex, and Union Counties in New Jersey.

SUPPLEMENTARY INFORMATION:

Grantee of record: Saint Michael's Medical Center.

Intended recipient of the award: Saint Michael's Medical Center, Newark, New Jersey.

Amount of the award: $537,607 to ensure ongoing clinical services to the target population.

Authority: Section 2651 of the Public Health Service Act, 42 U.S.C. 300ff–51.

Project Period: April 1, 2005, to March 31, 2011. The period of support for this award is from April 1, 2010, to June 30, 2011.

Justification for the Exception to Competition: Critical funding for HIV medical care and treatment services to clients in Metropolitan Newark, Essex and Union Counties in New Jersey will be continued through a noncompetitive extension to Saint Michael's Medical Center, an existing grantee of record in Newark, New Jersey. This is a temporary extension with Part C Funds, as the previous grant recipient did not successfully submit a fiscal year (FY) 2010 competitive continuation application through Grants.gov by the published deadline. There were no other eligible applications received for this service area in the recent Part C competing continuation application review process. Saint Michael's Medical Center is the best qualified health service provider to ensure the continuity of care, and provide critical services to the service population until the service area is re-competed in 2011.

This supplement will cover the time period from April 1, 2010, through June 30, 2011. This service area will be included in the upcoming competition for the Part C HIV Early Intervention

Services for project periods starting July, 2011.

FOR FURTHER INFORMATION CONTACT: Michael Evanson, by e-mail *mevanson@hrsa.gov,* or via telephone, 301–443–1362.

Dated: January 27, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–2241 Filed 2–2–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Deletion of an Existing System of Records

AGENCY: Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA).

ACTION: Notice to delete an existing HRSA System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, HRSA is deleting an existing system of records titled the "Disability Claims in the Health Professions Student Loan Programs, HHS/HRSA/BHPr," HRSA System No. SORN 09–15–0039.

DATES: *Effective Date:* The deletion will be effective on December 8, 2009.

ADDRESSES: The public should address comments to: Director, Division of Student Loans and Scholarships, BHPr/HRSA/DHHS, HRSA, Room 9–105, 5600 Fishers Lane, Rockville, MD 20857. The telephone number is 301–443–1173. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., Eastern Time Zone.

SUPPLEMENTARY INFORMATION: The reason for the deletion of this system of records is that it has been combined with SORN 09–15–0038. The justification for the combination is because both SORN 09–15–0038 and SORN 09–15–0039 are in reality one system in which all disability claims for both Health Professions Student Loan Programs and Nursing Student Loan Programs are kept. SORN 09–15–0038 will remain as the combined SORN, and SORN 09–15–0039 will be deleted.

Dated: November 30, 2009.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–2244 Filed 2–2–10; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Report of an Altered System of Records

AGENCY: Department of Health and Human Service (HHS), Health Resources and Services Administration (HRSA).

ACTION: Notice of an altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, the Health Resources and Services Administration (HRSA) is proposing to alter a system of records for Disability Claims of the Nursing Student Loan Program in the Bureau of Health Professions, SORN 09–15–0038, at the Division of Student Loans and Scholarships (DSLS). This system includes information on applicants for cancellation of health professions and nursing student loans due to disability. It includes letter requests claiming disability, correspondence, payment determinations and medical records or reports. The records in this system will be used to determine the eligibility of applicants who request loan cancellation due to total and permanent disability. The specific purpose of these alterations are to combine SORN 09–15–0038 with SORN 09–15–0039, and to change the name of the system, the system location, categories of individuals covered by the system, categories of records in the system, and the authority for maintenance of the system. In addition, two new routine uses (numbers 4 & 5) were added and the policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system were changed. The purpose of this proposed alteration is to include breach notification language required by *Memoranda (M) 07–16,* Safeguarding Against and responding to the Breach of Personally Identifiable Information, released on May 22, 2007 by OMB. The system managers and address have changed along with notification, request, and records access procedures. Contesting records procedures and record source categories have also been changed and record source categories have been added.

DATES: HRSA filed an altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on 1/19/2010. To ensure all parties have adequate time in which to comment, the altered system, including the routine uses, will be become effective 30 days from the publication of the notice or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless HRSA receives comments that require alterations to this notice.

ADDRESSES: Please address comments to Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 9–05, Rockville, Maryland 20857; 301–443–5794. This is not a toll-free number. Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m., (eastern standard time zone), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Director, Division of Student Loans and Scholarships, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, 5600 Fishers Lane, Room 9–105, Rockville, MD 20857; Telephone: (301) 443–5452. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Health Resources and Services Administration proposes to alter this system of records: "Disability Claims in the Nursing Student Loan Program, HHS/HRSA/BHPr" (SORN 09–15–0038). SOR 09–15–0038 is altered by adding Disability Claims in the Health Professions Student Loan Program, HHS/HRSA/BHPr" (SORN 09–15–0039 will be deleted); and changing the name to "Disability Claims in the Health Professions Student Loan Program and Nursing Student Loan Program, HHS/HRSA/BHPr (SORN 09–15–0038), for applicants of disability claims in the Health Professions Student Loan Program and Nursing Student Loan Program, at the DSLS. The system location is being changed from Room 9–105 and the categories of individuals covered by the system have been expanded to include applicants for cancellation of health professions and nursing student loans due to disability. Section 722(d) of the Public Health Service Act, as amended (42 U.S.C. 292r), Health Professions Student Loan Program has been added to the authority for maintenance of the system. Appropriate federal agencies, department contractors, and HRSA medical staff have been added to the categories of users in the routine uses section for purposes of responding to security breaches and approving disability write-off. The storage policy has been expanded to read "returned to

and retained by health professions schools" and the safeguards section has been expanded to include the Department's contractors as authorized users. The system manager(s) and address has been changed to reflect the new location of the system. Additional requisites for obtaining notification of or access to records have been added to the notification procedure; the procedure for a request in person has been changed to include procedures for a situation in which an individual does not have identification papers and requests by mail have been updated to include slightly different requirements to request record notification by mail. Records access procedures are now the same as notification procedures. The new location of the system has been added as the primary contact in the contesting records procedures section. Record source categories have been added and include educational institutions, financial aid officers, and borrowers.

Dated: November 30, 2009.

Mary K. Wakefield,

Administrator.

SYSTEM NUMBER: 09–15–0038

SYSTEM NAME:

Disability Claims in the Health Professions Student Loan Program and Nursing Student Loan Program, HHS/HRSA/BHPr.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

• Division of Student Loans and Scholarships, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 9–105, Rockville, MD 20857.

• Washington National Records Center, 4204 Suitland Road, Suitland, MD 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for cancellation of health professions student loans and nursing student loans due to disability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letter requests claiming disability, correspondence, payment determinations and medical records or reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 722(d) of the Public Health Service Act, as amended (42 U.S.C. 292r (d)), Health Professions Student Loan Program provisions; Section 836(b)(4) of the Public Health Service Act, as amended (42 U.S.C. 297b (b)(4)), Nursing Student Loan Provisions.

PURPOSE(S):

To determine the eligibility of applicants who request loan cancellation due to total and permanent disability.

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

1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

2. Disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected, in the event of litigation where the defendant is:

a. The Department, any component of the Department, or any employee of the Department in his or her official capacity;

b. The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

c. Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual.

3. In the event that a system of records maintained by this agency to carry out its functions 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 regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

4. Disclosure to appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and necessary for that assistance.

5. Disability statements are reviewed by HRSA medical staff/contractors via inter-agency agreement for the purpose of approving the disability write-off.

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

STORAGE:

File folders. Medical records and reports are temporarily held during medical evaluation and returned to, and retained by, health professions schools after final determination of claim validity.

RETRIEVABILITY:

Name of individual claiming disability.

SAFEGUARDS:

• Authorized users: Access to Borrower's Files is limited to only those individuals within the Department and the Department's contractors having a substantiated need for information. These individuals must have available proof of employment.

• Physical safeguards: File folders, medical records, reports and other forms of personal data are stored in areas where files are locked or rooms locked during off duty hours.

• Procedural safeguards: All users of personal information in connection with the performance of their job protect information from public view and from unauthorized personnel entering an unsupervised office. Access to records is strictly limited to those staff members trained in accordance with the Privacy Act.

• Implementation guidelines: HHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual.

RETENTION AND DISPOSAL:

Records will be retained for 6 years after phase out of loan program; 1 year on site and 5 years at the Federal Records Center. Records are disposed of in accordance with the Records Control Schedule of the Health Resources and Services Administration. Contact the System Manager for the disposal standards.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Students Loans and Scholarships, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, 5600 Fishers Lane, Room 9–105, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

Requests concerning whether the system contains records about you should be made to the Systems Manager. When requesting notification of, or access to, records covered by this Notice, an individual must provide his/her full name, date of birth, and other proof of identity as required for Privacy Requests. Information requested may be redacted. An individual may request notification of, or access to, a medical record pertaining to him. An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate a representative in writing. The representative may be a physician or other responsible individual, who would be willing to review the record and inform the subject individual of its contents.

Request in person: A subject individual who appears in person at a specific location seeking access or disclosure of records relating to him/her shall provide his/her name, current address, and at least one piece of tangible identification such as driver's license, passport, voter registration card, or union card. Identification papers with current photographs are preferred but not required. Additional identification may be requested when there is a request for access to records which contain an apparent discrepancy between information contained in the records and that provided by the individual requesting access to the records. Where the subject individual has no identification papers, the responsible agency official shall require that the subject individual certify in writing that he/she is the individual who he/she claims to be and that he/she understands that the knowing and willful request or acquisition of a record concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine.

Requests by mail: A written request must contain the name and address of the requester, and his/her signature which is either notarized to verify his/her identity or includes a written certification that the requester is the person he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records pertaining to an individual under false pretenses is a criminal offense subject to a $5,000 fine.

Requests by telephone: Because positive identification of the caller cannot be established, no requests by telephone will be honored.

RECORDS ACCESS PROCEDURES:

Same as notification procedures. Requesters should also provide a reasonable description of the record being sought.

CONTESTING RECORDS PROCEDURES:

Any record subject may contest the accuracy of information on file at Campus Based Branch (CBB) by writing to the Director, Division of Students Loans and Scholarships, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, 5600 Fishers Lane, Room 9–105, Rockville, Maryland 20857. The request should contain a reasonable description of the record, specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

1. Educational institutions requesting disability write-offs.
2. Financial aid officers administering disability write-offs.
3. Borrowers submitted for total disability write-offs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 2010–2243 Filed 2–2–10; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Report of an Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA).

ACTION: Notice of an altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, the Health Resources and Services Administration (HRSA) is proposing to alter Campus Based Branch (CBB) loans and scholarships System of Records (SORN), 09–15–0069, at the Division of Student Loans and Scholarships (DSLS). The system includes information on student and faculty borrowers who participate/participated in CBB loan and scholarship programs. The records in this system will be used to provide support to CBB in monitoring its programs, in order to ensure the efficiency of the factual information in reports and documents, and to archive the documents for efficient access and verification. The purpose of this proposed alteration is to include breach notification language required by *Memoranda (M) 07–16,* Safeguarding Against and Responding to the Breach of Personally Identifiable Information, released on May 22, 2007 by OMB; change the location of records; update the categories of records in the system; update the policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system; update the notification procedures, contesting record procedures and the record sources categories.

DATES: HRSA filed an altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on 1/19/2010. To ensure all parties have adequate time in which to comment, the altered system, including the routine use, will be become effective 30 days from the publication of the notice or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless HRSA receives comments that require alterations to this notice.

ADDRESSES: Please address comments to Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 9–05, Rockville, Maryland 20857; Telephone (301) 443–5796. This is not a toll-free number. Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m. (Eastern Standard Time Zone), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Director, Division of Student Loans and Scholarships, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, 5600 Fishers Lane, Room 9–105, Rockville, MD 20857; Telephone (301) 443–5452. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Health Resources and Services Administration proposes to establish an altered system of records: "Campus Based Branch Program Document Management System (DMS), HHS/HRSA/BHPr," for recipients of CBB loans and scholarships, at the DSLS. The purpose of this proposed altered SORN is to add an additional breach

response routine use required by OMB guidance; change the location of records from Room 8–42 to 9–105; update the categories of records in the system to delete collection of future Social Security numbers; update the policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system to add contractor involvement; update the notification procedures to correct request procedures, contesting record procedures to update new address and the record sources categories to delete disability claims from category. This system includes information on student and faculty borrowers who participate/participated in CBB loan and scholarship programs.

Dated: November 30, 2009.

Mary K. Wakefield,

Administrator.

SYSTEM OF RECORD NUMBER 09–15–0069

SYSTEM NAME:

Campus Based Branch (CBB) Program Document Management System (DMS), HHS/HRSA/BHPr.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The Division of Student Loans and Scholarships of the Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS). Records are located at 5600 Fishers Lane, Room 9–105, Rockville, MD 20857.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

Student and faculty borrowers who participate/participated in CBB loan and scholarship programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes materials such as:

1. Names, addresses, phone numbers, financial information, and social security numbers of borrowers.
2. Annual Operating Reports that contain financial information from institutions, including aggregate amounts of loans disbursed, collected and retired.
3. Performance reports on the aggregate number of borrowers, their classification in race/ethnicity categories, and whether they are practicing in primary care.
4. Contact information of financial aid officers that include name, title, school address and direct phone number.
5. Correspondence from the financial aid officers regarding issues with specific borrowers. The majority of these correspondences only indicate the borrower's name and/or amount borrowed.
6. Correspondence from borrowers on specific issues on CBB programs or the school that administers the programs. These correspondences may include the borrower's name, address and phone number.
7. Case reports from educational institutions on borrowers for whom the school is claiming an uncollectible debt. The documents contained in these case reports may include name, address, financial income information, medical records and social security numbers.
8. Any other correspondence or documentation related to general or specific issues regarding CBB programs at institutions or borrowers who participate in CBB programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 721 of the Public Health Service Act (42 U.S.C. 292q), Health Professions Student Loan; Section 835 of the Public Health Service Act (42 U.S.C. 297a), Nursing Student Loan; Section 723 of the Public Health Service Act (42 U.S.C. 292s), Primary Care Loan; Section 724 of the Public Health Service Act (42 U.S.C. 292t), Loans for Disadvantaged Students; Section 737 of the Public Health Service Act (42 U.S.C. 293a), Scholarships for Disadvantaged Students.

PURPOSE(S):

The purpose of the DMS system is to support the CBB in monitoring its programs, in order to ensure the efficiency of the factual information in reports and documents, and to archive the documents for efficient access and verification.

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

Records maintained in the system above, disclosure of which is governed by the System of Records Notice for the "Campus Based Branch Program Document Management System, HHS/HRSA/BHPr" may be disclosed to others:

1. HRSA may disclose records to Department contractors and subcontractors for the purpose of assisting CBB in reviewing cases and maintaining systems, including conducting data analysis for program evaluations, compiling managerial and statistical reports, and record systems processing and refinement. Contractors will maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.
2. Disclosure may be made to a Congressional office from the record of an individual or institutional participant, in response to any inquiry from the Congressional office made at the written request of that individual.
3. Disclosure may be made to the Department of Justice, or to a court or other tribunal, from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof, where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in such case HHS determines that such disclosure is compatible with the purpose for which the records were collected.
4. In the event that a system of records maintained by this agency to carry out its functions 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 regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.
5. HRSA may disclose from this system of records a delinquent debtor's name, address, Social Security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose, to the Treasury Department, Internal Revenue Service (IRS), to request a debtor's current mailing address to locate him/her for purposes of collecting a debt. This address may be disclosed by HRSA to any school from which the defaulted borrower received the student loan, for use only by officers, employees, or agents of the school whose duties relate to the

collection of health professions or nursing student loan funds, to locate the defaulted borrower to collect the loan. Any school which requests and obtains this address information must comply with the requirements of HRSA and the IRS regarding the safeguarding and proper handling of this information.

6. To appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and necessary for that assistance.

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

STORAGE:

Records are maintained in the DMS or in file folders and/or computer data files.

RETRIEVABILITY:

Retrieval of data and case files is by subject's name or institution ID.

SAFEGUARDS:

• Authorized users: Access is limited to authorized HHS staff and contractors in performance of their duties. Authorized personnel include the contractor/system manager and his staff who have responsibilities for administering the programs. HRSA maintains current lists of authorized users. Institutions do not have remote access to this system.

• Physical safeguards: The DMS is housed on an HRSA server behind a firewall. The DMS is an intra-office system only for the sole use of CBB staff. All computer equipment and files and hard copy files are stored in areas where fire and life safety codes are strictly enforced. All automated and non-automated documents are protected on a 24-hour basis. Perimeter security includes intrusion alarms, on-site guard force, random guard patrol, key/passcard/combination controls, and receptionist controlled area. Hard copy files are maintained in a file room used solely for this purpose with access limited by combination lock to authorized users identified above. Computer files are password protected and are accessible only by use of computers which are password protected.

• Procedural safeguards: A password is required to access computer files. All users of personal information in connection with the performance of their jobs protect information from public view and from unauthorized personnel entering an unsupervised area. All passwords, keys and/or combinations are changed when a person leaves or no longer has authorized duties. Access to records is limited to those authorized personnel trained in accordance with the Privacy Act and ADP security procedures. The safeguards described above were established in accordance with DHHS chapter 45–13 and supplementary chapter PHS hf: 45–13 of the General Administration Manual; and the DHHS Information Resources Management Manual, Part 6, "ADP Systems Security."

RETENTION AND DISPOSAL:

HRSA is working with the Records Officer and NARA to obtain the appropriate retention value.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Student Loans and Scholarships, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, 5600 Fishers Lane, Room 9–105, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

Requests concerning whether the system contains records about you should be made to the Systems Manager. When requesting notification of or access to records covered by this Notice, an individual must provide his/her full name, date of birth, and other proof of identity as required for Privacy Requests.

• Request in person: A subject individual who appears in person at a specific location seeking access or disclosure of records relating to him/her shall provide his/her name, current address, and at least one piece of tangible identification such as driver's license, passport, voter registration card, or union card. Identification papers with current photographs are preferred but not required. Additional identification may be requested when there is a request for access to records which contain an apparent discrepancy between information contained in the records and that provided by the individual requesting access to the records. Where the subject individual has no identification papers, the responsible agency official shall require that the subject individual certify in writing that he/she is the individual who he/she claims to be and that he/she understands that the knowing and willful request or acquisition of a record concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine.

• Requests by telephone: Because positive identification of the caller cannot be established, no requests by telephone will be honored.

• Requests by mail: A written request must contain the name and address of the requester, and his/her signature which is either notarized to verify his/her identify or includes a written certification that the requester is the person he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records pertaining to an individual under false pretenses is a criminal offense subject to a $5,000 fine.

CONTESTING RECORD PROCEDURES:

Any record subject may contest the accuracy of information on file at CBB by writing to the Director, Division of Student Loans and Scholarships, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, 5600 Fishers Lane, Room 9–105, Rockville, Maryland 20857. The request should contain a reasonable description of the record, specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

1. Educational institutions participating in CBB programs.
2. Financial aid officers administering CBB programs.
3. Student borrowers and recipients participating in CBB programs.
4. Borrowers submitted for uncollectible debt write-offs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2010–2242 Filed 2–2–10; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2010–0004]

National Protection and Programs Directorate; Communications Unit Leader (COML) Prerequisite and Evaluation

AGENCY: National Protection and Programs Directorate, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; New Information Collection Request: 1670–NEW.

SUMMARY: The Department of Homeland Security, National Protection and Programs Directorate/Cybersecurity and Communications/Office of Emergency Communications (OEC), has submitted the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until April 5, 2010. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Written comments and questions about this Information Collection Request should be forwarded to OEC, Attn.: Jonathan Clinton, *Jonathan.Clinton@dhs.gov.* Written comments should reach the contact person listed no later than April 5, 2010. Comments must be identified by DHS–2010–0004 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *E-mail: Jonathan.Clinton@dhs.gov.* Include the docket number in the subject line of the message.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

SUPPLEMENTARY INFORMATION: OEC, formed under Title XVIII of the Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.,* as amended, is responsible for conducting nationwide outreach and providing technical assistance to foster the development of interoperable emergency communications capabilities for State, regional, local, and tribal governments. OEC is addressing these responsibilities, in part, by offering an All Hazards Type III COML training course for State, regional, and local emergency response stakeholders. Participation in these courses requires satisfaction of several prerequisites, the completion of which will be verified using a certification form. In addition, to evaluate course delivery for quality assurance and improvement purposes, evaluation data will be collected in an evaluation form. OEC will use this information to identify course attendees, verify satisfaction of course prerequisites, and evaluate course delivery for quality and improvement purposes. The collection of information is mostly electronic but can also be received in paper form to facilitate ease of registration and evaluation of OEC events. Evaluation forms will be available in hard copy at each training session, and time will be provided to complete the evaluation at the conclusion of the course.

OMB is particularly interested in comments which:

1. 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;

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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate.

Title: COML Prerequisite and Evaluation.

Form: Not Applicable.

OMB Number: 1670–NEW.

Frequency: On occasion.

Affected Public: State, local, or tribal government.

Number of Respondents: 3,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 2,000 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $48,840.00.

Dated: January 28, 2010.

Thomas Chase Garwood, III,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2010–2298 Filed 2–2–10; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2009–0042]

Privacy Act of 1974; Department of Homeland Security/ALL—024 Facility and Perimeter Access Control and Visitor Management System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 the Department of Homeland Security proposes to update and reissue Department of Homeland Security/ALL—024 Facility and Perimeter Access Control and Visitor Management System of Records to include record systems within the Federal Protective Service. Categories of individuals, categories of records, purpose and routine uses of this system have been reviewed and updated to better reflect the Department's, including the Federal Protective Service's, facility and perimeter access control and visitor management record system. The activities performed by the Department's facility and perimeter access control and visitor management systems often overlap with other security-related activities. Accordingly, data within each of the categories of individuals, categories of records, and routine uses may have similarities with other security-related systems of records, but each system is distinct based on its purpose.

Further, this system of records is separate from Department of Homeland Security/ALL 026—Personal Identity Verification Management System of Records, June 25, 2009, which supports the administration of the Homeland Security Presidential Directive—12 program, directing the use of a common identification credential for both logical and physical access to federally controlled facilities and information systems while enhancing security, increasing efficiency, reducing identity fraud, and protecting personal privacy.

Records within this system apply only to perimeters and facilities where access is controlled by the Department of Homeland Security or its components, including the Federal Protective Service, and its contract guards.

Exclusion is made to perimeters and facilities secured by the U.S. Secret Service pursuant to 18 U.S.C. 3056 and 3056A and are not included under this system of records. Records pertaining to perimeters and facilities secured by the

U.S. Secret Service, other than those records subject to the Presidential Records Act, are covered under Department of Homeland Security/U.S. Secret Service—004 Protection Information System of Records, December 19, 2008.

There will be no change to the Privacy Act exemptions currently in place for this system of records and therefore remain in effect. This system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Written comments must be submitted on or before March 5, 2010. This updated system will be effective March 5, 2010.

ADDRESSES: You may submit comments, identified by docket number DHS–2009–0042 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) and its components and offices rely on DHS/ALL—024 Facility and Perimeter Access Control and Visitor Management System of Records (74 FR 3081, January 16, 2009) for the collection and maintenance of records that pertain to facility and perimeter access control and visitor management.

DHS is updating and reissuing this Department-wide system of records under the Privacy Act (5 U.S.C. 552a) for DHS facility and perimeter access control and visitor management records, to include records systems within the Federal Protective Service (FPS). DHS/ALL—024 Facility and Perimeter Access Control and Visitor Management System of Records is the baseline system for facility and perimeter access control and visitor management, as led by the Office of the Chief Security Officer. This will ensure that all components of DHS follow the same privacy rules for collecting and handling access control and visitor management records.

The purpose of this system is to collect and maintain records related to the Department's facility and perimeter access control, including access to DHS information technology and access to classified facilities, as well as visitor security and management. The Department's authority for this collection is primarily 5 U.S.C. 301; the Homeland Security Act, codified in Title 6 of the U.S. Code; 44 U.S.C. 3101; Executive Order (EO) 9397; EO 12968; and Federal Property Regulations, issued July 2002. This system will collect individuals' personal information to support the Department's efforts related to protecting DHS facilities and operating the visitor management program. Efforts have been made to safeguard records in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. The routine uses posted are unchanged from the previous publishing and consistent with the purpose for collection. A review of this system is being conducted to determine if the system of records collects information under the Paperwork Reduction Act. Categories of individuals, categories of records, the purpose, and routine uses of this system have been reviewed and updated to better reflect the Department's, and FPS's, facility and perimeter access control and visitor management records system. Specifically, the Department has: Updated categories of individuals to include any employee, contractor, consultant, intern, fellow, or other person with regular access and an access control pass which grants unescorted access to a DHS facility or other federal facility which DHS or its components provide access control, including the FPS and its contract guards, and those needing access to information technology systems, and any visitor to a facility for which DHS or its components provide access control and violators and those accused of security violations of access or perimeter control and those related to incidents and offenses in and around these facilities, and individuals, including state and local government personnel and private-sector individuals, who are authorized by DHS to access DHS facilities, and other federal facilities where DHS controls access through its components, including the FPS and its contract guards; updated categories of records to include information pertaining to incidents and offenses; updated routine uses to include disclosing information outside DHS to an appropriate federal, state, tribal, local, or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence, whether civil or criminal, or charged with investigating, prosecuting, enforcing or implementing civil or criminal laws, related rules, regulations or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence, but only when the disclosure is appropriate to the proper performance of the official duties of the person receiving the disclosure, and disclosing information to an appropriate federal, state, local, tribal, or foreign government agency, international organization, or private organization where the President or the Secretary of Homeland Security has declared an event to be a National Special Security Event; and record source categories has been updated to include records which are obtained from individuals seeking employment or access to facilities for which DHS and its components provide security and from individuals involved in incidents and offenses that take place in or around those facilities.

Privacy Impact Assessments (PIAs) have been conducted and are on file for the (1) Personnel Security Activities Management System; (2) Integrated Security Management System; (3) DHSAccessGate System; (4) Automated Continuing Evaluation System (ACES) Pilot; (5) Personal Identity Verification System; (6) Federal Protective Service Information Support Tracking System (FISTS) Contract Suitability Module; (7) Federal Protective Service Dispatch Incident Records Management Systems; and (8) Livewave CCTV System along with other related component specific PIAs and can be found at *http://www.dhs.gov/privacy.*

Consistent with DHS's information sharing mission, information stored in the DHS/ALL—024 Facility and Perimeter Access Control and Visitor

Management System of Records may be shared with other DHS components, as well as appropriate federal, state, local, tribal, foreign, or international government agencies. This sharing will only take place after DHS determines that the receiving component or agency has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

Records within this system apply only to perimeters and facilities where access is controlled by DHS or its components, including the FPS, and its contract guards.

Exclusion is made to perimeters and facilities secured by the U.S. Secret Service pursuant to 18 U.S.C. 3056 and 3056A and are not included under this system of records. Records pertaining to perimeters and facilities secured by the U.S. Secret Service, other than those records subject to the Presidential Records Act, are covered under Department of Homeland Security/U.S. Secret Service—004 Protection Information System of Records (73 FR 77733, December 19, 2008).

There will be no change to the Privacy Act exemptions currently in place for this system of records and therefore remain in effect. This system will be included in the DHS inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses and disseminates individual's records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is stored and retrieved by the name of the individual or by some identifying number such as property address, mailing address, or symbol assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. DHS extends administrative Privacy Act protections to all individuals where information is maintained on both U.S. citizens, lawful permanent residents, and visitors. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR 5.21.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such files within the agency. Below is a description of DHS/ALL—024 Facility and Perimeter Access Control and Visitor Management System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget (OMB) and to Congress.

SYSTEM OF RECORDS

DHS/ALL–024

SYSTEM NAME:

Department of Homeland Security (DHS)/ALL—024 Facility and Perimeter Access Control and Visitor Management System of Records

SECURITY CLASSIFICATION:

Unclassified, sensitive, for official use only, and classified.

SYSTEM LOCATION:

Records are maintained at several DHS Headquarters locations and in component offices in both Washington, DC and field locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include: (1) Any employee, contractor, consultant, intern, fellow, or others with regular access and an access control pass which grants unescorted access to a DHS facility or other federal facility which DHS or its components provide access control, including the FPS and its contract guards, and those needing access to information technology systems, and any visitor to a facility for which DHS or its components provide access control; (2) violators and those accused of security violations of access or perimeter control and those related to incidents and offenses in and around these facilities; (3) applicants for employment, contractors, or those needing unescorted access to these facilities or information technology systems; (4) state and local government personnel and private-sector individuals who serve on an advisory committee and board sponsored by DHS; (5) individuals, including state and local government personnel and private-sector individuals, who are authorized by DHS to access DHS facilities, and other federal facilities where DHS controls access through its components, including the FPS and its contract guards, including classified facilities, communications security equipment, and information technology systems that process national or homeland security classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in the system include:

- Individual's full name;
- Date and place of birth;
- Social security number;

Note: For access to the Nebraska Avenue Complex, DHS employees, including component employees and contractors, are not required to provide date of birth or social security number to enter the Nebraska Avenue Complex if they provide a HSPD–12 badge, component badge, credential, or commission book. Component employees and contractors will also provide name, component, and Nebraska Avenue Complex point of contact name and phone number. Headquarters employees and contractors can also provide a drivers license as identification to be confirmed within the system of records as a DHS Headquarters employee. If a component employee or contractor does not have a DHS or component-issued credential at the point of entry, the individual will be processed into the Nebraska Avenue Complex as a regular visitor requiring a full name, date of birth, and social security number.

- Organization's name;
- Citizenship;
- Country of origin, if applicable;
- Telephone number;
- Physical descriptions;
- Biometric information;
- Photograph;
- Visitor badge number, if applicable;
- Date and time of entry and departure;
- Drivers license and other form of identification information;
- License plate number and state of issuance;
- Make and model of vehicle;
- Reports, files, records received from other federal agencies;
- Records relating to management and operation of DHS programs to safeguard classified and sensitive but unclassified information, including but not limited to:
  - Document control registries;
  - Courier authorization requests;
  - Non-disclosure agreements;
  - Records of security violations;
  - Records of document transmittals; and
  - Requests for secure storage and communications equipment.
- Records relating to the management and operation of the DHS security program, including but not limited to:
  - Inquiries relating to suspected security violation(s);

○ Recommended remedial actions for possible security violation(s);

○ Reports of investigation regarding security violations;

○ Information pertaining to incidents and offenses;

○ Statements of individuals;

○ Affidavits; and

○ Correspondence.

• Records relating to the management and operation of the facility and perimeter access control and visitor management system including but not limited to:

○ Facility and perimeter access registries;

○ Courier cards;

○ Access control card requests; and

○ Specific information from standard DHS forms used to conduct criminal history record checks; and

○ Closed circuit television (CCTV) systems and recordings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; the Homeland Security Act, codified in Title 6 of the U.S. Code; 44 U.S.C. 3101; and Executive Order (EO) 9397; EO 12968; and Federal Property Regulations, issued July 2002.

PURPOSE(S):

The purpose of this system is to collect and maintain records associated with DHS facility and perimeter access control, including access to DHS information technology and access to classified facilities, as well as visitor security and management.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records of information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the written request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual who relies upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To an appropriate federal, state, local, tribal, foreign, or international agency or contract provider, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee or contractor, the issuance of a security clearance, the reporting of an investigation of an employee or contractor, the letting of a contract, or the issuance of a license, grant or other benefit and disclosure is appropriate to the proper performance of the official duties of the person making the request.

I. To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

J. To an appropriate federal, state, tribal, local, or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence, whether civil or criminal, or charged with investigating, prosecuting, enforcing or implementing civil or criminal laws, related rules, regulations or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence, but only when the disclosure is appropriate to the proper performance of the official duties of the person receiving the disclosure, and;

K. To an appropriate federal, state, local, tribal, or foreign government agency, international organization, or private organization where the President or the Secretary of Department of Homeland Security has declared an event to be a National Special Security Event, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the

letting of a contract, or the issuance of a license, grant or other benefit, but only when disclosure is appropriate to the proper performance of the official duties of the person making the request.

L. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

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

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on servers, magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by individual name, date of birth, and social security number, or other personal identifier listed above in "Category of Records in the System," if applicable.

Note: For access to DHS Headquarters, all employees, including component employees and contractors, are not required to provide date of birth and social security number to enter DHS Headquarters facilities. If they do not have their credential at the point of entry, they are required to log their name and title, component, data and time, ID of employee, and point of contact.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

Pursuant to GRS 18, Item 22a, personnel security clearance files are destroyed upon notification of death or not later than five years after separation or transfer of employee or no later than five years after contract relationship expires, whichever is applicable.

Pursuant to GRS 18, Item 6, requests and authorizations for individuals to have access to classified files are destroyed two years after authorization expires.

Pursuant to GRS 11, Item 4a, identification credentials including cards, badges, parking permits, photographs, agency permits to operate motor vehicles, and property, dining room and visitors' passes, and other identification credentials are destroyed three months after return to issuing office.

Pursuant to GRS 18, Item 17, registers or logs used to record names of outside contractors, service personnel, visitors, employees admitted to areas, and reports on automobiles and passengers for areas under maximum security are destroyed five years after final entry or five years after date of document, as appropriate.

Other documents pursuant to GRS 18, Item 17b, are destroyed two years after final entry or two years after date of document, as appropriate.

Where records are used as evidence in an investigation or in an administrative, litigation, or other proceeding, the records will be retained until final disposition of the investigation or proceeding.

SYSTEM MANAGER AND ADDRESS:

For Headquarters components of DHS: Chief, Physical Security Division (202–447–5010), Office of Security, Department of Homeland Security, Washington, DC 20528. For components of DHS, the System Manager can be found at *http://www.dhs.gov/foia* under "contacts."

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, DHS will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Headquarters or component's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under "contacts." If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP–0550, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition, you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Records are obtained from individuals seeking employment or access to facilities for which DHS and its components provide security and from individuals involved in incidents and offenses that take place in or around those facilities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in (c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5) of the Privacy Act.

Dated: January 25, 2010.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–2206 Filed 2–2–10; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2009–0043]

Privacy Act of 1974; Department of Homeland Security/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned, Occupied, or Secured by the Department of Homeland Security System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 the Department of Homeland Security proposes to update Department of Homeland Security/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned, Occupied, or Secured by the Department of Homeland Security System of Records to include record systems within the Federal Protective Service. The purpose of this system is to maintain and record the results of law enforcement activities in support of the protection of property owned, occupied, or secured by the Department of Homeland Security and its components, including the Federal Protective Service, and individuals maintaining a presence or access to such property. Categories of individuals, categories of records, and the routine uses of this system have been reviewed and updated to better reflect the Department's law enforcement records associated with the protection of property owned, occupied, or secured by the Department of Homeland Security. The activities performed by the Department in the protection of property owned, occupied, or secured by the Department of Homeland Security often overlap with other security-related activities. Accordingly, data within the categories of individuals, categories of records, and routine uses may have similarities with other security-related systems of records, but each system is distinct based on its purpose.

Exclusion is made to perimeters and facilities secured by the U.S. Secret Service pursuant to 18 U.S.C. 3056 and 3056A and are not included under this system of records. Records pertaining to perimeters and facilities secured by the U.S. Secret Service, other than those records subject to the Presidential Records Act, are covered under Department of Homeland Security/U.S. Secret Service—004 Protection Information System of Records, December 19, 2008.

There will be no change to the Privacy Act exemptions currently in place for this system of records and therefore remain in effect. This system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Written comments must be submitted on or before March 5, 2010. This updated system will be effective March 5, 2010.

ADDRESSES: You may submit comments, identified by docket number DHS–2009–0043 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) and its components and offices rely on DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned, Occupied, or Secured by DHS System of Records (74 FR 3088, January 16, 2008) for the collection and maintenance of records that pertain to the protection of property owned, occupied, or secured by DHS.

DHS is updating and reissuing this Department-wide system of records under the Privacy Act (5 U.S.C. 552a), for the protection of property owned, occupied, or secured by DHS, including records systems within the Federal Protective Service (FPS). The DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned, Occupied, or Secured by DHS System of Records is the baseline system for the protection of property owned, occupied, or secured by DHS activities, as led by the Office of the Chief Security Officer for the Department. This will ensure that all DHS components follow the same privacy rules for collecting the protection of property owned, occupied or secured by DHS records.

The purpose of this system is to maintain and record the results of law enforcement activities in support of the protection of property owned, occupied, or secured by DHS. The results are also used to pursue criminal prosecutions or civil penalty actions against individuals or entities suspected of offenses that may have been committed against property owned, occupied, or secured by DHS or persons on these premises; and to assess acceptability of Departmental, other United States Government personnel, contract security officer personnel, and other contractors who work in DHS facilities for assignment to or retention in sensitive positions consistent with the interest of national security and protection of DHS facilities. The Department's authority for this collection is primarily 5 U.S.C. 301; the Homeland Security Act, codified in Title 6 of the U.S. Code; 40 U.S.C. 1315; 44 U.S.C. 3101; and Executive Order (EO) 9397; EO 10450; EO 12968, 5 CFR 731; 5 CFR 732; 5 CFR 736; 32 CFR 147; and DCID 6/4. This system will collect individuals' personal information when the Department uses its law enforcement authority at facilities that DHS owns, occupies, or secures. Efforts have been made to safeguard records in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising information being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or

permissions. The routine uses posted are unchanged from the previous publishing and are consistent with the purpose for collection. A review of this system is being conducted to determine if the system of records collects information under the Paperwork Reduction Act. Categories of individuals, categories of records, and the routine uses of this system have been reviewed and updated to better reflect the Department's law enforcement records associated with the protection of property owned, occupied, or secured by DHS. Specifically, the Privacy Office updated the purpose to include enforcement activities in support of the protection of property secured by DHS and its components, including FPS.

Privacy Impact Assessments (PIAs) have been conducted and are on file for the (1) Personnel Security Activities Management System; (2) Integrated Security Management System; (3) DHSAccessGate System; (4) Automated Continuing Evaluation System (ACES) Pilot; (5) Personal Identity Verification System; (6) Federal Protective Service Information Support Tracking System (FISTS) Contract Suitability Module; (7) Federal Protective Service Dispatch Incident Records Management Systems; and (8) Livewave CCTV System along with other related component specific PIAs and can be found at *http://www.dhs.gov/privacy.*

Consistent with DHS's information sharing mission, information stored in the DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned, Occupied, or Secured by DHS System of Records may be shared with other DHS components, as well as appropriate federal, state, local, tribal, foreign, or international government agencies. This sharing will only take place after DHS determines that the receiving component or agency has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

Exclusion is made to perimeters and facilities secured by the U.S. Secret Service pursuant to 18 U.S.C. 3056 and 3056A and are not included under this system of records. Records pertaining to perimeters and facilities secured by the U.S. Secret Service, other than those records subject to the Presidential Records Act, are covered under Department of Homeland Security/U.S. Secret Service—004 Protection Information System of Records (73 FR 77733, December 19, 2008).

There will be no change to the Privacy Act exemptions currently in place for this system of records and therefore remain in effect. This system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses and disseminates individual's records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is stored and retrieved by the name of the individual or by some identifying number such as property address, mailing address, or symbol assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. DHS extends administrative Privacy Act protections to all individuals where information is maintained on both U.S. citizens, lawful permanent residents, and visitors. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR 5.21.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such files within the agency. Below is a description of DHS/ALL–025 Law Enforcement Authorities in Support of the Protection of Property Owned, Occupied, or Secured by DHS Security Systems of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget (OMB) and to Congress.

SYSTEM OF RECORDS:

DHS/ALL–025

SYSTEM NAME:

Department of Homeland Security (DHS)/ALL–025 Law Enforcement Authorities in Support of the Protection of Property Owned, Occupied, or Secured by the Department of Homeland Security System of Records.

SECURITY CLASSIFICATION:

Unclassified, sensitive, for official use only, and classified.

SYSTEM LOCATION:

Records are maintained at several Headquarters locations and component offices of DHS, in both Washington, DC and field locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include any person or entity involved in, or suspected of being involved in, criminal acts against the buildings, grounds, and property that are owned, occupied, or secured by DHS or against persons who are in or on such buildings, grounds, or property. This includes, but is not limited to: any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof, and persons on the property; Departmental, other United States Government personnel, contract security officer personnel, and other contractors who work in federal facilities; and property located in or outside of the United States; and individuals who are involved in or suspected to be involved in such criminal acts, who provide information that is relevant to the investigation, such as victims and witnesses, and who report such crimes or acts. Also included in this system of records are the travel records of current, former, or retired Departmental personnel who travelled outside the United States while employed by DHS; applicants, appointees, and nominees of the Department; and contractors and consultants who have or have had access to DHS facilities and/or classified national security information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in the system may include but are not limited to the following:

- Individual's or entity's name;
- Digital photograph;
- Date of birth, place of birth, and age;
- Social security number;
- Duty/work address and telephone number;
- Alias;
- Race and ethnicity;
- Citizenship;
- Fingerprints;
- Sex;
- Marital status;
- Identifying marks such as tattoos, scars, etc;
- Height and weight;
- Eye and hair color;
- Biometric data;

- Home address, telephone number, and other contact information;
- Driver's license information and citations issued;
- Vehicle information;
- Date, location, nature and details of the incident/offense;
- Alcohol, drugs and/or weapons involvement;
- Bias against any particular group;
- Confinement information to include location of correctional facility;
- Gang/cult affiliation if applicable;
- Release/parole/clemency eligibility dates;
- Foreign travel notices and reports including briefings and debriefings;
- Notices and reports with foreign contacts;
- Reports of investigation;
- Statements of individuals, affidavits, and correspondence;
- Documentation pertaining to criminal activities;
- Investigative surveys;
- Certifications pertaining to qualifications for employment, including but not limited to education, firearms, first aid, and CPR;
- Technical, forensic, polygraph, and other investigative support to criminal investigations to include source control documentation and regional information;
- Data on individuals to include: victims, witnesses, complainants, offenders, and suspects;
- Records of possible espionage, foreign intelligence service elicitation activities, and terrorist collection efforts directed at the Department or it's staff, contractors or visitors;
- Records of close coordination with the intelligence and law enforcement community;
- Records relating to the management and operation of DHS special security programs, including but not limited to:
  - Requests for access to sensitive compartmented information (SCI);
  - Foreign travel;
  - Foreign contact registries for individuals with SCI access.
- Records relating to the management and operation of the DHS security program, including but not limited to:
  - Inquiries relating to suspected security violation(s);
  - Recommended remedial actions for possible security violation(s);
  - Reports of investigation regarding security violations;
  - Statements of individuals;
  - Affidavits;
  - Correspondence;
  - Other documentation pertaining to investigative or analytical efforts by DHS to identify threats to the Department's personnel, property, facilities, and information; intelligence reports and database results relating to DHS personnel applicants or candidates for DHS employment or a DHS contract, or other individuals interacting or having contact with DHS personnel or contractors; foreign contact registries for individuals; or unsolicited communications with DHS personnel or contractors that raise a security concern; and
  - Other documents obtained from applicants for employment or contract positions and documents obtained during a background investigation or re-investigation including medical and financial data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; the Homeland Security Act, codified in Title 6 of the U.S. Code; 40 U.S.C. 1315; 44 U.S.C. 3101; and Executive Order (EO) 9397; E.O. 10450; E.O. 12968, 5 CFR 731; 5 CFR 732; 5 CFR 736; 32 CFR 147; and DCID 6/4.

PURPOSE(S):

The purpose of this system is to maintain and record the results of law enforcement activities in support of the protection of property owned, occupied, or secured by DHS and its components, including FPS, and individuals maintaining a presence or access to such property. It will also be used to pursue criminal prosecution or civil penalty action against individuals or entities suspected of offenses that may have been committed against property owned, occupied, or secured by DHS or persons on the property; and to assess Departmental, contract security officer personnel, and other contractors who work in such facilities, acceptability for assignment to or retention in sensitive positions consistent with the interest of national security and the protection of these facilities.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records of information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. any employee of DHS in his/her official capacity;
3. any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or
4. the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to a written inquiry from that congressional office made at the written request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual who relies upon the compromised information; and
3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To an appropriate federal, state, local, tribal, foreign, or international agency or contract provider, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee or contractor, the issuance of a security clearance, the reporting of an investigation of an employee or contractor, the letting of a contract, or the issuance of a license, grant or other benefit and disclosure is appropriate to the proper performance of the official duties of the person making the request.

I. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or pursuant to the order of a court of competent jurisdiction in response to a subpoena from a court of competent jurisdiction.

J. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the officer making the disclosure.

K. To a federal, state, local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to provide intelligence, counterintelligence, or other information for the purposes of intelligence, counterintelligence, or antiterrorism activities authorized by United States law, Executive Order, or other applicable national security directive.

L. To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

M. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

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

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on servers, magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by individual name, social security number, or other personal information identified listed in "Categories of Records," if applicable.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

Records are pending National Archives and Records Administration approval. DHS has proposed the following retention schedule: Records are maintained in accordance with N1–563–08–4, Item 1. Records are maintained for 20 years after the end of the fiscal year in which the case was closed and are then destroyed. No records will be destroyed until the retention schedule is approved.

SYSTEM MANAGER AND ADDRESS:

For Headquarters components of DHS: Chief, Physical Security Division (202–447–5010), Office of Security, Department of Homeland Security, Washington, DC 20528. For components of DHS, the System Manager can be found at *http://www.dhs.gov/foia* under "contacts."

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, DHS will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Headquarters or component's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under "contacts." If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP–0550, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;

• Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and

• If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Records are generated from sources contacted during investigations, state and local law enforcement, and federal departments and agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in (c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5) of the Privacy Act.

Dated: January 25, 2010.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–2207 Filed 2–2–10; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Cancellation of Customs Broker License

AGENCY: U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the U.S. Customs and Border Protection regulations (19 CFR 111.51(b)), the following Customs broker license and all associated permits are cancelled with prejudice.

Name	License No.	Issuing port
John T. Sciara.	10286	New York.

Dated: January 26, 2010.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

[FR Doc. 2010–2304 Filed 2–2–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning a Certain Alternator

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of a certain alternator. Based upon the facts presented, CBP has concluded in the final determination that the U.S. is the country of origin of the alternator for purposes of U.S. government procurement.

DATE: The final determination was issued on January 21, 2010. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within March 5, 2010.

FOR FURTHER INFORMATION CONTACT: Elif Eroglu, Valuation and Special Programs Branch: (202) 325–0277.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on January 21, 2010, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of the alternator which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H075667, was issued at the request of Ecoair Corp. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the alternator, assembled in the U.S. from parts made in China and the U.S., is substantially transformed in the U.S., such that the U.S. is the country of origin of the finished article for purposes of U.S. government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register.**

Dated: January 21, 2010.

Sandra L. Bell,

Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

H075667

January 21, 2010

OT:RR:CTF:VS H075667 EE

CATEGORY: Marking

Mr. Peter S. Knudsen, Jr.
Ecoair Corp.
Four Industrial Circle
Hamden, CT 06517–3152

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B, Part 177, CBP Regulations; Country of Origin; Eco-Tech Heavy Duty Alternator

Dear Mr. Knudsen: This is in response to your correspondence of October 31, 2009, in which you requested a final determination on behalf of Ecoair Corp. ("Ecoair"), pursuant to subpart B of part 177, Customs and Border Protection ("CBP") Regulations (19 C.F.R. § 177.21 et seq.). Under the pertinent regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of the Eco-Tech Heavy Duty Alternator. We note that Ecoair is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

You describe the pertinent facts as follows. Eco-Tech Alternators operate in diesel powered military boats, fire trucks, ambulances, utility trucks, school shuttles, party buses, and commercial fishing boats; all applications where significant operating time is spent at idle and where electric power needs are independent of the

engine speed. Eco-Tech alternators provide 80% of maximum electrical output at idle versus 30% for typical conventional alternators. Therefore, all of the on-board electronics of emergency vehicles can be supported while vehicles are operating at idle, instead of keeping their engines racing in high idle operation.

You advise that there are two important parts of alternators: 1. the electro/mechanical parts including the rotor, stator, and end frames; and, 2. the electronic component, i.e. the regulator. The regulator controls the alternator by enabling it to supply the amount of electric power that matches the needs of the vehicle. Should the regulator not supply enough power, the battery will get depleted and the vehicle will stop operating. If the regulator supplies too much electrical power, the battery and the wiring will get hot and fail. You state that the electro/mechanical parts of the alternator are manufactured by Dehong Eco-Tech, a joint venture company in China. The electronic portion, the regulator, is manufactured in the U.S. by Carleton Industries. The electro/mechanical parts will be shipped to the Ecoair facility in Hamden, Connecticut where they will be assembled with the U.S. manufactured regulator into the alternator. The alternator will be tested and packaged in the U.S.

You have submitted the bill of materials for the alternator. Some of the components from China include the following: stator assembly, rotor assembly, rectifier, regulator base assembly, insulators, rear cover, outer package, and inner package. Components sourced in the U.S. include overvoltage transient suppressor, retainer ring, bearings, regulator, and cable. Drive end housing and diode end housing are sourced both in China and the U.S. You submitted schematics, photographs, specifications, and the step-by-step assembly process of the regulator and the alternator in the U.S. The assembly of the alternator, from components including the regulator, is comprised of thirty-one discrete steps and fifty-two parts, takes approximately 169 minutes. You claim that each step is completed by skilled workers who undergo an extensive training process.

Alternator assembly process involves pressing the bearing to the drive end housing; installing the snap ring, the heilicoil, and the stator; measuring the stator resistance and stator AUX winding resistance; using fluke meter to measure the rotor resistance; a hi-pot test to check insulation between each phase to ground; pressing the rotor into the stator/drive end housing assembly; installing the SRE housing, installing the air flow deflector; installing the rectifier sub-assembly; installing the heat shrink tubing; and, installing the regulator back plate and the ignition protect parts.

ISSUE:

What is the country of origin of the Eco-Tech Heavy Duty Alternator for the purpose of U.S. government procurement?

LAW AND ANALYSIS:

Pursuant to subpart B of part 177, 19 C.F.R. § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. government procurement, CBP applies the provisions of subpart B of part 177 consistent with the Federal Acquisition Regulations. See 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. See 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define "U.S.-made end product" as:

* * * an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

48 C.F.R. § 25.003.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens* v. *United States*, 573 F. Supp. 1149 (Ct. Int'l Trade 1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. Factors which may be relevant in this evaluation may include the nature of the operation (including the number of components assembled), the number of different operations involved, and whether a significant period of time, skill, detail, and quality control are necessary for the assembly operation. See C.S.D. 80–111, C.S.D. 85–25, C.S.D. 89–110, C.S.D. 89–118, C.S.D. 90–51, and C.S.D. 90–97. If the manufacturing or combining process is a minor one which leaves the identity of the article intact, a substantial transformation has not occurred. *Uniroyal, Inc.* v. *United States*, 3 CIT 220, 542 F. Supp. 1026 (1982), *aff'd* 702 F.2d 1022 (Fed. Cir. 1983).

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-assembly inspection and testing procedures, and the degree of skill required during the actual manufacturing process may be relevant when determining whether a substantial transformation has occurred. No one factor is determinative.

In a number of rulings (*e.g.*, HQ 735608, dated April 27, 1995 and HQ 559089 dated August 24, 1995), CBP has stated: "in our experience these inquiries are highly fact and product specific; generalizations are troublesome and potentially misleading. The determination is in this instance 'a mixed question of technology and Customs law, mostly the latter.'" *Texas Instruments, Inc.* v. *United States*, 681 F.2d 778, 783 (CCPA 1982).

This case involves fifty-three components which are proposed to be assembled in the U.S., largely by skilled workers. The regulator, manufactured in the U.S., is the electronic component of

the alternator, which controls the electrical output of the alternator to match the electrical load of the vehicle. The regulator is a key component of the alternator. Should the alternator not supply enough power, the battery will get depleted and the vehicle will stop operating. The regulator will be assembled with fifty-two other components, into the alternator in a thirty-one step process which will take approximately 169 minutes. Under the described assembly process, the foreign components lose their individual identities and become an integral part of a new article, the alternator, possessing a new name, character and use. Based upon the information before us, we find that the components that are used to manufacture the alternator, including the regulator manufactured in the U.S., are substantially transformed as a result of the assembly operations performed in the U.S., and that the country of origin of the alternator for government procurement purposes is the U.S.

HOLDING:

The components that are used to manufacture the alternator are substantially transformed as a result of the assembly operations performed in the U.S. Therefore, the country of origin of the alternator for government procurement purposes is the U.S.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days after publication of the Federal Register notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell

Executive Director, Regulations and Rulings, Office of International Trade.

[FR Doc. 2010–2305 Filed 2–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

New Date for April 2010 Customs Brokers License Examination

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection ("CBP") has changed the date on which the semi-annual written examination for an individual broker's license will be held in April 2010.

DATES: The customs broker's license examination scheduled for April 2010 will be held on Wednesday, April 7.

FOR FURTHER INFORMATION CONTACT: Russell Morris, Broker Compliance Branch, Office of International Trade, (202) 863–6543.

SUPPLEMENTARY INFORMATION:

Background

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides that a person (an individual, corporation, association, or partnership) must hold a valid customs broker's license and permit in order to transact customs business on behalf of others, sets forth standards for the issuance of broker's licenses and permits, and provides for the taking of disciplinary action against brokers that have engaged in specified types of infractions. In the case of an applicant for an individual broker's license, section 641 provides that an examination may be conducted to determine the applicant's qualifications for a license.

The regulations issued under the authority of section 641 are set forth in part 111 of title 19 of the Code of Federal Regulations (19 CFR part 111). Part 111 includes detailed rules regarding the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers. These rules include the qualifications required of applicants and the procedures for applying for licenses and permits. Section 111.11 (19 CFR 111.11) sets forth the basic requirements for a broker's license and, in paragraph (a)(4), provides that an applicant for an individual broker's license must attain a passing grade on a written examination taken within the 3-year period before submission of the license application prescribed under § 111.12 (19 CFR 111.12). Section 111.13 (19 CFR 111.13) sets forth the requirements and procedures for the written examination for an individual broker's license. Paragraph (b) of § 111.13 pertains to the date and place of the examination and states that written customs broker license examinations will be given on the first Monday in April and October unless the regularly scheduled examination date conflicts with a national holiday, religious observance, or other foreseeable event and U.S. Customs and Border Protection ("CBP") publishes in the **Federal Register** appropriate notice of a change in the examination date.

CBP recognizes that the first Monday in April 2010 (April 5) coincides with the observance of Passover. In consideration of this conflict with Passover, CBP has decided to change the date of the examination pursuant to § 111.13(b). Accordingly, this document announces that CBP has scheduled the April 2010 examination for Wednesday, April 7.

Dated: January 26, 2010.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade, U.S. Customs and Border Protection.

[FR Doc. 2010–2303 Filed 2–2–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5383–N–02]

Notice of Proposed Information Collection for Public Comment; Public Housing Contracting With Resident-Owned Businesses

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement 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:* April 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 sent to: Leroy McKinney, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington DC 20410–5000; telephone 202.402.5564 (this is not a toll-free number) or e-mail Leroy McKinney at *Leroy.McKinney@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. (Other than the HUD USER information line

and TTY numbers, telephone numbers are not toll-free.)

FOR FURTHER INFORMATION CONTACT: Dacia Rogers, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410; telephone 202.402.3374, for copies of other available documents (this is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to the Office of Management and Budget (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 of information 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 through 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: Public Housing Contracting with Resident-Owned Businesses.

OMB Control Number: 2577–0161.

Description of the Need for the Information and Proposed Use: PHAs can enhance the economic opportunities of public housing residents by allowing for an alternative procurement method to solicit and contract with eligible and qualified resident-owned businesses to obtain services, supplies, or construction for individual contracts that do not exceed a combined dollar value of $1,000,000. The alternative procurement method requires PHAs to collect such information as certified copies of any State, county, or municipal licenses that may be required of the business to engage in the type of business activity for which it was formed; a certification that shows the business is owned by residents; and, certification as to the number of contracts awarded under the alternative procurement process.

Agency Form Numbers: None.

Members of Affected Public: State or Local Government; Public Housing Agencies (PHAs), Individuals or Households.

Estimation of the Total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of PHAs	Number of responses annually*	Hours per response	Total annual burden hours	Cost per hour	Total annual cost
82	82	24	1,968	$29.00	$57,072

*The Department estimates that out of a total of 4113 PHAs only 2 percent or 82 PHAs contract with resident owned business. The calculation is as follows: 82 PHAs × 24 (hours) = 1,968 (total burden hours) × $29 p/hr = $57,072 (total annual cost) Average PHA salary = $60,000 per year; $1154 per week; $29.00 per hour.

Status of the Proposed Information Collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 27, 2010.

Merrie Nichols-Dixon,

Acting Deputy Assistant Secretary for Policy, Program and Legislative Initiatives.

[FR Doc. 2010–2208 Filed 2–2–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5383–N–01]

Notice of Proposed Information Collection for Public Comment; Multifamily Tenant Characteristics Family Reporting

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of proposed information collection.

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:* April 5, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Leroy McKinney, Jr., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410–5000; telephone 202.402.5564, (this is not a toll-free number) or e-mail Mr. McKinney at *Leroy.McKinneyJr@hud.gov* for a copy of the proposed forms, or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. (Other than the HUD USER information line and TTY numbers, telephone numbers are not toll-free.)

FOR FURTHER INFORMATION CONTACT: Dacia Rogers, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410; telephone 202–402–3374, (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit 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 of information 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 through 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: Multifamily Tenant Characteristics Family Report and Moving To Work Family Report.

OMB Control Number: 2577–0083.

Description of the need for the information and proposed use:

The Office of Public and Indian Housing of the Department of Housing and Urban Development (HUD) provides funding to Public Housing Agencies (PHAs) to administer assisted housing programs. Form HUD–50058 and Form HUD–50058 MTW Family Reports solicit demographic, family profile, income and housing information on the entire nationwide population of tenants residing in assisted housing. The information collected through the Form HUD–50058 and the Form HUD–50058 MTW will be used to monitor and evaluate Office of Public and Indian Housing programs including the Public Housing, Section 8 Housing Choice Voucher, Section 8 Project Based Certificates and Vouchers, Section 8 Moderate Rehabilitation and Moving to Work (MTW) Demonstration programs.

Collection of this information is authorized by: U.S. Housing Act of 1937 (42 U.S.C. 1437, *et seq.*), Quality Housing and Work Responsibility Act of 1998 (Public Law 105–276), HUD Appropriations Act 1996 (Pub.L. 104–134 Section 204), "Electronic Transmission of Required Family Data for Public Housing, Indian Housing and the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation Programs" (24 CFR Part 908).

Agency form numbers, if applicable: HUD Form-50058, HUD Form-50058 MTW.

Members of affected public: Public Housing Agencies, State and local governments, individuals and households.

ESTIMATED BURDEN OF HOURS OF THE PROPOSED INFORMATION COLLECTION

Information collection	Number of respondents (PHA) (with responses)	*Average number of reponses per respondent (with responses)	Total annual responses	Minutes per response	Total hours	Regulatory reference (24 CFR) *See Attached
Form HUD–50058 New Admission	4,114	86	355,984	40	237,323	908.101
Form HUD–50058 Recertification	4,114	583	2,398,340	20	799,447	908.101
Form HUD–50058 MTW New Admission	25	529	13,236	40	8,824	908.101
Form HUD–50058 Recertification	25	4,018	100,444	20	33,481	908.101

Total Responses: 2,868,004 = Total Hours: 1,079,075.

**Average Number of Responses per Respondents Total Annual Responses/Number of Respondents.*

Status of Proposed Information Collection: Extension of the currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 27, 2010.

Merrie Nichols-Dixon,

Acting Deputy Assistant Secretary for Policy, Programs, and Legislative Initiatives.

[FR Doc. 2010–2195 Filed 2–2–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Two hundredth seventy-second notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, Section 10) of a meeting of the Cape Cod National Seashore Advisory Commission.

DATES: The meeting of the Cape Cod National Seashore Advisory Commission will be held on March 22, 2010 at 1 p.m.

ADDRESSES: The Commission members will meet in the meeting room at Headquarters, 99 Marconi Station, Wellfleet, Massachusetts.

SUPPLEMENTARY INFORMATION: The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The regular business meeting is being held to discuss the following:

1. Adoption of Agenda;
2. Approval of Minutes of Previous Meeting (January 11, 2010);
3. Reports of Officers;
4. Reports of Subcommittees;
5. Superintendent's Report:
   - Update on Dune Shacks;
   - Improved Properties/Town Bylaws;
   - Herring River Wetland Restoration;
   - Wind Turbines/Cell Towers;
   - Shorebird Management;
   - Highlands Center Update;
   - Alternate Transportation funding;
   - Other construction projects;
   - Land Protection;
   - Salt Pond Visitor Center exhibit update;
6. Old Business;
7. New Business;
8. Date and agenda for next meeting;
9. Public comment; and
10. Adjournment.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent prior to the meeting. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: January 26, 2010.

George E. Price, Jr.,

Superintendent.

[FR Doc. 2010–2233 Filed 2–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO310000 L91310000.PP0000]

Extension of Approval of Information Collection, OMB Control Number 1004–0132

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request approval to continue the collection of information from those who wish to participate in the exploration, development, production, and utilization of geothermal resources on BLM-managed public lands, and geothermal resources on lands managed by other surface management agencies. This information collection activity was previously approved by the Office of Management and Budget (OMB), and was assigned control number 1004–0132.

DATES: Comments on the proposed information collection must be received by April 5, 2010, to be assured of consideration.

ADDRESSES: Comments may be mailed to U.S. Department of the Interior, Bureau of Land Management, Mail Stop 401–LS, 1849 C St., NW., Washington, DC 20240. Comments may also be submitted electronically to *Jean_Sonneman@blm.gov.* Please attach "Attn: 1004–0019" to either form of comment.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact Barbara Gamble, Division of Fluid Minerals, at 202–912–7148 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to leave a message for Ms. Gamble.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM will be submitting to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

The following information is provided for the information collection:

Title: Geothermal Resource Leasing and Geothermal Resources Unit Agreements (43 CFR parts 3200 and 3280).

Forms:

- Form 3200–9, Notice of Intent to Conduct Geothermal Resource Exploration Operations;
- Form 3260–2, Geothermal Drilling Permit;
- Form 3260–3, Geothermal Sundry Notice;
- Form 3260–4, Geothermal Well Completion Report; and
- Form 3260–5, Monthly Report of Geothermal Operations.

OMB Control Number: 1004–0132.

Abstract: Various statutes (such as 30 U.S.C. 1001–1028) authorize the Secretary of the Interior to issue leases for the development and utilization of geothermal resources. The BLM implements these statutory authorities in accordance with regulations at 43 CFR parts 3200 and 3280. The information collected under these regulations enables the BLM to make decisions regarding geothermal leases and unit agreements. It also enables the BLM to monitor compliance with approvals that have been granted. Responses are required to obtain a benefit.

Frequency of Collection: On occasion.

Estimated Number and Description of Respondents: Approximately 760 lessees and applicants for leases.

Estimated Reporting and Recordkeeping "Hour" Burden: The currently approved annual burden for this collection is 10,137 hours. The following chart details the individual components and respective hour burden estimates of this information collection request:

Type of response	Number of responses	Hours per response	Total hours
43 CFR subpart 3202; Lessee Qualifications	79	1	79
43 CFR subpart 3203; Competitive Leasing	300	20	6,000
43 CFR subpart 3204; Noncompetitive Leasing	50	40	200
43 CFR subpart 3205; Direct Use Leasing	10	10	100
43 CFR subpart 3206; Lease Issuance	300	1	300
43 CFR subpart 3207; Lease Terms and Extension	50	1	50
43 CFR subpart 3210; Additional Lease Information	50	1	50
43 CFR subpart 3211; Fees	300	1	300
43 CFR subpart 3212; Lease Suspensions and Royalty Rate Reductions	10	40	400
43 CFR subpart 3213; Relinquishment, Termination, and Cancellation	10	40	400
43 CFR subpart 3214; Bonds	10	4	40
43 CFR subpart 3215; Replacement Bonds	10	4	40
43 CFR subpart 3216; Transfers	30	6	180
43 CFR subpart 3217; Cooperative Agreements	10	40	400

Type of response	Number of responses	Hours per response	Total hours
43 CFR subpart 3251; Form 3200–9, Exploration Operations	12	8	96
43 CFR subpart 3252; Form 3260–3, Conducting Exploration Operations	100	8	800
43 CFR subpart 3253; Reports: Exploration Operations	12	8	96
43 CFR subpart 3256; Exploration Operations Relief and Appeals	10	8	80
43 CFR subpart 3261; Form 3260–2, Drilling Operations Permit	12	8	96
43 CFR subpart 3264; Form 3260–4, Reports—Drilling Operations/Recordkeeping	12	10	120
43 CFR subpart 3272; Utilization Plans and Facility Construction Permits	10	10	100
43 CFR subpart 3273; Site License	10	10	100
43 CFR subpart 3274; Commercial Use Permit	10	10	100
43 CFR subpart 3276; Reports Utilization Operations	10	10	100
43 CFR subpart 3281; Unit Agreements	10	10	100
43 CFR subpart 3282; Participating Area	10	10	100
43 CFR subpart 3283; Unit Agreement Modifications	10	10	100
Totals	1,447	.....	10,527 *

* This total differs from the previously approved total because of an arithmetical error in the previous submission to the OMB.

Jean Sonneman,

Bureau of Land Management, Acting Information Collection Clearance Officer.

[FR Doc. 2010–2300 Filed 2–2–10; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO310000 L13100000.PP0000]

Extension of Approval of Information Collection, OMB Control Number 1004–0137

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request approval to continue the collection of information from those who wish to participate in the exploration, development, production, and utilization of oil and gas operations on BLM-managed public lands. This information collection activity was previously approved by the Office of Management and Budget (OMB), and was assigned control number 1004–0137.

DATES: Comments on the proposed information collection must be received by April 5, 2010, to be assured of consideration.

ADDRESSES: Comments may be mailed to U.S. Department of the Interior, Bureau of Land Management, Mail Stop 401–LS, 1849 C St., NW., Washington, DC 20240. Comments may also be submitted electronically to *Jean_Sonneman@blm.gov*. Please attach "Attn: 1004–0019" to either form of comment.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact Barbara Gamble, Division of Fluid Minerals, at 202–912–7148 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to leave a message for Ms. Gamble.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM will be submitting to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

The following information is provided for the information collection:

Title: Onshore Oil and Gas Operations (43 CFR part 3160).

Forms:

- Form 3160–3, Application for Permit to Drill or Re-enter;
- Form 3160–4, Well Completion or Recompletion Report and Log;
- Form 3160–5, Sundry Notices and Reports on Wells; and
- Form 3160–6, Monthly Report of Operations.

OMB Control Number: 1004–0137.

Abstract: Various Federal and Indian mineral leasing statutes authorize the BLM to grant and manage onshore oil and gas leases on Federal and Indian (except Osage Tribe) lands. In order to fulfill its responsibilities under these statutes, the BLM needs to perform the information collection activity set forth in the regulations at 43 CFR part 3160, and in onshore oil and gas orders promulgated in accordance with 43 CFR 3164.1.

Frequency of Collection: On occasion.

Estimated Number and Description of Respondents: Approximately 2,500 lessees and applicants for leases.

Estimated Reporting and Recordkeeping "Hour" Burden: The currently approved annual burden for this collection is 2,631,120 hours. The following chart details the individual components and respective hour burden estimates of this information collection request:

Type of response	Number of responses	Hours per response	Total hours
43 CFR 3162.3–1(a), Well-Spacing Program	150	8	1,200
43 CFR 3162.3–1(c) and (d), Application for Permit to Drill: Form 3160–3 and related information	5,000	8	40,000
43 CFR 3162.3–1(e), Drilling Plan	2,875	16	46,000
43 CFR 3162.3–2 and 3162.3–3, Sundry Notices and Reports on Wells: Form 3160–5	34,000	8	272,000
43 CFR 3162.3–4(a), Plan to Plug and Abandon Well for Water Injection	1,200	8	9,600
43 CFR 3162.3–4(b), Plan to Plug and Abandon Well for Water Supply Source	1,200	8	9,600
43 CFR 3162.4–1(a) and 3162.7–5(d)(1), Schematic/Facility Diagrams	2,350	8	18,800
43 CFR 3162.4–1(b), Well Completion or Recompletion Report and Log: Form 3160–4	3,000	8	24,000
43 CFR 3162.4–2(a), Drilling Tests, Logs, and Surveys	330	8	2,640
43 CFR 3162.4–3, Monthly Report of Operations: Form 3160–6	90,000	8	720,000
43 CFR 3162.5–1(b), Disposal of Produced Water and 43 CFR 3164.1, Onshore Oil and Gas Order No. 7: Disposal of Produced Water	1,500	8	12,000
43 CFR 3162.5–1(c), Report of Spills, Discharges, or Other Undesirable Events	200	8	1,600
43 CFR 3162.5–1(d), Contingency Plan	50	32	1,600
43 CFR 3162.5–2(b), Report of Drilling Deviating Significantly from the Vertical	165	8	1,320
43 CFR 3162.6, Well Markers	300	8	2,400
43 CFR 3162.7–1(b), Approval and Reporting of Oil in Pits	520	8	4,160
43 CFR 3162.7–1(d), Additional Gas Flaring and 43 CFR 3164.2, Notice to Lessees—4A: Royalty or Compensation for Oil and Gas Lost	400	8	3,200
43 CFR 3162.7–5(b), Records for Seals	90,000	8	720,000
43 CFR 3162.7–5(c), Site Security Plan	2,415	8	19,320
43 CFR 3164.1, Onshore Oil and Gas Order No. 4: Measurement of Oil	90,000	8	720,000
43 CFR 3165.1(a), Application for Relief from Operating and/or Producing Requirements	100	16	1,600
43 CFR 3165.3(b), Application for State Director Review	10	8	80
Totals	325,765	.....	2,631,120

Jean Sonneman,

Bureau of Land Management, Acting Information Collection Clearance Officer.

[FR Doc. 2010–2301 Filed 2–2–10; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for Federal Acknowledgment of Tribes

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Request for Comments.

SUMMARY: The Department of the Interior, Office of Federal Acknowledgment (OFA) is seeking comments on renewal of Office of Management and Budget (OMB) approval, pursuant to the Paperwork Reduction Act, for the collection of information for Documented Petitions for the Federal Acknowledgment as an Indian Tribe, 25 CFR 83. The information collection is currently authorized by OMB Control Number 1076–0104, which expires April 30, 2010. The information collection allows OFA to determine whether an Indian group meets the regulatory criteria for acknowledgment as an Indian tribe.

DATES: Interested persons are invited to submit comments on or before *April 5, 2010.*

ADDRESSES: You may submit comments on the information collection to R. Lee Fleming, Director, Office of Federal Acknowledgment, Assistant Secretary—Indian Affairs, 1951 Constitution Avenue, NW., MS–34B SIB, Washington, DC 20240; facsimile: (202) 219–3008; e-mail: *Lee.Fleming@bia.gov.*

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming (202) 513–7650.

SUPPLEMENTARY INFORMATION:

I. Abstract

OFA is seeking renewal of the approval for the information collection conducted under 25 CFR 83, to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a government-to-government relationship with the United States. Federal recognition makes the group eligible for benefits from the Federal Government. Approval for this collection expires April 30, 2010. Three forms are used as part of this information collection; but no changes to the forms are proposed as part of this renewal. No third party notification or public disclosure burden is associated with this collection. There is no change to the approved burden hours for this information collection.

II. Request for Comments

OFA requests that you send your comments on this collection to the location listed in the **ADDRESSES** section. Your comments should address: (a) The necessity of the information collection for the proper performance of the agencies, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or conduct, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number. This information collection expires April 30, 2010.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section during the hours of 9 a.m.–5 p.m., Eastern Time, Monday through Friday except for legal holidays. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0104.

Title: Documented Petitions for Federal Acknowledgment as an Indian Tribe, 25 CFR 83.

Brief Description of Collection: Submission of this information allows OFA to review applications for the Federal acknowledgment of a group as an Indian tribe. The acknowledgment regulations at 25 CFR Part 83 contain seven criteria that unrecognized groups seeking Federal acknowledgment as Indian tribes must demonstrate that they meet. Information collected from petitioning groups under these regulations provide anthropological, genealogical and historical data used by the Assistant Secretary—Indian Affairs to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a government-to-government relationship with the United States. Respondents are not required to retain copies of information submitted to OFA but will probably maintain copies for their own use; therefore, there is no recordkeeping requirement included in this information collection.

Type of Review: Extension without change of a currently approved collection.

Respondents: Groups petitioning for Federal acknowledgment as Indian tribes.

Number of Respondents: 10 per year, on average.

Total Number of Responses: 10 per year, on average.

Frequency of Response: Once.

Estimated Time per Response: 2,075 hours.

Estimated Total Annual Burden: 20,750 hours.

Dated: January 28, 2010.

Alvin Foster,

Chief Information Officer—Indian Affairs.

[FR Doc. 2010–2292 Filed 2–2–10; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Cle Elum Dam Fish Passage Facilities and Fish Reintroduction Project; Kittitas County, WA INT–DES 10–03

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement (Draft EIS) and Announcement of Public Meeting.

SUMMARY: The Bureau of Reclamation (Reclamation) published a notice in the **Federal Register** on April 8, 2009 (74 FR 16007) announcing the commencement of work under the National Environmental Policy Act (NEPA) on the Cle Elum Dam Fish Passage Facilities and Fish Reintroduction Project. The Washington State Department of Ecology is a joint lead with Reclamation in the preparation of the Draft EIS, in coordination with the Washington Department of Fish and Wildlife and the Yakama Nation. The Bonneville Power Administration has assumed the role of a cooperating agency in the preparation of the Draft EIS. The Draft EIS will also be used to comply with requirements of the Washington State Environmental Policy Act.

The Draft EIS provides information on the analyses related to the construction of downstream juvenile fish passage and upstream adult fish passage facilities at the dam, as well as analyses associated with the implementation of a project to reintroduce fish above the dam. The Draft EIS analyzes the potential environmental, cultural, and socioeconomic effects of the proposed alternatives.

DATES: Written comments on the Draft EIS will be accepted through March 22, 2010.

A public information meeting will be held from 5 p.m. to 7 p.m. on February 18, 2010 in Cle Elum, Washington. Oral comments will be taken at the meeting. To be included in the Public Meeting Report, comments should be labeled as public meeting comments and provided to Reclamation at the address given below by February 26, 2010.

Requests for special assistance at the meeting should be submitted by February 9, 2010 (*see* **SUPPLEMENTARY INFORMATION** section, Special Assistance for Public Meetings).

ADDRESSES: Written comments on the Draft EIS should be addressed to the Bureau of Reclamation, Columbia Cascades Area Office, Attention: Candace McKinley, Environmental Protection Specialist, 1917 Marsh Road, Yakima, Washington 98901 or submitted to the following e-mail address: *sha-uca-fishpassage@usbr.gov.*

The public meeting will be held at the City of Cle Elum Council Chamber Room, 119 West 1st Street, Cle Elum, Washington. Meeting facilities are physically accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: Contact Candace McKinley, Environmental Protection Specialist, at 509–575–5848, ext. 276. Information on this project can also be found at *http://www.usbr.gov/pn/programs/ucao_misc/fishpassage/.* To receive a copy of the Draft EIS refer to the above contact.

SUPPLEMENTARY INFORMATION:

Meeting Information

Requests to make oral comments may be made at the meeting. In order to ensure that all those interested in providing oral comments have an opportunity to do so, oral comments at the meeting will be limited to 5 minutes. Comments will be recorded by a court reporter. Commenters will be called in the order indicated on the sign in list for speaking. Commenters not present when called will be recalled at the end of the other scheduled commenters. Commenters may provide written versions of their oral comments, or other additional written comments, for the meeting record. Longer comments should be summarized at the public meeting and submitted in writing either at the public meeting or identified as meeting comments and mailed as indicated in the **DATES** section.

Background

Reclamation is evaluating the construction of downstream juvenile fish passage and upstream adult fish passage alternatives at the dam for the Cle Elum Dam Fish Passage Facilities Project. Cle Elum Dam did not include fish passage facilities when constructed in 1933; consequently, fish passage to upstream habitat for fish species was blocked.

As part of the effort to restore fish above Cle Elum Dam, the Washington Department of Fish and Wildlife, in collaboration with Yakama Nation, is evaluating the implementation of a project to reintroduce fish populations above the dam. The reintroduction plan would involve the transportation and release of adults for natural spawning and potentially hatchery supplementation techniques to restore fish above the dam.

Early in 2001, Yakima River basin interest groups urged Reclamation to incorporate fish passage facilities as part of the reconstruction of Keechelus Dam under the Safety of Dams program. Reclamation determined that fish passage facilities could not be added under existing Safety of Dams authority. However, in the January 2002 Record of Decision for Keechelus Dam Modification EIS, Reclamation committed to seek funding under existing authorities to conduct a feasibility study for providing fish passage at all Yakima Project storage dams. Additionally, Reclamation agreed to mitigation agreement terms and Hydraulic Project Approval conditions with Washington Department of Fish

and Wildlife to investigate fish passage feasibility. In 2003, Reclamation prevailed in a suit filed by the Yakama Nation concerning the NEPA and Endangered Species Act compliance for the Keechelus Safety of Dams project. The Yakama Nation then appealed that decision to the 9th Circuit Court of Appeals. In 2006, Reclamation and the Yakama Nation entered into a settlement agreement to resolve litigation in which the parties agreed to collaborate to prepare technical plans and a planning report for fish passage at Cle Elum and Bumping Lake Dams. This Draft EIS is part of the agreed-upon planning process for Cle Elum Dam only. An EIS for Bumping Lake fish passage will be prepared separately at a future time.

Special Assistance for Public Meetings

TTY users may dial 711 to obtain a toll free TTY relay.

Requests for sign language interpretation for the hearing impaired should be submitted to Ms. Candace McKinley at 509–575–5848, extension 276, or mailed to her at the address in the **ADDRESSES** section.

Spanish language interpretation requests should be made to John Evans at 509–575–5848, extension 238. Si necesita interprete para Espanol, por favor llame John Evans a 509–575–5848, extencion 238.

Public Disclosure Statement

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

J. William McDonald,

Regional Director, Pacific Northwest Region.

[FR Doc. 2010–2237 Filed 2–2–10; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Denver Museum of Nature & Science, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Denver Museum of Nature & Science, Denver, CO. The human remains were removed from Poinsett County, AR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Denver Museum of Nature & Science professional staff in consultation with representatives of the Chickasaw Nation, Oklahoma; Choctaw Nation of Oklahoma; Osage Nation, Oklahoma; and Quapaw Tribe of Indians, Oklahoma.

In 1934, human remains representing a minimum of one individual were removed from a burial context three miles north of Marked Tree, Poinsett County, AR. In 1994, the human remains were found in the museum's collections during an inventory and then formally accessioned (DMNS catalogue number A1991.3). No known individual was identified. No associated funerary objects are present.

Based on physical analysis, the human remains are determined to be Native American. Archeological evidence suggests that mound sites in Poinsett County date to the Parkin Phase of the Mississippian nucleation horizon (A.D. 1350–1650). Oral history evidence and historical documentation, supported by linguistic evidence, indicate that the region, including Poinsett County, has long been part of the traditional ancestral homelands and hunting territory of the Quapaw. After further tribal consultation, the remains have been determined to be culturally affiliated with the Quapaw Tribe of Indians, Oklahoma.

Officials of the Denver Museum of Nature & Science have determined that, pursuant to 25 U.S.C. 2001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Denver Museum of Nature & Science also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Quapaw Tribe of Indians, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Chip Colwell-Chanthaphonh, Denver Museum of Nature & Science, 2001 Colorado Blvd., Denver, CO 80205, telephone (303) 370–6378, before March 5, 2010. Repatriation of the human remains to the Quapaw Tribe of Indians, Oklahoma may proceed after that date if no additional claimants come forward.

The Denver Museum of Nature & Science is responsible for notifying the Chickasaw Nation, Oklahoma; Choctaw Nation of Oklahoma; Osage Nation, Oklahoma; and Quapaw Tribe of Indians, Oklahoma that this notice has been published.

Dated: January 21, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–2221 Filed 2–2–10; 8:45 am]

BILLING CODE 4312–50–S

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 November 9 to November 13, 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: January 26, 2010.

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

ILLINOIS

Fulton County

East Waterford School, Jct. N. Dickson Mounds Rd. and the E. Prairie Rd.,

Lewistown vicinity, 09000897, Listed, 11/10/09

Ogle County

Indian Statue, Lowden Memorial State Park, 1411 N. River Rd., Oregon, 09000871, Listed, 11/05/09

Sangamon County

Garvey, Hugh M., House, 8 Fair Oaks Dr., Leland Grove, 09000898, Listed, 11/10/09

LOUISIANA

East Baton Rouge Parish

Downtown Baton Rouge Historic District, 3rd between roughly Main St. and N. Blvd; 210–240 Laurel & 301–355 N. Blvd., Baton Rouge, 09000899, Listed, 11/10/09

MISSOURI

Saline County

Mt. Carmel Historic District, 290th Rd. and MO Hwy 41 N., Marshall vicinity, 09000900, Listed, 11/10/09

St. Louis Independent City

St. Louis Stamping Company Buildings, 101 Cass Ave., St. Louis, 09000902, Listed, 11/10/09

NEBRASKA

Buffalo County

Masonic Temple and World Theater Building, 2318 Central Ave., Kearney, 09000903, Listed, 11/10/09

Cuming County

West Point City Auditorium, 237 N. Main St., West Point, 09000904, Listed, 11/10/09

Thurston County

Picotte, Susan La Flesche, House, 100 Taft, Walthill, 09000905, Listed, 11/10/09

NEW YORK

Greene County

Brandow, William, House, 480 Rt. 385, Athens vicinity, 09000908, Listed, 11/10/09

Onondaga County

Will, Louis, House, 714 N. McBride St., Syracuse, 09000909, Listed, 11/10/09

Saratoga County

Rayfiel, David, House, 1266 Kathan Rd., Day, 09000910, Listed, 11/10/09

OHIO

Montgomery County

Graphic Arts Building, 221–223 S. Ludlow St., Dayton, 09000911, Listed, 11/12/09

Summit County

Main Exchange Historic District, 1 W. Exchange St., 323–337 S. Main St., 12 E. Exchange St., 380–348 S. Main St., 328–326 S. Main St., Akron, 09000912, Listed, 11/12/09

RHODE ISLAND

Providence County

Blackstone Boulevard-Cole Avenue-Grotto Avenue Historic District, Roughly bounded by Blackstone Blvd., Cole Ave., Grotto Ave., President and Rochambeau Aves., Providence, 09000363, Listed, 11/12/09

VERMONT

Chittenden County

Winooski Falls Mills Historic District (Boundary Increase II), 110 W. Canal St., Winooski, 09000916, Listed, 11/12/09

VIRGINIA

Albemarle County

Boyd Tavern, VT 616, Boyd Tavern, 09000919, Listed, 11/12/09

Charlotte County

Annefield, 3200 Sunny Side Rd., Saxe vicinity, 09000920, Listed, 11/12/09

Richmond Independent City

Grace Street Commercial Historic District (Boundary Increase), 626, 700 E. Broad St., 12–118 N. 8th St., 707–715 E. Franklin St., 2–18 and 13 W. Franklin St., Richmond, 09000924, Listed, 11/12/09

Wythe County

Foster Falls Historic District, New River Trail State Park, 176 Orphanage Dr., Max Meadows vicinity, 09000925, Listed, 11/12/09 CORRECTION:

NEVADA

Clark County

Nellis Air Force Base, Nellis Air Force Base, Nellis Air Force Base, 65009979 ON 12/01/09, NELLIS AIR FORCE BASE WAS ERRONEOUSLY REPORTED AS DETERMINED ELIGIBLE. IN FACT, NO DETERMINATION HAS BEEN MADE AND MORE INFORMATION HAS BEEN REQUESTED.

[FR Doc. 2010–2211 Filed 2–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before January 16, 2010. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by February 3, 2010.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARKANSAS

Franklin County

Johnson County Line-Ozark-Crawford County Line Road, Altus Segment (Arkansas Highway History and Architecture MPS), Connector Rd. between Robin Way and Pierce Rd., Altus, 10000033

Stone County

North Sylamore Creek Bridge (Historic Bridges of Arkansas MPS), FSR 1102 over N. Sylamore Creek, Fifty-Six, 10000034

COLORADO

San Miguel County

Valley View Leasing and Mining Company Mill (Mining Industry in Colorado, MPS), CO 145, 2.8 mi. S. of Ophir, Ophir, 10000035

Summit County

Soda Creek Ranch, Off Keystone Ranch Rd. and Co. Rd. 351, Keystone, 10000036

GEORGIA

Muscogee County

Bibb City Historic District, Roughly bounded by Chattahoochee River, Woodland Cir., 2nd Ave. and 35th St., Bibb City, 10000037

ILLINOIS

Du Page County

Baker, George, House, 1 S. 500 Taylor Rd., Glen Ellyn, 10000038

MASSACHUSETTS

Essex County

First Parish Burial Ground, 122–R Centennial Ave., Gloucester, 10000040

Middlesex County

Saint Joseph's Roman Catholic College for Boys, 760 Merrimack St., Lowell, 10000041

Suffolk County

EDNA G. shipwreck (Eastern Rig dragger) (Eastern Rig Dragger Fishing Vessel Shipwrecks in the Stellwagen Bank National Marine Sanctuary), Address Restricted, Boston, 10000039

MONTANA

Missoula County

Moon-Randolph Ranch, 1515 Spurlock Rd., Missoula, 10000042

NEW YORK

Erie County

Kamman, Building, The, (Hydraulics/Larkin Neighborhood, Buffalo, Erie County, NY), 755 Seneca St., Buffalo, 10000043

Orleans County

Butterfield Cobblestone House (Cobblestone Architecture of New York State MPS), 4690 Bennetts Corners Rd., Holley, 10000044

Westchester County

Tuckahoe High School, 65 Siwanoy Blvd., Eastchester, 10000045

OHIO

Portage County

May 4, 1970, Kent State Shootings Site, .5 mi. SE of the intersection of E. Main St. and S. Lincoln St., Kent, 10000046

SOUTH DAKOTA

Brookings County

Haugen, E.E., Residence, 202 5th St., Brookings, 10000047

Davison County

Bauer, Whittier and Virginia, Residence, 600 E. 4th Ave., Mitchell, 10000048

Haakon County

Waddell Block, Lot 1, Block 7, Philip, 10000049

TEXAS

Brazoria County

Dow, Alden B., Office and Lake Jackson City Hall, 101 S. Parking Pl., Lake Jackson, 10000050

Tarrant County

Oakhurst Historic District
(Historic Residential Suburbs in the United States, 1830–1960 MPS), Roughly bounded by Yucca Ave., Sylvania Ave., Watauga Ave., and Oakhurst Scenic Dr., Fort Worth, 10000051

WISCONSIN

Sheboygan County

Downtown Churches Historic District, Generally bounded by Erie Ave., N. 6th St., Ontario Ave., and N. 7th St., Sheboygan, 10000052

[FR Doc. 2010–2216 Filed 2–2–10; 8:45 am]

BILLING CODE P

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 1–10]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Thursday, February 18, 2010, at 10:30 a.m.

SUBJECT MATTER: Issuance of Proposed Decisions in claims against Albania and Libya.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Mauricio J. Tamargo,

Chairman.

[FR Doc. 2010–2465 Filed 2–1–10; 4:15 pm]

BILLING CODE 4401–BA–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–019)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: Thursday, February 18, 2010, 9 a.m.–5 p.m. EST; Friday, February 19, 2010, 9 a.m.–1 p.m., EST.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Washington, DC 20456, James E. Webb Auditorium.

FOR FURTHER INFORMATION CONTACT: Ms. Marla King, NAC Administrative Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546, 202–358–1148.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following topics:

—NASA FY 2011 President's Budget Request.

—Reports from the Council Committees.

The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: January 29, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–2276 Filed 2–2–10; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–018)]

NASA Advisory Council; Audit, Finance and Analysis Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Audit, Finance and Analysis Committee of the NASA Advisory Council.

DATES: Wednesday, February 17, 2010, 9 a.m.–4 p.m. EST.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Washington, DC 20456, Conference Room 8D48.

FOR FURTHER INFORMATION CONTACT: Ms. Charlene Williams, Office of the Chief Financial Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546. Phone: 202–358–2183, fax: 202–358–4336.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following topics:

- Congressional testimony of Mr. Robert Hanisee, NASA Advisory Council, Audit, Finance, and Analysis Committee.
- Congressional testimony regarding FY2009 financial statement audit.

The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will need to show a valid picture identification such as a driver's license to enter the NASA Headquarters building (West Lobby—Visitor Control Center), and must state that they are attending the NASA Advisory Council Audit, Finance, and Analysis Committee meeting in Room 8D48. All non-U.S. citizens must fax a copy of their passport, and print or type their name, current address, citizenship, company affiliation (if applicable) to include address, telephone number, and their place of birth, date of birth, U.S. visa information to include type, number, expiration date, U.S. Social Security Number (if applicable), and place and date of entry into the U.S., fax to Charlene Williams, NASA Advisory Council Audit, Finance, and Analysis Executive Secretary at 202–358–4336, by no later than February 10, 2010. To

expedite admittance, U.S. attendees can provide identifying information 3 working days in advance by contacting Ms. Charlene Williams via e-mail at *Charlene.Williams-1@nasa.gov* or by telephone at (202) 358–2183. Persons with disabilities who require assistance should indicate this.

Dated: January 29, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–2278 Filed 2–2–10; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–017)]

NASA Advisory Council; Space Operations Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Space Operations Committee of the NASA Advisory Council.

DATES: Wednesday, February 17, 2010, 9 a.m.–12 p.m. EST.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Washington, DC 20456, Room 2U22.

FOR FURTHER INFORMATION CONTACT: Mr. Jacob Keaton, NAC Space Operations Committee Executive Secretary, National Aeronautics and Space Administration Headquarters, Washington, DC 20546, 202/358–1507.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following topics:

—NASA Space Operations Mission Directorate Update

The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will need to show a valid picture identification such as a driver's license to enter the NASA Headquarters building (West Lobby—Visitor Control Center), and must state that they are attending the NASA Advisory Council Space Operation Committee meeting in Room 2U22. All non-U.S. citizens must fax a copy of their passport, and print or type their name, current address, citizenship, company affiliation (if applicable) to include address, telephone number, and their place of birth, date of birth, U.S. visa information to include type, number, expiration date, U.S. Social Security Number (if applicable), and place and date of entry into the U.S., fax to Jacob Keaton, NASA Advisory Council Space Operations Executive Secretary at 202–358–2885 by no later than February 10, 2010. To expedite admittance, U.S. attendees can provide identifying information in advance by contacting Mr. Jacob Keaton via e-mail at *Jacob.keaton@nasa.gov* or by telephone at (202) 358–1507. Persons with disabilities who require assistance should indicate this.

Dated: January 29, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–2280 Filed 2–2–10; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0031]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–4017.

FOR FURTHER INFORMATION CONTACT: Gregory Chapman, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 492–3106 or e-mail to *Gregory.Chapman@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), entitled, "Monitoring and Reporting Radioactive Materials in Liquid and Gaseous Effluents from Nuclear Fuel Cycle Facilities," is temporarily identified by its task number, DG–4017, which should be mentioned in all related correspondence. DG–4017 is a proposed Revision 2 of Regulatory Guide 4.16, dated December 1985. This guide describes a method that the NRC staff considers acceptable for the development and implementation of effluent monitoring programs to be described in license applications and for monitoring and reporting effluent data by licensees. The guidance is applicable to nuclear fuel cycle facilities with the exception of uranium mining and milling facilities and nuclear power reactors. The NRC has developed other regulatory guides applicable to those facilities.

Title 10 of the Code of Federal Regulations (10 CFR), § 70.59, "Effluent Monitoring Reporting Requirements," requires licensees authorized to possess and use special nuclear material for processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, or in a uranium enrichment facility to submit semi-annual reports to the NRC specifying the quantity of each of the principal radionuclides released to unrestricted areas and such other information as the NRC may require to estimate maximum potential annual radiation doses to the public resulting from effluent releases. As required by 10 CFR 40.65, "Effluent Monitoring Reporting Requirements," each licensee authorized to possess and use source material in the production of uranium hexafluoride must submit semiannual reports similar to those required by 10 CFR 70.59.

II. Further Information

The NRC staff is soliciting comments on DG–4017. Comments may be accompanied by relevant information or supporting data and should mention DG–4017 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

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. You may submit

comments by any of the following methods:

1. *Mail comments to:* Rulemaking and Directives Branch, Mail Stop: TWB–05–B01M, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

2. *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2010–0031]. Address questions about NRC dockets to Carol Gallagher, (301) 492–3668; e-mail *Carol.Gallagher@nrc.gov*.

3. *Fax comments to:* Rulemaking and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 492–3446.

Requests for technical information about DG–4017 may be directed to the NRC contact, Gregory Chapman at (301) 492–3106 or e-mail to *Gregory.Chapman@nrc.gov*.

Comments would be most helpful if received by April 5, 2010. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG–4017 are available through the NRC's public Web site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML091810092.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov*.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 26th day of January, 2010.

For the Nuclear Regulatory Commission.

John N. Ridgely,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2010–2285 Filed 2–2–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482; NRC–2010–0032]

Wolf Creek Nuclear Operating Corporation, Wolf Creek Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption, pursuant to Title 10 of the Code of Federal Regulations (10 CFR) § 73.5, "Specific exemptions," from the implementation date for certain new requirements of 10 CFR Part 73, "Physical protection of plants and materials," for Renewed Facility Operating License No. NPF–42, issued to Wolf Creek Nuclear Operating Corporation (WCNOC, the licensee), for operation of the Wolf Creek Generating Station (WCGS), located in Coffey County, Kansas. In accordance with 10 CFR 51.21, the NRC prepared an environmental assessment documenting its finding. The NRC concluded that the proposed actions will have no significant environmental impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt WCGS from the required implementation date of March 31, 2010, for several new requirements of 10 CFR Part 73. Specifically, WCGS would be granted an exemption from being in full compliance with certain new requirements contained in 10 CFR 73.55 by the March 31, 2010, deadline. WCNOC has proposed an alternate full compliance implementation date of December 31, 2010, approximately 9 months beyond the date required by 10 CFR Part 73. The proposed action, an extension of the schedule for completion of certain actions required by the revised 10 CFR Part 73, does not involve any physical changes to the reactor, fuel, plant structures, support structures, water, or land at the WCGS site.

The proposed action is in accordance with the licensee's application dated December 15, 2009.

The Need for the Proposed Action

The proposed action is needed to provide the licensee with additional time to perform the required upgrades to the WCGS security system due to long lead time for procuring the materials, unfavorable weather months affecting construction, and resource limitations due to concurrent project activity.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of the proposed exemption. The staff has concluded that the proposed action to extend the implementation deadline would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring.

The proposed action would not result in an increased radiological hazard beyond those previously analyzed in the environmental assessment and finding of no significant impact made by the Commission in promulgating its revisions to 10 CFR Part 73 as discussed in a **Federal Register** notice dated March 27, 2009 (74 FR 13967). There will be no change to radioactive effluents that affect radiation exposures to plant workers and members of the public. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed exemption.

The proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Steven's Act are expected. There are no impacts to the air or ambient air quality.

There are no impacts to historical and cultural resources. There would be no impact to socioeconomic resources. Therefore, no changes to or different types of non-radiological environmental impacts are expected as a result of the proposed exemption.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action. In addition, in promulgating its revisions to 10 CFR Part 73, the Commission prepared an environmental assessment and published a finding of no significant impact [Part 73, Power Reactor Security Requirements, 74 FR 13926, 13967 (March 27, 2009)].

Therefore, the extension of the implementation date of the new requirements of 10 CFR Part 73 to December 31, 2010, would not have any significant environmental impacts.

The NRC staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation, if granted.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the exemption request would result in no change in current environmental impacts. If the proposed action was denied, the licensee would have to comply with the March 31, 2010, implementation deadline. The environmental impacts of the proposed exemption and the "no-action" alternative are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those considered in the Final Environmental Statement for the WCGS, NUREG–0878, dated June 1982, as supplemented through the "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Wolf Creek Generating Station—Final Report (NUREG–1437, Supplement 32)," dated May 2008.

Agencies and Persons Consulted

In accordance with its stated policy, on January 12, 2010, the NRC staff consulted with the Kansas State official, Mr. Tom Conley of the Kansas Department of Health and Environment, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 15, 2009. Portions of the December 15, 2009, submittal contain security-related and safeguards information and, accordingly, is being withheld from the public. The redacted version of the December 15, 2009, letter was submitted by the licensee on January 12, 2010, and may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O–1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov*.

Dated at Rockville, Maryland, this 27th day of January 2010.

For the Nuclear Regulatory Commission.

Balwant K. Singal,

Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–2288 Filed 2–2–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0033]

Office of New Reactors; Interim Staff Guidance on the Review of Nuclear Power Plant Designs Using a Gas Turbine Driven Standby Emergency Alternating Current Power System

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Solicitation of public comment.

SUMMARY: The NRC staff is soliciting public comment on its proposed Interim Staff Guidance (ISG) DC/COL–ISG–021 titled "Interim Staff Guidance on the Review of Nuclear Power Plant Designs Using a Gas Turbine Driven Standby Emergency Alternating Current Power System," (Agencywide Documents Access and Management System (ADAMS) Accession No. ML092640035). This ISG provides new guidance information for applicants submitting a combined license (COL) or design certification (DC) for construction and operation of new reactors submitted under Title 10 of the Code of Federal Regulations, Part 52. In addition, it supplements the guidance provided to the NRC staff in other sections of NUREG–0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," March 2007, Standard Review Plan (SRP), Section 8.3.1 and Sections 9.5.4 through 9.5.8. The NRC staff issues DC/COL–ISGs to facilitate timely implementation of current staff guidance and to facilitate activities associated with review of applications for DCs and COLs by the Office of New Reactors (NRO). The NRC staff intends to incorporate the final approved DC/COL–ISG–021 into the next revision of SRP Section 8.3.1 and Sections 9.5.4 through 9.5.8 and Regulatory Guide 1.206, "Combined License Applications for Nuclear Power Plants (LWR Edition)," June 2007.

Background: Emergency diesel generators are widely used as the standby emergency power sources for the onsite alternating current (AC) power system. It is anticipated that new reactor designs will incorporate gas turbines to supply the standby emergency alternating current power system. This ISG document provides guidance on the implementation of emergency gas turbine generators (EGTGs) used as AC power sources to supply power to safety-related equipment or equipment important to safety for all operational events and during accident conditions. Only EGTG systems that are air cooled and diesel oil fueled are considered in this interim guidance.

DATES: Comments must be filed no later than 30 days from the date of publication of this notice in the **Federal Register**. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2010–0033 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC website and on the Federal rulemaking Web site 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–2010–0033. 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.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*.

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2010–0033.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Segala, Chief, Balance of Plant Branch 1, Division of Safety Systems and Risk Assessment, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone at 301–415–1992 or e-mail *john.segala@nrc.gov*.

SUPPLEMENTARY INFORMATION: The agency posts its issued staff guidance in the agency external Web page (*http://www.nrc.gov/reading-rm/doc-collections/isg/*), ADAMS Accession No. ML092640035.

The NRC staff is issuing this notice to solicit public comments on the proposed DC/COL–ISG–021. After the NRC staff considers any public comments, it will make a determination regarding the proposed DC/COL–ISG–021.

Dated at Rockville, Maryland, this 26th day of January 2010.

For the Nuclear Regulatory Commission.

William F. Burton,

Branch Chief, Rulemaking and Guidance Development Branch, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2010–2287 Filed 2–2–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0550]

Notice of Extension of Comment Period for NUREG–1921, EPRI/NRC–RES Fire Human Reliability Analysis Guidelines, Draft Report for Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of public comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued for public comment a document entitled "NUREG–1921 (EPRI 1019196), EPRI/NRC–RES Fire Human Reliability Analysis Guidelines, Draft Report for Comment" (December 11, 2009; 74 FR 65810). This document extends the public comment period from February 15, 2010, to March 19, 2010.

DATES: The public comment period closes on March 19, 2010. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2009–0550 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 Web site 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–2009–0550. 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.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*. NUREG–1921 "EPRI/NRC–RES Fire Human Reliability Analysis Guidelines" is available electronically under ADAMS Accession Number ML093340307.

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2009–0550.

FOR FURTHER INFORMATION CONTACT: Kendra Hill, Division of Risk Analysis, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–251–3300, e-mail: *Kendra.Hill@nrc.gov*.

SUPPLEMENTARY INFORMATION: NUREG–1921 (EPRI 1019196), "EPRI/NRC–RES Fire Human Reliability Analysis Guidelines, Draft Report for Comment" was written as a collaborative effort by the NRC's Office of Nuclear Regulatory Research (RES) and the Electric Power Research Institute (EPRI) to provide guidance on how to perform the human reliability analysis (HRA) for a fire probabilistic risk analysis. In 2007, EPRI and NRC–RES embarked on a cooperative project to develop explicit guidance for estimating human error probabilities for human error events under fire generated conditions, building upon existing HRA methods. This report describes the methodology and guidance developed through this project. This report includes guidance on addressing the range of fire procedures used in existing plants, the

range of strategies for main control room abandonment, and the potential impact of fire-induced spurious electrical effects on crew performance.

Due to the detailed nature of the processes described in this report and the level of effort required to provide a quality review, a request was submitted to the NRC for an extension of the public comment period for NUREG–1921 (EPRI 1019196). NRC–RES reviewed this request and has agreed to extend the public comment period an additional 32 days to March 19, 2010.

Dated at Rockville, Maryland, this 26th day of January, 2010.

For the Nuclear Regulatory Commission.

Mark Salley,

Chief, Fire Research Branch, Division of Risk Analysis, Office of Nuclear Regulatory Research.

[FR Doc. 2010–2289 Filed 2–2–10; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 75 FR 4429 (January 27, 2010).

PREVIOUSLY ANNOUNCED TIME AND DATE: Wednesday, February 3, 2010 at 11 a.m.

CHANGES IN THE MEETING: The Commission is adding item no. 13–discussion of confidential commercial information relative to a potential Commission contract (closed) to its February meeting agenda. This action is being taken pursuant to a determination of the Commission, by recorded vote, as to the need for the change in the agenda, the status of the new agenda item, and the inability to provide earlier notice. There is a related General Counsel certification as to the appropriateness of closing agenda item no. 13 to public observation.

CONTACT PERSON FOR FURTHER INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, at 202-789-6820 or *stephen.sharfman@prc.gov*.

Dated: February 1, 2010.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–2450 Filed 2–1–E8; 4:15 pm]

BILLING CODE 7710–FW–S

SMALL BUSINESS ADMINISTRATION

[License No. 01/01–0414]

Ironwood Mezzanine Fund II, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Ironwood Mezzanine Fund II, L.P. 200 Fisher Drive, Avon, CT 06001–3723, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). Ironwood Mezzanine Fund II, L.P. proposes to provide debt/equity security financing to Action Carting Environmental Services, Inc., 451 Frelinghuysen Avenue, Newark, NJ 07114. The financing is contemplated as part of a debt/equity issuance, the proceeds of which will be used for planned acquisitions.

The financing is brought within the purview of § 107.730(a) of the Regulations because Ironwood Equity Fund, L.P., an Associate of Ironwood Mezzanine Fund II, L.P., owns more than ten percent of Action Carting Environmental Services, Inc., and this transaction is considered a Financing of an Associate requiring an exemption to the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction, within 15 days of the date of publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: January 19, 2010.

Sean Greene,

Associate Administrator for Investment.

[FR Doc. 2010–2225 Filed 2–2–10; 8:45 am]

BILLING CODE P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Grand Challenges of the 21st Century; Request for Information

ACTION: Notice.

SUMMARY: On September 21, 2009, President Barack Obama released his "Strategy for American Innovation." The strategy outlines the Administration's plans to foster innovation for sustainable growth and the creation of high-quality jobs.

One of the goals of the President's strategy is to harness science and technology to address the "grand challenges" of the 21st century. This Request for Information (RFI) is designed to collect input from the public regarding (1) The grand challenges that were identified in the strategy document; (2) other grand challenges that the Administration should consider, such as those identified by the National Academy of Engineering; (3) partners (e.g., companies, investors, foundations, social enterprises, non-profit organizations, philanthropists, research universities, consortia, etc.) that are interested in collaborating with each other and the Administration to achieve one or more of these goals, and (4) models for creating an "architecture of participation" that allows many individuals and organizations to contribute to these grand challenges.

RFI Guidelines: Responses to this RFI should be submitted by 11:59 p.m. Eastern Time on April 15, 2010. Responses to this RFI must be delivered electronically as an attachment to an e-mail sent to *challenge@ostp.gov*.

Responses to this notice are not offers and cannot be accepted by the Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the government for program planning on a non-attribution basis. Do not include any information that might be considered proprietary or confidential.

FOR FURTHER INFORMATION CONTACT: Any questions about the content of this RFI should be sent to *challenge@ostp.gov.*

Additional information regarding this RFI is at *http://www.ostp.gov/grandchallenges/.*

SUPPLEMENTARY INFORMATION: The Obama Administration believes that grand challenges should be an important organizing principle for America's science, technology and innovation policy. Grand challenges can address key national priorities, catalyze innovations that catalyze economic growth and quality jobs, spur the formation of multidisciplinary teams of researcher and multi-sector collaborators, bring new expertise to bear on important problems, strengthen the "social contract" between science and society, and inspire students to pursue careers in science, technology, engineering, and mathematics.

There are multiple types of grand challenges. Some define important problems in a particular field of science and engineering. For example, in 1900, the German mathematics professor David Hilbert posed 23 "mathematical

puzzles" which helped keep his contemporary and future colleagues busy for a century. Others pursue an advance in technological capability, such as the development of an exaflop supercomputer capable of one million trillion calculations per second. The focus of this RFI is on hard, unsolved scientific or engineering challenges that will have significant economic or societal impact and address an important national priority.

The classic grand challenge is the "moon shot." As President Kennedy said in his speech before a 1961 joint session of Congress, "I believe that this nation should commit itself to achieving the goal, before this decade is out, of landing a man on the moon and returning him safely to the Earth." More recently, in the late 1980s, the United States launched an effort to sequence an entire human genome, which has transformed biomedical research and promises to improve healthcare.

The Gates Foundation identified 14 grand challenges in global health in areas such as developing new or improved vaccines, controlling insect vectors, and creating low-cost diagnostics for global health conditions. Their goal is to radically improve in the developing world by "engaging creative minds across scientific disciplines, including those who have not traditionally taken part in health research." See *http://www.grandchallenges.org* for additional information.

The National Academy of Engineering identified 14 engineering grand challenges associated with sustainability, health, security, and human empowerment, such as providing access to clean water, engineering better medicines, securing cyberspace, and restoring and improving urban infrastructure. These grand challenges are already beginning to have an impact on undergraduate education. Twenty-five universities have decided to participate in the Grand Challenge Scholars Program. Undergraduate students at these campuses will be able to tackle these problems by integrating research, an interdisciplinary curriculum, entrepreneurship, international activities, and service learning. Some universities are also organizing campus-wide research initiatives around grand challenges. See *http://www.engineeringchallenges.org* for additional information.

In his "Strategy for American Innovation," President Obama identified the following grand challenges:

- Complete DNA sequencing of every case of cancer; smart anti-cancer therapeutics that kill cancer cells and leave their normal neighbors untouched; early detection of dozens of diseases from a saliva sample; nanotechnology that delivers drugs precisely to the desired tissue; personalized medicine that enables the prescription of the right dose of the right drug for the right person; a universal vaccine for influenza that will protect against all future strains; and regenerative medicine that can end the agonizing wait for an organ transplant.
- Solar cells as cheap as paint, and green buildings that produce all of the energy they consume.
- A lightweight vest for soldiers and police officers that can stop an armor-piercing bullet.
- Educational software that is as compelling as the best video game and as effective as a personal tutor; online courses that improve the more students use them; and a rich, interactive digital library at the fingertips of every child.
- Intelligent prosthetics that will allow a veteran who has lost both of his arms to play the piano again.
- Biological systems that can turn sunlight into carbon-neutral fuel, reduce the costs of producing anti-malarial drugs by a factor of 10, and quickly and inexpensively dispose of radioactive wastes and toxic chemicals.
- An "exascale" supercomputer capable of a million trillion calculations per second—dramatically increasing our ability to understand the world around us through simulation and slashing the time needed to design complex products such as therapeutics, advanced materials, and highly efficient autos and aircraft.
- Automatic, highly accurate and real-time translation between the major languages of the world—greatly lowering the barriers to international commerce and collaboration.

Clearly, support for addressing such specific challenges should be only one element of the federal government's overall R&D portfolio. The government also plays a critical role in supporting investigator-initiated research and research that is motivated solely by an interest in expanding the frontiers of human knowledge.

RFI Response Instructions: The White House Office of Science and Technology Policy and the National Economic Council are interested in responses that address one or more of the following topics:

Input Regarding Any of the Grand Challenges Identified by President Obama's Strategy for American Innovation

- Should the United States make it a priority to achieve this grand challenge? Why or why not?
- What existing activities in the public and private sector could the United States build on to achieve this challenge?
- What specific metrics or goals should the United States use to evaluate its progress towards this grand challenge? What roadmap would help inform decision-makers in the public and private sectors?
- What are the most important scientific and technical challenges that would need to be addressed to realize this challenge?
- What are the most important gaps in the nation's R&D portfolio that should be addressed? What kinds of R&D investments (e.g. supports for individual investigators, small teams, centers, research infrastructure, etc.) should the United States Government emphasize?
- What are the appropriate roles of the government, industry, academia and other stakeholders in achieving this challenge, and what new forms of collaboration should be explored? What are the appropriate roles for pre-competitive collaboration and market-based competition?
- What are the economic, ethical, legal, and societal issues raised by pursuit of this challenge? What roles are there for researchers and scholars in the humanities and the social and behavioral sciences?
- In addition to investment in R&D—what are other policies should the United States Government be considering to achieve this challenge and to realize the broader economic and societal benefits associated with related scientific and technological advances (e.g. procurement, incentive prizes, development or adoption of technical standards, international collaboration, targeted investment in education and workforce development, sponsorship of pilots or test beds, changes in legal, regulatory or other public policies)?

Identification of Additional Grand Challenges

- What are other grand challenges should the United States be considering, such as those identified by the National Academy of Engineering? Please provide input to one or more of the questions identified above.

Identification of Partners

The Administration is interested in stimulating multi-sector collaborations to achieve these grand challenges that might involve companies, research universities, foundations, social enterprises, non-profits, and other stakeholders.

- What partners or types of partners would need to collaborate to accomplish this goal?
- What specifically would your organization be willing to do to achieve this grand challenge?
- What models, institutions, technologies, and networks would enable broad participation by individuals and organizations in achieving these grand challenges?

M. David Hodge,

Operations Manager, OSTP.

[FR Doc. 2010–2012 Filed 2–2–10; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

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 an Open Meeting on February 8, 2010 at 10 a.m., in the Auditorium, Room L–002, and a Closed Meeting on February 8, 2010 at 11 a.m.

The subject matter of the February 8, 2010 Open Meeting will be:

The Commission will hear oral argument in an appeal by vFinance Investments, Inc., a registered broker-dealer (the "Firm"), and Richard Campanella, the Firm's former chief compliance officer (together with the Firm, "Respondents") from the decision of an administrative law judge. The law judge found that the Firm willfully violated Section 17(a) of the Securities Exchange Act of 1934 and Rules 17a–4(b)(4) and 17a–4(j) thereunder, by failing to preserve and promptly produce electronic communications, and that Campanella willfully aided and abetted and caused these violations. The law judge ordered Respondents to cease and desist, censured Campanella, and fined the Firm $100,000 and Campanella $30,000.

The subject matter of the February 8, 2010 Closed Meeting will be:

[P]ost argument discussion.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the item listed for the Closed Meeting in a closed session.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: February 1, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2424 Filed 2–1–10; 4:15 pm]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Emergency Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice covers an emergency revision of an existing OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection to the OMB Desk Officer and the SSA Reports Clearance Officer to the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov*

(SSA)

Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1340 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–8783, E-mail address: *OPLM.RCO@ssa.gov.*

SSA submitted the information collection below to OMB for Emergency Clearance. SSA is requesting Emergency Clearance from OMB no later than February 10, 2010. Individuals can obtain copies of the collection instrument by calling the SSA Reports Clearance Officer or by writing to the above e-mail address. *OIRA_Submission@omb.eop.gov*

Registration for Appointed Representative Services and Direct Payment—0960–0732. SSA uses Form SSA–1699 to register appointed representatives of claimants before SSA who:

- Want to register for direct payment of fees;
- Registered for direct payment of fees prior to October 31, 2009, but need to update their information;
- Registered as appointed representatives on or after October 31, 2009, but need to update their information; or
- Received a notice from SSA instructing them to complete this form.

By registering these individuals, SSA: (1) Authenticates and authorizes them to do business with us; (2) allows them access to our records for the claimants they represent; (3) facilitates direct payment of authorized fees to appointed representatives; and (4) collects the information we will need to meet Internal Revenue Service (IRS) requirements to issue specific IRS forms if we pay these representatives in excess of a specific amount ($600).

Although SSA currently uses a lengthier OMB-approved version of this form, we are requesting emergency clearance for an abbreviated version due to extensive comments from respondents indicating they need a simpler version immediately.

The respondents are appointed representatives who meet the above criteria.

Type of Request: Emergency clearance of an OMB-approved information collection.

Number of Respondents: 52,800.

Frequency of Response: 1.

Average Burden per Response: 20 minutes.

Estimated Annual Burden: 17,600 hours.

Dated: January 29, 2010.

Elizabeth A. Davidson,

Director, Center for Reports Clearance, Social Security Administration.

[FR Doc. 2010–2297 Filed 2–2–10; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6891]

Culturally Significant Objects Imported for Exhibition Determinations: "Architecture as Icon: Perception and Representation of Architecture in Byzantine Art"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Architecture as Icon: Perception and Representation of Architecture in Byzantine Art," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Princeton University Art Museum, Princeton, NJ, from on or about March 6, 2010, until on or about June 6, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/632–6473). The address is U.S. Department of State, SA–5, L/PD, Fifth Floor, Washington, DC 20522–0505.

Dated: January 27, 2010.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–2274 Filed 2–2–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 6890]

Bureau of Educational and Cultural Affairs; Secondary School Student Sponsor On-Site Reviews

ACTION: Notice.

SUMMARY: The Department has designated United States organizations to conduct Secondary School Student exchange programs since 1949, following passage of the United States Information and Educational Exchange Act of 1948 and adoption of 22 CFR part 62—Exchange Visitor Program regulations (14 FR 4592, July 22, 1949). Over the last 60 years, more than 850,000 foreign exchange students have lived in and learned about America through these Secondary School Student programs. Educational and cultural exchanges are the cornerstone of U.S. public diplomacy and an integral component of American foreign policy. Secondary School Student exchange programs promote mutual understanding by providing foreign students the opportunity to study in American high schools while living with American host families. Not only are the students themselves positively transformed and enriched by these experiences, but so too are their families, friends, and teachers in their home countries.

Globalization and the changing demographics of potential American host families, however, are having an impact on the traditional Secondary School Student exchange model. As a result, the Department has taken steps over the past several years to clarify and amend existing regulations; identify program issues that require further attention; cap program growth; more closely monitor sponsor performance; evaluate sponsor compliance; and, when necessary, impose administrative sanctions up to an including the revocation of the sponsor's program designation. In addition to these efforts, the Department has determined that a comprehensive review of each individual designated sponsor organization and its business practices is necessary to assist the Department in meeting both its policy objectives and oversight obligations for this category of exchange. The review of individual designated sponsors is conducted under the Department's regulatory authorities set forth at 22 CFR part 62.

Initially, the Department will conduct on-site reviews of all fee charging program sponsors. Excluded from this first round of review are all Rotary programs, schools, school districts, and government programs. Following the first round of on-site reviews, the Department will determine whether to conduct on-site reviews of some or all of the remaining non-fee-charging sponsors, or if a comparable review of these programs can be conducted through some alternative method.

The Department intends to examine a broad range of sponsor operations. The process will encompass in-depth financial review; examination of program pricing structures; appraisal of organizational operating models; review of hiring criteria and training policies for program employees and agents; evaluation of third party contractor relationships; and standard operating procedures, especially those related to the screening and selection of host families and the repatriation of program participants. Other areas of review will include, but are not limited to, decision-making processes (including the numbers of students accepted); self-imposed compliance mechanisms; procedures for handling student problems; standards for the selection of housing with host families; and policies for refunding deposits or payments when applicants cannot participate due to visa denial or sponsor inability to secure a placement. The Department will also examine the relationships between sponsors and third parties, including foreign partners. In the case of foreign partners, the Department will review their role in the overall placement process and the fees they charge for their services. The Department will scrutinize all contractual relationships under which designated sponsors outsource "core" services, i.e., the screening, selection, placement, orientation, and monitoring functions that constitute the core elements of international exchange programming.

It is the Department's intention that the burden of these reviews on sponsors will be minimal. Most document production will precede the on-site reviews and will involve standard and already existing business documents. The on-site portion of the review will entail interviews with key employees and review of files, but may also involve other follow-on areas of inquiry.

Sponsors will be given at least ten business days' notice of the on-site review at which time they will be asked to submit required documentation within five business days. The Department will try to be flexible with scheduling of reviews to ensure the availability of the sponsor's responsible officer, alternate responsible officer(s), and other key employees who will need to be interviewed. Many of the reviews will be completed in two business days by two-person teams of Department employees from the Office of Designation and the Office of Exchange Coordination and Compliance. Individual circumstances, however, may result in the Department bringing additional staff or extending the length

of the review. In addition, a representative from both the Department's Bureau of Educational and Cultural Affairs Grants Office and Youth Programs Division will join the review teams for those sponsors that place secondary school students under the terms of grant awards.

These reviews will not replace the redesignation process nor alter the requirements that sponsors submit applications for redesignation prior to the expiration of their current designations. Nor will the reviews take the place of the annual data reports required by regulation. Following the reviews, the Department will compile and share best practices and lessons learned with the exchange community. The Department recognizes it may also find operations that require the imposition of corrective action plans, or it may find that some entities no longer meet the eligibility requirements necessary to retain their designations. The Department believes that these reviews will provide an opportunity for continued growth of the partnership between the Department and program sponsors necessary and that the reviews will further our shared goal of ensuring that these young and potentially vulnerable exchange program participants all return to their countries with fond and meaningful memories of their successful exchange adventure in the United States of America.

Dated: January 28, 2010.

Stanley S. Colvin,

Deputy Assistant Secretary for Private Sector Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–2266 Filed 2–2–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2009–0019 (Notice No. 09–7)]

Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of information collection approval.

SUMMARY: This notice announces Office of Management and Budget (OMB) approval and extension until September 30, 2012, for the following information collection request (ICR): OMB Control No. 2137–0051, "Rulemaking, Special Permits, and Preemption Requirements."

This notice announces OMB approval and extension until November 30, 2012, for the following ICR: OMB Control No. 2137–0613, "Subsidiary Hazard Class and Number/Type of Packagings."

This notice announces OMB approval and extension until January 31, 2013 for the following ICR: OMB Control No. 2137–0510, "Radioactive (RAM) Transportation Requirements."

DATE: The expiration dates for these ICRs are either September 30, 2012, November 30, 2012, or January 31, 2013 as indicated under the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: Requests for a copy of an information collection should be directed to Deborah Boothe or Steven Andrews, Office of Hazardous Materials Standards (PHH–10), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe or Steven Andrew, Office of Hazardous Materials Standards (PHH–10), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: Office of Management and Budget (OMB) regulations (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(s)) and specify that no person is required to respond to an information collection unless it displays a valid OMB control number. In accordance with the Paperwork Reduction Act of 1995, PHMSA has received OMB approval for renewal of the following ICRs:

OMB Control Number: 2137–0051.

Title: "Rulemaking, Special Permits, and Preemption Requirements."

Expiration Date: September 30, 2012.

OMB Control Number: 2137–0613.

Title: "Subsidiary Hazard Class and Number/Type of Packagings."

Expiration Date: November 30, 2012.

OMB Control Number: 2137–0510.

Title: "Radioactive (RAM) Transportation Requirements."

Expiration Date: January 31, 2013.

Issued in Washington, DC, on January 29, 2010.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards.

[FR Doc. 2010–2306 Filed 2–2–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236, as detailed below.

Grenada Railway, LLC

[Docket Number FRA–2009–0122]

The Grenada Railway, LCC (GRYR) seeks approval of the proposed discontinuance and removal of the Automatic Block Signal System (ABS) on the entire railroad line between, but not including, the point of ownership at the Tennessee State Line, milepost (MP) 403.3 (Canadian National connection) to, but not including, the point of ownership at MP 703.8, near Davis, Mississippi (Canadian National connection). A northbound operative approach signal will be installed at MP 404.0 and a southbound operative approach signal will be installed at MP 702.8.

The reason given for the proposed changes is that the ABS is no longer needed in the current or foreseeable future operations of GRYR. There are substantial costs in maintaining the ABS. GRYR will operate under Rule 520, Other Than Main Track.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written

statements, an application may be set for public hearing.

All communications concerning these proceedings should identify the appropriate docket number *(e.g.*, Waiver Petition Docket Number FRA–2009–0122) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

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

Issued in Washington, DC on January 28, 2010.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 2010–2247 Filed 2–2–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket FTA–2010–0003]

Notice of Establishment of Emergency Relief Docket for Calendar Year 2010

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Federal Transit Administration (FTA) is establishing an Emergency Relief Docket for calendar year 2010 so grantees and subgrantees affected by national or regional emergencies may request relief from FTA administrative requirements set forth in FTA policy statements, circulars, guidance documents, and regulations.

FOR FURTHER INFORMATION CONTACT: Richard L. Wong, Attorney-Advisor, Legislation and Regulations Division, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave., SE., Room E56–308, Washington, DC 20590, phone: (202) 366–4011, fax: (202) 366–3809, or e-mail, *Richard.Wong@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Title 49 CFR Part 601, Subpart D, FTA is opening the Emergency Relief Docket. It may be opened at the request of a grantee or subgrantee, or on the Administrator's own initiative. When the Emergency Relief Docket is opened, FTA will post a notice on its Web site, at *http://www.fta.dot.gov.* In addition, the notice will be posted in the docket.

In the event a grantee or subgrantee believes the Emergency Relief Docket should be opened and it has not been opened, that grantee or subgrantee may submit a petition in duplicate to the Administrator, via U.S. mail, to: Federal Transit Administration, 1200 New Jersey Ave., SE., Washington, DC 20590; via telephone, at: (202) 366–1936; or via fax, at (202) 366–3472, requesting opening of the Docket for that emergency and including the information set forth below.

All petitions for relief from administrative requirements must be posted in the docket in order to receive consideration by FTA. The docket is publicly accessible and can be accessed 24 hours a day, seven days a week, via the Internet at *http://www.regulations.gov.* Petitions may also be submitted by U.S. mail or by hand delivery to the DOT Docket Management Facility, 1200 New Jersey Ave., SE., Room W12–140, Washington, DC 20590. Any grantee or subgrantee submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number FTA–2010–0003. Grantees and subgrantees making submissions to the docket by mail or hand delivery should submit two copies.

In the event a grantee or subgrantee needs to request immediate relief and does not have access to electronic means to request that relief, the grantee or subgrantee may contact any FTA regional office or FTA headquarters and request that FTA staff submit the petition on its behalf.

A petition for relief shall:

(a) Identify the grantee or subgrantee and its geographic location;

(b) Specifically address how an FTA requirement in a policy statement, circular, or agency guidance will limit a grantee's or subgrantee's ability to respond to an emergency or disaster;

(c) Identify the policy statement, circular, guidance document and/or rule from which the grantee or subgrantee seeks relief; and

(d) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is requested. The time period may not exceed three months; however, additional time may be requested through a second petition for relief.

A petition for relief from administrative requirements will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted thereto. FTA may contact the grantee or subgrantee that submitted the request for relief, or any party that submits comments to the docket, to obtain more information prior to making a decision. FTA shall then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and the comments submitted regarding the petition. If FTA does not respond to the request for relief to the docket within three business days, the grantee or subgrantee may assume its petition is granted for a period not to exceed three months until and unless FTA states otherwise.

Pursuant to section 604.2(f) of FTA's charter rule, grantees and subgrantees may assist with evacuations or other movement of people that might otherwise be considered charter transportation when that transportation is in response to an emergency declared by the President, governor, or mayor, or in an emergency requiring immediate action prior to a formal declaration, even if a formal declaration of an emergency is not eventually made by the President, governor or mayor. Therefore, a request for relief is not necessary in order to provide this service. However, if the emergency lasts more than 45 calendar days, the grantee or subgrantee shall follow the procedures set out in this notice.

FTA reserves the right to reopen any docket and reconsider any decision made pursuant to these emergency procedures based upon its own initiative, based upon information or comments received subsequent to the three business day comment period, or at the request of a grantee or subgrantee upon denial of a request for relief. FTA shall notify the grantee or subgrantee if it plans to reconsider a decision. FTA decision letters, either granting or denying a petition, shall be posted in the Emergency Relief Docket and shall reference the document number of the petition to which it relates.

Issued in Washington, DC, this 29 day of January 2010.

Peter Rogoff,

Administrator.

[FR Doc. 2010–2312 Filed 2–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2009–0086]

Petition for Waiver of Compliance; Notice of Petition for Statutory Exemption

In accordance with 49 U.S.C. 21102(b), the American Short Line and Regional Railroad Association (ASLRRA), on behalf of its members, has petitioned the Federal Railroad Administration (FRA) for an exemption from certain provisions of the hours of service laws (HSL) (49 U.S.C. Chapter 211). Specifically, ASLRRA has requested an exemption from the requirements of 49 U.S.C. 21103(a)(1) and 49 U.S.C. 21103(a)(4)(a) for certain of its member railroads that have 15 or less employees covered by the HSL.

ASLRRA notes that its petition for exemption in this docket is related to its waiver petition in Docket Number FRA–2009–0078, except that its exemption request is limited to certain member railroads that have 15 or less employees covered by the HSL. In its waiver petition, ASLRRA seeks a waiver of the statutory requirement contained in 49 U.S.C. 21103(a)(1), limiting train employees to 276 hours per calendar month for member railroads' management employees who perform limited service as train employees for not more than 25% of their monthly hours in the service to the railroads. In its waiver petition, ASLRRA also seeks relief from 49 U.S.C. 21103(a)(4)(a), which requires railroads to provide train employees 48 hours of rest after an employee has initiated an on-duty period on 6 consecutive days and 72 hours of rest after an employee has initiated an on-duty period on 7 consecutive days. In its petition for exemption in this docket, ASLRRA further notes that the railroads that are the subject of its exemption request are the "smallest of the small railroads." ASLRRA further expresses the view that in 49 U.S.C. 21102(b), "Congress granted FRA the broad power simply to exempt these small carriers" from the HSL. The entire ASLRRA petition may be reviewed online at *http://www.regulations.gov* under Docket Number FRA–2009–0086.

As ASLRRA notes in its petition, 49 U.S.C. 21102(b) provides that the Secretary of Transportation (Secretary) may, with certain limitations, exempt a railroad carrier having not more than 15 employees covered by the HSL from the requirements of Chapter 211. Specifically, 49 U.S.C. 21102(b) provides that the Secretary may allow the exemption after a full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption must be for a specific period of time and subject to review at least annually. This authority is delegated to FRA pursuant to 49 CFR 1.49.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings, however, if any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and FRA will provide such an opportunity.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Docket Number FRA–2009–0086) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and 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).

Issued in Washington, DC on January 28, 2010.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 2010–2246 Filed 2–2–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2008–0211]

Pipeline Safety: Implementation of Revised Incident/Accident Report Forms for Distribution Systems, Gas Transmission and Gathering Systems, and Hazardous Liquid Systems

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice; Issuance of Advisory Bulletin.

SUMMARY: This notice advises owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities that the incident/accident report forms for their pipeline systems were recently revised and should be used for all incidents and accidents occurring on or after January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Jamerson Pender, Information Resources Manager, 202–366–0218 or by e-mail at *Jamerson.Pender@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Pipeline and Hazardous Materials Safety Administration (PHMSA) requires that an operator of a covered pipeline facility file a written report within 30 days of certain adverse events, defined by regulation as either

an incident or accident, 49 CFR 191.1–191.27, 195.48–195.63 (2008).[1] PHMSA further requires that those reports be submitted to the agency on one of three standardized forms: (1) PHMSA Form F 7100.1, Incident Report—Gas Distribution Pipelines, (2) PHMSA Form F 7100.2, Incident Report—Gas Transmission and Gathering Systems, and (3) PHMSA Form F 7000–1—Accident Report for Hazardous Liquid Pipeline Systems. PHMSA uses the information collected from these forms to identify trends in the occurrence of safety-related problems, to appropriately target its performance of risk-based inspections, and to assess the overall efficacy of its regulatory program.

PHMSA published a Federal Register notice on September 4, 2008 (73 FR 51697) inviting public comment on a proposal to revise the incident/accident report forms. PHMSA stated that the proposed revisions were needed to make the information collected more useful to all those concerned with pipeline safety and to provide additional, and in some instances more detailed, data for use in the development and enforcement of its risk-based regulatory program. PHMSA published a subsequent **Federal Register** notice on October 30, 2008 (73 FR 64661) to extend the comment period to December 12, 2008.

On August 17, 2009, PHMSA published a **Federal Register** notice (74 FR 41496) to respond to comments, provide the public with an additional 30 days to comment on the proposed revisions to the incident/accident report forms, including the form instructions, and announce that the revised Information Collections would be submitted to the Office of Management and Budget (OMB) for approval. Several comments were received in response to the August 17, 2009, notice. PHMSA reviewed the comments and revised the forms as applicable.

PHMSA has recently received OMB approval to use the newly revised forms that are incorporated under OMB Control No. 2137–0522, "Incident and Annual Reports for Gas Pipeline Operators" and OMB Control No. 2137–0047, "Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting." The revised forms reflect comments that were received throughout the notice and comment periods. These forms should be used for all incidents/accidents that have occurred on or after January 1, 2010.

[1] Reportable events are referred to as "incidents" for gas pipelines, 49 CFR 191.3, and "accidents" for hazardous liquid pipelines, 49 CFR 195.50. An operator may also be required to file a supplemental report in certain circumstances.

Advisory Bulletin (ADB–2010–01)

To: Owners and Operators of Gas Pipeline Facilities and Hazardous Liquid Pipeline Facilities.

Subject: Implementation of PHMSA's Revised Incident/Accident Report Forms for Gas Distribution Systems, Gas Transmission and Gathering Systems, and Hazardous Liquid Systems.

Advisory: This notice advises owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities that the incident/accident report forms for their pipeline systems were recently revised and should be used for all incidents/accidents occurring on or after January 1, 2010. Until PHMSA completes development of a new electronic online data entry system for the new forms (approximately March 1, 2010) operators should file hard copy forms for incidents/accidents occurring on or after January 1, 2010. Copies of the new forms and instructions are available at *http://phmsa.dot.gov/pipeline/library/forms* or *http://opsweb.phmsa.dot.gov/.* Hard copy forms should be submitted to the attention of the Information Resources Manager at the address listed in the instructions. As an alternative, completed forms that include signatures may be submitted to the Information Resources Manager by e-mail to *Jamerson.Pender@dot.gov.* Any questions regarding this new requirement can be directed to the Office of Pipeline Safety operator helpline at 202–366–8075.

Issued in Washington, DC on January 25, 2010.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2010–2240 Filed 2–2–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "Notice Regarding Unauthorized Access to Customer Information."

DATES: You should submit comments by April 5, 2010.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention: 1557–0227, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy the comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to: OCC Desk Officer, 1557–0227, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary H. Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend, without revision, the approval of the following information collection:

Title: Notice Regarding Unauthorized Access to Customer Information.

OMB Control No.: 1557–0227.

Description: Section 501(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6901) requires the OCC to establish standards for national banks relating to administrative, technical, and physical safeguards to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to, or use of, such records or information that could result in substantial harm or inconvenience to any customer.

The Interagency Guidelines Establishing Information Security

Standards, 12 CFR Part 30, Appendix B (Security Guidelines), implementing section 501(b), require each bank to consider and adopt a response program, if appropriate, that specifies actions to be taken when the bank suspects or detects that unauthorized individuals have gained access to customer information.

The Interagency Guidance on Response Programs for Unauthorized Customer Information and Customer Notice (Breach Notice Guidance), which interprets the Security Guidelines, states that, at a minimum, a bank's response program should contain procedures for the following:

(1) Assessing the nature and scope of an incident, and identifying what customer information systems and types of customer information have been accessed or misused;

(2) Notifying its primary Federal regulator as soon as possible when the bank becomes aware of an incident involving unauthorized access to, or use of, sensitive customer information;

(3) Consistent with the OCC's Suspicious Activity Report regulations, notifying appropriate law enforcement authorities, as well as filing a timely SAR in situations in which Federal criminal violations require immediate attention, such as when a reportable violation is ongoing;

(4) Taking appropriate steps to contain and control the incident in an effort to prevent further unauthorized access to, or use of, customer information, for example, by monitoring, freezing, or closing affected accounts, while preserving records and other evidence; and

(5) Notifying customers when warranted.

This collection of information covers the notice provisions in the Breach Notice Guidance.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; businesses or other for-profit.

Estimated Number of Respondents: 25.

Estimated Time per Respondent:

Developing notices: 16 hours.

Notifying customers: 20 hours.

Estimated Total Annual Burden: 900 hours.

Frequency of Response: On occasion.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology;

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information; and

(f) Whether the estimates need to be adjusted based upon banks' experiences regarding the number of actual security breaches that occur.

Dated: January 28, 2010.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2010–2212 Filed 2–2–10; 8:45 am]

BILLING CODE 4810–33–P

Federal Register

Wednesday,
February 3, 2010

Part II

Environmental Protection Agency

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations; Notice

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–1017; FRL–8807–6]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by March 5, 2010 for these registrations, which the registrant has requested a waiver of the 180–day comment period, orders will be issued canceling these registrations. The Agency will consider withdrawal requests postmarked no later than March 5, 2010. Comments must be received on or before March 5, 2010.

ADDRESSES: Submit your comments and your withdrawal request, identified by docket identification (ID) number EPA–HQ–OPP–2009-1017, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. : Written Withdrawal Request, Attention : Maia Tatinclaux, Pesticide Re-evaluation Division (7508P).

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009-1017. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Maia Tatinclaux, (RMIB5, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347-0123; e-mail address: tatinclaux.maia@*epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

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

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

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

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

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

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

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

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

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

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel 673 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or

company number and 24(c) number) in Table 1 of this unit:

Table 1.—Registrations with Pending Requests for Cancellation

Registration No.	Product Name	Chemical Name
000004-00370	Bonide Carpet Dust	Piperonyl Butoxide Pyrethrins
000004-00373	Flying & Crawling Insect Killer	Resmethrin Piperonyl Butoxide Pyrethrins
000004-00418	Pressurized Spray Insecticide 0.25%	Resmethrin
000070-00152	Kill-Ko Fly & Mosquito Insect Killer	Piperonyl Butoxide Pyrethrins MGK 264
000070-00202	Kill-Ko Premise Spray	Piperonyl Butoxide Pyrethrins
000070-00276	Rigo's Aqueous Garden Spray	Piperonyl Butoxide Pyrethrins
000070-00281	Rigo's General Purpose Aqueous Insecticide	Piperonyl Butoxide Pyrethrins
000070-00297	Rigo's Best Flea & Tick Spray	Permethrin Pyrethrin
000070-00298	Rigo's Best Tick & Flea Dip	Piperonyl Butoxide Pyrethrins MGK 264
000070-00299	Rigos Best Flea & Tick Dip	Permethrin MGK 264
000088-00024	Hyponex Bug Spray for House Plants	Pyrethrins Piperonyl Butoxide
000192-00096	Dexol Malathion Insect Control	Malathion
000192-00144	Dexol Vegetable Garden Insect Spray	Piperonyl Butoxide Pyrethrins
000192-00170	Dexol Carpet Dust	Piperonyl Butoxide Pyrethrins
000192-00181	Dexol House Insect Control Mother Nature's Brand	Piperonyl Butoxide Pyrethrins
000192-00185	Dexol Indoor Insect Fogger II	Pyrethrins MGK 264 Permethrin
000192-00186	Dexol Ant, Roach, & Spider Spray	Pyrethrins MGK 264 Permethrin
000192-00197	Dexol Flea Free Fogger	Pyrethrins MGK 264 Permethrin Pyriproxyfen
000192-00203	Dexol Hornet & Wasp Killer 3	Piperonyl Butoxide Permethrin
000239-02429	Ortho High Power Indoor Insect Fogger	Pyrethrins Piperonyl Butoxide MGK 264
000239-02476	Ortho Systemic Rose and Floral Spray	Resmethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000239-02498	Ortho Rose & Flower Insect Killer	Pyrethrins Piperonyl Butoxide
000239-02527	Ortho Pet Flea & Tick Spray	Pyrethrins Piperonyl Butoxide
000239-02536	Ortho Pet Flea & Tick Spray Formula II	Pyrethrins Piperonyl Butoxide
000239-02565	Ortho Pet Shampoo	Pyrethrins Piperonyl Butoxide
000239-02566	Ortho Pet Flea & Tick Powder	Pyrethrins Piperonyl Butoxide
000239-02567	Flea-B-Gon Carpet Dust	Pyrethrins Piperonyl Butoxide
000239-02624	Hi-Power Indoor Insect Fogger Formula V	Pyrethrins Piperonyl Butoxide MGK 264 Esfenvalerate
000239-02676	Flea-B-Gon Total Fogger	Pyrethrins MGK 264 Permethrins Pyriproxyfen
000239-02678	Ortho Ant Killer Spray	Pyrethrins MGK 264 Permethrins
000270-00030	Farnam Repel X Fly Spray Concentrate	Piperonyl Butoxide Pyrethrins
000270-00110	Farnam Super Swat Fly Repellent	Piperonyl Butoxide Pyrethrins MGK 264
000270-00168	Farnam Mite-X	Piperonyl Butoxide Pyrethrins
000270-00172	Farnam Water Base Fly Repel	Piperonyl Butoxide Pyrethrins
000270-00265	Purina Animal Shampoo	Piperonyl Butoxide Pyrethrins
000270-00274	TPC Equi-Spray “N” Wipe	Piperonyl Butoxide Pyrethrins
000270-00275	Equi-Dust	Piperonyl Butoxide Pyrethrins
000270-00297	Farnam IGR Fogger 301	Pyrethrins MGK 264 Permethrins Pyriproxyfen
000270-00330	Farnam B736 Insecticide	Piperonyl Butoxide Permethrin
000270-00332	Sulfodene Scratchex Flea & Tick Shampoo for Dogs & Cats	Piperonyl Butoxide Pyrethrins MGK 264
000270-00333	Sulfodene Scratchex Flea & Tick Shampoo II	Piperonyl Butoxide Pyrethrins MGK 264

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000270-00334	Sulfodene Scratchex Power Dip	Piperonyl Butoxide Pyrethrins MGK 264
000270-00335	Sulfodene Scratchex Flea & Tick Spray for Dogs & Cats	Pyrethrins Permethrin
000270-00336	Sulfodene Scratchex Flea & Tick Killer for Dogs & Cats	Pyrethrins Permethrin
000270-00337	Sulfodene Scratchex Flea & Tick Shampoo-B for Dogs & Cats	Piperonyl Butoxide MGK 264
000270-00338	Sulfodene Scratchex Formula 36 Power Dip	Piperonyl Butoxide MGK 264
000270-00340	Adams Flea & Tick Mist II	Piperonyl Butoxide Pyrethrins MGK 264
000270-00341	Adams Flea & Tick Shampoo	Piperonyl Butoxide Pyrethrins MGK 264
000270-00355	Mycodex Premise Control Room Fogger	Pyrethrins MGK 264 Permethrins Pyriproxyfen
000270-00357	Redline Flea & Tick Mist	Piperonyl Butoxide Pyrethrins MGK 264
000270-00358	Adams Flea & Tick Mist with Nylar	Piperonyl Butoxide Pyrethrins MGK 264
000270-00359	Mycodex Fastact WP Flea & Tick Spray with Nylar Mycodex All-In-One	Piperonyl Butoxide Pyrethrins MGK 264
000270-00360	Mycodex Pet Shampoo with Pyrethrins	Piperonyl Butoxide Pyrethrins
000270-00362	Mycodex Pet Shampoo with Allethrin	Piperonyl Butoxide
000270-00363	Mycodex Aqua-Spray with Pyrethrins	Piperonyl Butoxide Pyrethrins
000270-00364	Adams Gold Flea & Tick Shampoo	Piperonyl Butoxide Pyrethrins
000270-00366	Mycodex “14” Pet Spray	Piperonyl Butoxide Pyrethrins Permethrin
000305-00060	Repel Permanone RTU	Permethrin
000432-00611	3-6-10 Fogging Concentrate	Piperonyl Butoxide Pyrethrins MGK 264
000432-00685	Ultratec Insecticide W/PYR./ Piperonyl Butoxide TRANS. E.D.C. 2.25+22.5%	Piperonyl Butoxide Pyrethrins
000432-00688	Pyrethrins/Piperonyl Butoxide Transparent Emulsion Spray 0.1%+1.0%	Piperonyl Butoxide Pyrethrins
000432-00719	Scourge Insecticide with SPB-1382/ Piperonyl Butoxide 1.5 + 4.5% Formula II	Piperonyl Butoxide Resmethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000432-00769	Alleviate Plus Insecticide	Piperonyl Butoxide Pyrethrins
000432-00880	Pyrenone Mushroom Fogging Insecticide	Piperonyl Butoxide Pyrethrins
000432-00884	DP210 Professional Insecticide	Pyrethrins Deltamethrin
000432-00986	Mosquito Spray Concentrate	Piperonyl Butoxide Pyrethrins
000432-01023	Mosquito Fogging Spray	Piperonyl Butoxide Pyrethrins
000432-01029	Pyrenone 1-0.2 Food Plant Spray	Piperonyl Butoxide Pyrethrins
000432-01051	Aqueous Food Plant Pyrenone Fogging Insecticide	Piperonyl Butoxide Pyrethrins
000432-01056	Pyrenone Stabilene Horse Insecticide Concentrate	Piperonyl Butoxide Pyrethrins
000432-01057	Pyrenone Food Plant Fogging Insecticide	Piperonyl Butoxide Pyrethrins
000432-01060	Pyrenone 7.5-0.75 Stabilene 53% E.C.	Piperonyl Butoxide Pyrethrins
000432-01068	M.A.G. 3-6-10	Piperonyl Butoxide Pyrethrins MGK 264
000432-01072	Pyrenone M.A.G.C. 5-1	Piperonyl Butoxide Pyrethrins
000432-01073	Pyrenone M.A.G.C. 12.5-2.5	Piperonyl Butoxide Pyrethrins
000432-01074	Pyrenone MAGC 10-3.34	Piperonyl Butoxide Pyrethrins
000432-01081	Alleviate Industrial Spray E.C.	Piperonyl Butoxide
000432-01085	Alleviate Stabilene Horse Insecticide	Piperonyl Butoxide
000432-01091	Pyrenone Multi-Purpose Aqueous 30-3	Piperonyl Butoxide Pyrethrins
000432-01092	Pyrenone Aqueous 30-3	Piperonyl Butoxide Pyrethrins
000432-01099	Turf Pest Diagnostic Aid	Piperonyl Butoxide Pyrethrins
000432-01100	PY-SY Concentrate	Pyrethrins Resmethrin
000432-01121	Pyrenone Aqueous Space Spray	Piperonyl Butoxide Pyrethrins
000432-01140	Synthrin Plus Pyrenone 415 M.A.G.C.	Piperonyl Butoxide Pyrethrins Resmethrin
000432-01144	Pyrenone 25-2.5 W.P.	Piperonyl Butoxide Pyrethrins
000432-01154	Butacide PS E.C.	Piperonyl Butoxide

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000432-01167	Turbocide Pest Control System with Synthrin Butacide	Piperonyl Butoxide Resmethrin
000432-01233	Skeeter-Mite 150-750 ULV	Piperonyl Butoxide Permethrin
000432-01234	Skeeter-Mite 300-1500 ULV	Piperonyl Butoxide Permethrin
000432-01236	Omen 50-50	Piperonyl Butoxide Permethrin
000432-01249	PyrenoneE 32-4	Piperonyl Butoxide Pyrethrins
000432-01319	Laser Flying Insect Killer	Piperonyl Butoxide MGK 264
000432-01320	Laser Ant & Roach Killer	Piperonyl Butoxide Pyrethrins
000432-01321	Laser House & Garden Insect Killer	Piperonyl Butoxide MGK 264
000432-01322	Laser Room Fogger	Piperonyl Butoxide Pyrethrins MGK 264
000432-01324	Laser Liquid Ant & Roach Killer Pump Spray	Piperonyl Butoxide Pyrethrins
000478-00045	Rose & Garden Insect Spray Concentrate	Pyrethrins Piperonyl Butoxide
000478-00046	Real Kill Rose & Garden Insect Spray	Pyrethrins Piperonyl Butoxide
000498-00135	Chase-MM Flea Killer	Piperonyl Butoxide Pyrethrins
000498-00150	Spraypack Flying & Crawling Insect Killer	Pyrethrins MGK 264 Permethrin
000498-00161	Spraypak Indoor Insect Fogger Formula 4	Piperonyl Butoxide Pyrethrins Permethrin
000498-00162	Spraypak Indoor Insect Fogger Formula 5	Piperonyl Butoxide Pyrethrins Permethrin
000498-00163	Spraypak Indoor Insect Fogger Formula 6	Piperonyl Butoxide Permethrin
000498-00171	Spraypack Flying & Crawling Insect Killer, Formula 3	Pyrethrins MGK 264 Permethrin
000498-00172	Spraypack Indoor Insect Fogger with Insect Growth Regulator	Pyrethrins MGK 264 Permethrins Pyriproxyfen
000498-00173	Spraypak Crawling Insect Killer Formula 3	Piperonyl Butoxide Pyrethrins Permethrin
000498-00185	Champion Sprayon Wasp Hornet Killer Formula 2	Piperonyl Butoxide Permethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000498-00189	Kill Zone Flea & Tick Killer 2000	Piperonyl Butoxide Pyrethrins Permethrin
000499-00231	Whitmire Flea Foam PT-11	Piperonyl Butoxide Pyrethrins MGK 264
000499-00233	Whitmire PT 170 X-CLUDE	Piperonyl Butoxide Pyrethrins MGK 264
000499-00235	Whitmire PT 170A X-CLUDE	Piperonyl Butoxide Pyrethrins MGK 264
000499-00238	Whitmire PT 12A X-CLUDE	Piperonyl Butoxide Pyrethrins MGK 264
000499-00265	Whitmire X-CLUDE Manufacturing Use Concentrate	Piperonyl Butoxide Pyrethrins MGK 264
000499-00325	Whitmire Flys-Off II Permethrin	Permethrin
000499-00331	Whitmire PT 21 H Dairy and Farm Insect Fogger	Piperonyl Butoxide Permethrin
000499-00378	Whitmire PT 150 XLO Pyrethrum Contact Insecticide	Piperonyl Butoxide Pyrethrins
000499-00411	Whitmire AERO-CIDE PT 3-6-10 XLO Pyrethrum Contact Insecticide	Piperonyl Butoxide Pyrethrins MGK 264
000499-00427	Whitmire PT 3-6-10C Aerocide Pyrethrin Concentrate	Piperonyl Butoxide Pyrethrins MGK 264
000499-00446	Whitmire TC 152	Permethrin
000499-00483	TC 179	Piperonyl Butoxide Permethrin
000499-00490	Prescription Treatment Brand TC ES Contact Insecticide	Piperonyl Butoxide Pyrethrins MGK 264
000499-00494	TC 230	Piperonyl Butoxide Pyrethrins MGK 264
000499-00499	Whitmire MICRO-GEN TC-236	Piperonyl Butoxide Pyrethrins MGK 264
000506-00166	TAT Roach & Ant Kille	Permethrin Pyrethrins MGK-264
000572-00278	Rockland Super Kill Insecticide Spray	Piperonyl Butoxide Pyrethrins
000655-00029	Prentox Pyronyl Roach Spray Concentrate	Piperonyl Butoxide Pyrethrins
000655-00030	Prentox Pyronyl 20 Concentrate	Piperonyl Butoxide Pyrethrins

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000655-00043	Prentox Pyronyl 101 Emulsion Concentrate	Piperonyl Butoxide Pyrethrins
000655-00061	Prentox Pyronyl 20-8 Oil Concentrate	Piperonyl Butoxide Pyrethrins
000655-00062	Prentox Pyronyl 40-5 Oil Concentrate	Piperonyl Butoxide Pyrethrins
000655-00073	Prentox Pyronyl 66-6 Oil Concentrate	Piperonyl Butoxide Pyrethrins
000655-00112	Prentox Pyronyl KD Concentrate	Piperonyl Butoxide Pyrethrins
000655-00120	Prentox Pyronyl Oil Concentrate NO. 101	Piperonyl Butoxide Pyrethrins
000655-00152	Prentox Pyronyl 30-6 Oil Concentrate	Piperonyl Butoxide Pyrethrins
000655-00217	Prentox Pyronyl 50-10 Oil Concentrate	Piperonyl Butoxide Pyrethrins
000655-00310	Prentox Malathion 95% Technical Premium	Malathion
000655-00332	Prentox Pyronyl 50-5 Aerosol Concentrate	Piperonyl Butoxide Pyrethrins
000655-00406	Prentox Pyronyl 5-18-10 WBA Concentrate	Piperonyl Butoxide MGK 264
000655-00421	Prentox Synpren-Fish Toxicant	Piperonyl Butoxide
000655-00450	Prentox Pyronyl Oil Concentrate #3610	Piperonyl Butoxide MGK 264
000655-00492	Prentox Vapon 20% Emulsifiable Concentrate	Dichlorvos (DDVP)
000655-00509	Prentox Insect Spray “A”	Piperonyl Butoxide MGK 264
000655-00511	Prentox Fogging Concentrate #1	Piperonyl Butoxide MGK 264
000655-00513	Prentox Insect Spray “B”	Piperonyl Butoxide MGK 264
000655-00549	Prentox Malathion W-25	Malathion
000655-00551	Prentox 5% Malathion Dust	Malathion
000655-00582	Prentox Pyronyl Fly Spray	Piperonyl Butoxide Pyrethrins
000655-00598	Prentox Malathion 50% Emulsifiable Insecticide	Malathion
000655-00604	Prentox Mosquito Fogging Concentrate F-103	Piperonyl Butoxide Pyrethrins
000655-00609	Prentox Grain Protectant Dust NO. 101	Piperonyl Butoxide Pyrethrins
000655-00612	Prentox Insect Fogging Spray Concentrate F-102	Piperonyl Butoxide Pyrethrins
000655-00621	Prentox Home & Garden Bug Killer	Piperonyl Butoxide MGK 264
000655-00664	Prentox Pyronyl Oil Concentrate # 12294	Piperonyl Butoxide MGK 264

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000655-00666	Prentox TFL Killer	Piperonyl Butoxide Pyrethrins
000655-00675	Prentox Pyronyl Fogging & Contact Spray	Piperonyl Butoxide MGK 264
000655-00683	Prentox Pyronyl Oil Concentrate #15A	Piperonyl Butoxide Pyrethrins
000655-00684	Prentox Pyronyl Oil Concentrate #15	Piperonyl Butoxide Pyrethrins
000655-00692	Prentox Vapon 4E	Dichlorvos (DDVP)
000655-00694	Prentox Pyronyl Livestock & Dairy Spray	Piperonyl Butoxide Pyrethrins
000655-00702	Prentox Fogger Oil and Dairy Spray	Dichlorvos (DDVP)
000655-00734	Prentox Pyronyl Equine Insect Repellent Concentrate	Piperonyl Butoxide Pyrethrins
000655-00772	Prentox Pyronyl Insect Spray and Fogging Concentrate #2	Piperonyl Butoxide MGK 264
000655-00775	Prentox Pyronyl Spray Concentrate 0.62%	Piperonyl Butoxide Pyrethrins
000655-00785	Prentox Pyronyl Oil Concentrate 125-25	Piperonyl Butoxide Pyrethrins
000655-00800	Prentox Flea, Tick and Roach Control	Piperonyl Butoxide Pyrethrins
000655-00804	Nusyn - Noxfish Fish Toxicant	Piperonyl Butoxide
000655-00810	Prentox Pyronyl Mosquito Adulticide #6012	Piperonyl Butoxide Pyrethrins
000769-00221	Suregard Grain Protectant Dust (1%)	Malathion
000769-00572	Malathion Spray	Malathion
000769-00585	R & M Floral & Vegetable Spray #1	Piperonyl Butoxide Pyrethrins
000769-00596	Sureco Flea & Tick Shampoo #4	Piperonyl Butoxide Pyrethrins
000769-00597	R & M Flea & Tick Shampoo #5	Piperonyl Butoxide Pyrethrins
000769-00600	R & M Carpet Powder #1	Piperonyl Butoxide Pyrethrins
000769-00601	R & M Carpet Powder #2	Piperonyl Butoxide Pyrethrins
000769-00602	R & M Carpet Powder #3	Piperonyl Butoxide Pyrethrins
000769-00608	R & M Aqueous Flea & Tick Spray #3	Piperonyl Butoxide Pyrethrins
000769-00610	R & M Pyrethrin Powder	Piperonyl Butoxide Pyrethrins
000769-00616	Sureco Flea & Tick Spray #7	Pyrethrins Piperonyl Butoxide MGK 264

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000769-00620	SMCP Malathion 57% Premium Grade	Malathion
000769-00621	SMCP Malathion EM-5	Malathion
000769-00623	Special Outdoor Fly Kil Insect Killer	Pyrethrins Piperonyl Butoxide
000769-00649	SMCP Emulsifiable 10-1 Pyrenone Concentrate	Pyrethrins Piperonyl Butoxide
000769-00650	SMCP Warehouse Fog Insecticide	Pyrethrins Piperonyl Butoxide
000769-00654	SMCP Roach Spray Concentrate	Pyrethrins Piperonyl Butoxide
000769-00700	SMCP Malathion ULV Concentrate	Malathion
000769-00733	SMCP General Purpose Spray #31	Pyrethrins Piperonyl Butoxide
000769-00734	SMCP Pyrenone General Purpose Spray	Pyrethrins Piperonyl Butoxide
000769-00736	SMCP Malathion Mole Cricket Bait Insecticide	Malathion
000769-00742	A. F. C. Pyrethrum Extract 1%	Pyrethrins
000769-00748	AFC Pyrethrum Concentrate #10	Pyrethrins
000769-00753	P.C.E. Fog Oil	Pyrethrins Piperonyl Butoxide MGK 264
000769-00757	AFC Pyrethrum Powder 0.9%	Pyrethrins
000769-00760	AFC General Purpose Spray	Pyrethrins Piperonyl Butoxide MGK 264
000769-00764	AFC General Purpose Spray Type II	Pyrethrins Piperonyl Butoxide MGK 264
000769-00765	SMCP AFC General Purpose Spray Type 4	Pyrethrins Piperonyl Butoxide MGK 264
000769-00770	SMCP PCE Space Spray	Pyrethrins Piperonyl Butoxide MGK 264
000769-00772	P. C. E. Water Miscible 110	Pyrethrins Piperonyl Butoxide MGK 264
000769-00773	PCE Pyrethrum Space Spray	Pyrethrins Piperonyl Butoxide
000769-00774	Formulation 16	Pyrethrins Piperonyl Butoxide MGK 264
000769-00775	PCE Water Miscible 110	Pyrethrins Piperonyl Butoxide MGK 264
000769-00776	General Purpose Spray Type 5	Pyrethrins Piperonyl Butoxide MGK 264

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000769-00777	P.C.E. Multi-Purpose Concentrate	Pyrethrins Piperonyl Butoxide MGK 264
000769-00779	AFC D-Trans 5	Piperonyl Butoxide MGK 264
000769-00780	AFC Esbiol 35	Piperonyl Butoxide MGK 264
000769-00790	Omnicide Municipal Special	Pyrethrins Piperonyl Butoxide MGK 264
000769-00810	Pyrethrum 25-5 ULV Insecticide	Pyrethrins Piperonyl Butoxide
000769-00811	Superior Omnicide Special Kill	Pyrethrins Piperonyl Butoxide MGK 264
000769-00818	Superior Food Plant Spray	Pyrethrins Piperonyl Butoxide
000769-00844	Pratt's 50% Malathion Spray	Malathion
000769-00847	Pratt's Home & Garden Insect Bomb	Pyrethrins Piperonyl Butoxide MGK 264
000769-00857	Science Red Arrow Insect Spray Pratt Red Arrow Insect Spray	Pyrethrins Piperonyl ButoxideRotenone
000769-00867	Pratt Room Fogger	Pyrethrins Piperonyl Butoxide MGK 264
000769-00887	Pybutox Fruit Fly Dust	Pyrethrins Piperonyl Butoxide
000769-00900	House and Yard Insect Spray	Pyrethrins Piperonyl Butoxide Resmethrin
000769-00932	General Purpose Insecticide	Pyrethrins Piperonyl Butoxide
000769-00933	Warner Enterprises Tomato & Vegetable Spray	Pyrethrins Piperonyl Butoxide
000769-00934	Warner Enterprises Rose & Floral Spray	Pyrethrins Piperonyl Butoxide
000769-00937	Warner House and Garden Spray	Pyrethrins Piperonyl Butoxide
000769-00941	Rose & Flower Insect Spray	Pyrethrins Piperonyl Butoxide
000769-00957	Pratt Malathion 25W	Malathion
000769-00961	Agrisect Malathion 80 EC	Malathion
000769-00964	Sureco Aqueous Flea & Tick Spray #4	Pyrethrins Piperonyl Butoxide
000769-00966	Sureco Synergized Permethrin Powder #1	Piperonyl Butoxide Permethrin
000769-00967	Sureco Synergized Permethrin Powder #2	Piperonyl Butoxide Permethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
000769-00968	Sureco 6 Month Insect Powder	Pyrethrins Piperonyl Butoxide
000829-00061	SA-50 Brand 5% Malathion Dust	Malathion
000829-00288	SA-50 Turf Fungicide Granular	Triadimefon
000829-00289	SA-50 Systemic Fungicide For Turf and Ornamentals	Triadimefon
001015-00016	Douglas Special Mill Spray	Piperonyl Butoxide Pyrethrins
001021-001857	MGK Formula 74407	Pyrethrins Piperonyl Butoxide
001021-01857	MGK Formula 74407	Piperonyl Butoxide Pyrethrins
001203-00011	Foremost 4809-ES Insect-O-Fog	Piperonyl Butoxide Pyrethrins
001270-00093	Zeposector Insecticide Spray	Piperonyl Butoxide Pyrethrins MGK 264
001270-00222	Zeposector A Spray Insecticide	Piperonyl Butoxide MGK 264
001270-00253	ZEP Double Shot II	Piperonyl Butoxide Pyrethrins Permethrin
001381-00153	Imperial 6% Malathion Grain Dust	Malathion
001381-00154	5LB Malathion Spray	Malathion
001903-00029	8-In-1 Flea & Tick Shampoo	Piperonyl Butoxide Pyrethrins
002596-00018	Hartz 2-in-1 Dog Flea Soap	Piperonyl Butoxide Pyrethrins MGK 264
002596-00021	Hartz 2-in-1 Luster Bath for Dogs	Piperonyl Butoxide Pyrethrins MGK 264
002596-00023	Hartz 2-in-1 Luster Bath for Cats	Piperonyl Butoxide Pyrethrins MGK 264
002596-00093	Hartz 2-in-1 Flea & Tick Killer for Cats - Fine Mist Spray	Piperonyl Butoxide Pyrethrins MGK 264
002596-00094	Hartz 2-in-1 Flea & Tick Killer for Dogs with Pyrethrin	Piperonyl Butoxide Pyrethrins MGK 264
002596-00111	Hartz One Spot Flea & Tick Killer for Cats & Dogs	Piperonyl Butoxide Pyrethrins MGK 264
002596-00138	Hartz 2-in-1 Flea & Tick Killer for Carpets	Piperonyl Butoxide Pyrethrins
002724-00468	Sandoz 9116 Mousse	Pyrethrins Piperonyl Butoxide
002724-00512	Speer Professional Insect Killer	Pyrethrins Piperonyl Butoxide

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
002724-00513	Speer Industrial Insecticide	Pyrethrins Piperonyl Butoxide
002724-00521	Speer One Shot Hi Pressure Insecticide Fogger	Pyrethrins Piperonyl Butoxide MGK 264
002724-00522	Speer Industrial Pressurized Spray	Pyrethrins Piperonyl Butoxide
002724-00523	Speer Insecticide, Pyrethrum Space Spray Synergizer Pyrethrins	Pyrethrins Piperonyl Butoxide
002724-00539	Speer Automatic Sequential Insecticide	Pyrethrins Piperonyl Butoxide
002724-00550	Pet Guard Flea & Tick Spray for Dogs & Cats	Piperonyl Butoxide
002724-00551	Speer Home & Institutional Insecticide Spray	Piperonyl Butoxide MGK 264
002724-00553	Speer Household & Industrial Insect Killer	Piperonyl Butoxide MGK 264
002724-00554	Magic Guard Home & Institutional Insect Spray	Piperonyl Butoxide MGK 264
002724-00556	Magic Guard Automatic Fogger No. IV	Pyrethrins Piperonyl Butoxide MGK 264
002724-00557	Magic Guard Automatic Fogger No. II (Double Strength Formula)	Pyrethrins Piperonyl Butoxide MGK 264
002724-00558	Speer Dairy and Food Plant Insecticide	Pyrethrins Piperonyl Butoxide MGK 264
002724-00559	Constant Companion Flea & Tick Spray for Dogs	Pyrethrins Piperonyl Butoxide MGK 264
002724-00560	Serene Companion Flea & Tick Spray for Cats	Pyrethrins Piperonyl Butoxide MGK 264
002724-00561	Pet Guard Pyrenone Flea & Tick Spray	Pyrethrins Piperonyl Butoxide
002724-00564	Pet Guard Beauty Shampoo	Pyrethrins Piperonyl Butoxide MGK 264
002724-00565	Better World Industrial Aerosol Insecticide	Pyrethrins Piperonyl Butoxide MGK 264
002724-00567	Better World Tomato & Vegetable Insect Spray	Pyrethrins Piperonyl Butoxide
002724-00569	Force One Insect Killer	Pyrethrins Piperonyl Butoxide MGK 264
002724-00570	Constant Companion Flea & Tick Dip	Pyrethrins Piperonyl Butoxide MGK 264
002724-00571	Speer Fly Repellent Spray	Pyrethrins Piperonyl Butoxide

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
002724-00572	SPI Pyrenone Food Plant Insecticide	Pyrethrins Piperonyl Butoxide
002724-00574	Speer Liquid Flea & Tick Killer with Deodorant	Pyrethrins Piperonyl Butoxide MGK 264
002724-00576	Deputy Dog Flea & Tick Arrest	Pyrethrins Permethrin
002724-00583	Speer Residual Pressurized Spray	Piperonyl Butoxide MGK 264
002724-00587	SPI Residual Flea & Tick Spray for Dogs & Cats II	Pyrethrins Permethrin
002724-00588	Speer Flea & Tick Powder for Carpets	Pyrethrins Piperonyl Butoxide
002724-00594	Daltek Dermatological Quick Kill Flea & Tick Spray for Dogs & Cats	Pyrethrins Piperonyl Butoxide
002724-00595	Farnam Dip-Quik Concentrate	Pyrethrins Piperonyl Butoxide
002724-00596	Farnam Flea & Tick Non-Aerosol Spray	Pyrethrins Piperonyl Butoxide
002724-00598	Farnam Flys Away Repellent Stick	Pyrethrins Piperonyl Butoxide
002724-00600	Farnam Repel-X A Emulsifiable Fly Spray	Piperonyl Butoxide
002724-00601	Farnam Automatic Insect Guard	Pyrethrins Piperonyl Butoxide
002724-00602	Farnam Flea & Tick Shampoo	Pyrethrins Piperonyl Butoxide MGK 264
002724-00603	Farnam Flea & Tick Shampoo II	Pyrethrins Piperonyl Butoxide
002724-00605	Nature's Own Brand Herbal Flea & Tick Shampoo	Pyrethrins
002724-00606	Organic Pyrethrin Liquid Concentrate Spray	Pyrethrins Piperonyl Butoxide
002724-00609	Farnam Repel-X Plus	Piperonyl Butoxide
002724-00612	Farnam Wipe a Fly Protectant	Piperonyl Butoxide
002724-00613	Mug-a-bug Total Release Aerosol Fogger I	Pyrethrins Permethrin MGK 264
002724-00614	Speer Repellent Towelette I	Pyrethrins Piperonyl Butoxide
002724-00618	Holiday Pet Spray	Piperonyl Butoxide
002724-00619	Speer Py-Perm Aqueous Insect Killer #2	Pyrethrins Piperonyl Butoxide Permethrin
002724-00620	Speer Py-Perm Aqueous Insect Killer #3	Pyrethrins Piperonyl Butoxide Permethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
002724-00621	Speer Py-Perm Aqueous Insect Killer #4	Pyrethrins Piperonyl Butoxide Permethrin
002724-00622	Speer Py-Perm Aqueous Insect Killer #5	Pyrethrins Piperonyl Butoxide Permethrin
002724-00623	Speer Pyrethrin Spray 2000	Pyrethrins Piperonyl Butoxide
002724-00624	Elite Carpet Powder	Pyrethrins Piperonyl Butoxide
002724-00625	6 Month Insect Powder	Pyrethrins Piperonyl Butoxide
002724-00626	Elite Carpet Powder II	Pyrethrins Piperonyl Butoxide
002724-00629	Speer Point Five Pyrethin Spray	Pyrethrins Piperonyl Butoxide
002724-00647	Speer-it Fogger II Total Release Aerosol	Pyrethrins Piperonyl Butoxide MGK 264
002724-00649	Farnam-Wipe Plus Fly Protectant	Piperonyl Butoxide
002724-00650	Farnam HMH-228 Fly Repellent Ointment	Piperonyl Butoxide
002724-00652	Purina Flea 'N Tick Mist	Pyrethrins Permethrin
002724-00653	TPC-RE-PEL	Pyrethrins Piperonyl Butoxide
002724-00656	Speer Point Five Pyrethrin Total Release Indoor Fogger	Pyrethrins Piperonyl Butoxide
002724-00657	Speer Cyfluthrin Multi-Purpose House & Garden Insect Killer	Piperonyl Butoxide MGK 264
002724-00658	Speer Cyfluthrin Ant and Roach Killer	Pyrethrins Piperonyl Butoxide
002724-00659	Speer Cyfluthrin Ant and Roach Killer Pump Spray	Pyrethrins Piperonyl Butoxide
002724-00660	Speer Cyfluthrin Flying Insect Killer	Piperonyl Butoxide MGK 264
002724-00662	Speer Total Release Aerosol II with Nylar	Pyrethrins Piperonyl Butoxide MGK 264
002724-00670	Neoperm Industrial Insect Killer	Pyrethrins Piperonyl Butoxide Permethrin
002724-00671	Speer Dry Insecticide	Pyrethrins Piperonyl Butoxide
002724-00672	Speer Py-Perm Aqueous Insect Killer #2 Alternate Speer Permethrin Dusting Powder Active	Piperonyl Butoxide Permethrin
002724-00689	Security Brand Vegetable & Ornamental Insect Spray	Pyrethrins Piperonyl Butoxide

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
002724-00695	SBP/PY/PB Water-Based Ready-to-Use Liquid Spray	Pyrethrins Piperonyl Butoxide Resmethrin
002724-00708	Elite Flea & Tick Spray #5	Pyrethrins Piperonyl Butoxide
002724-00710	Elite Horse Pray and Rub Concentrate	Pyrethrins Piperonyl Butoxide
002724-00711	Elite Horse Spray & Rub	Pyrethrins Piperonyl Butoxide
002724-00712	Elite Residual Flea & Tick Mist	Pyrethrins Permethrin
002724-00713	Elite Flea & Tick Dip III	Pyrethrins Piperonyl Butoxide
002724-00716	Elite Flea & Tick Shampoo III	Pyrethrins Piperonyl Butoxide
002724-00717	Elite Flea & Tick Shampoo III	Pyrethrins Piperonyl Butoxide
002724-00718	Elite Flea & Tick Shampoo III	Pyrethrins Piperonyl Butoxide
002724-00720	Elite Horse Spray	Pyrethrins Piperonyl Butoxide
002724-00721	Elite Residual Flea & Tick Mist II with Aloe & Lanolin	Pyrethrins Permethrin
002724-00723	Elite Quick Kill Spray Concentrate II	Pyrethrins Piperonyl Butoxide
002724-00725	Elite Horse Spray and Wipe	Pyrethrins Piperonyl Butoxide Permethrin
002724-00726	Elite Residual Equine & Pet Spray II	Pyrethrins Piperonyl Butoxide Permethrin
002724-00727	Elite Barn and Stable Spray II	Pyrethrins Piperonyl Butoxide
002724-00728	Elite Flea & Tick Spray #10	Pyrethrins Piperonyl Butoxide MGK 264
002724-00732	Elite Flea & Tick Spray II	Pyrethrins Piperonyl Butoxide MGK 264
002724-00733	Elite Flea & Tick Shampoo II	Pyrethrins Piperonyl Butoxide MGK 264
002724-00735	RSR Allethrin Shampoo	Piperonyl Butoxide
002724-00736	RSR Hamster & Gerbil Spray	PB Pyrethrins MGK 264
002724-00737	RSR Mite and Lice Spray	Pyrethrins Piperonyl Butoxide
002724-00738	Heartland Farm & Dairy Fly Spray	Pyrethrins Piperonyl Butoxide

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
002724-00739	Heartland Auto-Mist 3 Insect Killer	Pyrethrins Piperonyl Butoxide MGK 264
002724-00740	Heartland Auto-Mist 2 Insect Killer	Pyrethrins Piperonyl Butoxide MGK 264
002724-00741	Heartland Farm & Dairy Insecticide	Pyrethrins Piperonyl Butoxide MGK 264
002724-00742	Mercomist Aerosol Insect Killer	Pyrethrins Piperonyl Butoxide MGK 264
002724-00744	Heartland FH-7 Farm & Dairy Insect Killer	Pyrethrins Piperonyl Butoxide
002724-00745	SPI Horse Spray	Pyrethrins Piperonyl Butoxide
002724-00748	Holiday Ointment	Pyrethrins Piperonyl Butoxide
002724-00749	Holiday Flea Shampoo for Dogs & Cats	Pyrethrins Piperonyl Butoxide
002724-00752	Holiday Puppy-Kitten Spray	Pyrethrins Piperonyl Butoxide MGK 264
002724-00753	Pyrethrin Flushing Insecticide	Pyrethrins Piperonyl Butoxide MGK 264
002724-00754	Pest Control Products Roach Flushing Insecticide	Pyrethrins Piperonyl Butoxide MGK 264
002724-00755	Pest Control Products One-Two-Three Economy Insecticide	Pyrethrins Piperonyl Butoxide MGK 264
002724-00756	Holiday Concentrated Shampoo for Dogs & Cats	Pyrethrins Piperonyl Butoxide
002724-00758	Pest Control Products Indoor Fogger	Pyrethrins Piperonyl Butoxide MGK 264
002724-00763	Hill's Holiday Flea Stop Pump Spray for Dogs & Cats	Piperonyl Butoxide
002724-00764	Holiday Non-Aerosol Flea Spray	Piperonyl Butoxide
002724-00768	Hill's Holiday Flea Stop Pyrethrin Pump	Pyrethrins Piperonyl Butoxide MGK 264
002724-00772	Permalool Plus Fogger	Piperonyl Butoxide Permethrin
002724-00775	Holiday Pet Spray II	Pyrethrins Piperonyl Butoxide MGK 264
002724-00778	Permethrin Plus Fogger	Piperonyl Butoxide Permethrin
002724-00781	Carpet Powder Plus	Pyrethrins Piperonyl Butoxide

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
002724-00784	Carpet Powder Plus II	Pyrethrins Piperonyl Butoxide
002724-00785	Carpet Powder Plus III	Pyrethrins Piperonyl Butoxide
002935-00549	Potato Seed Treater	Mancozeb
004713-00006	Superfine Pyrethrum Powder	Pyrethrins
004713-00007	Kenya Refined Pyrethrum Extract 20%	Pyrethrins
004822-00071	Raid Power Guard 2-Way Bug Killer	Piperonyl Butoxide Pyrethrins
004822-00072	New Formula Raid House & Garden Bug Killer	Pyrethrins Piperonyl Butoxide
004822-00085	Bolt Super Knock-Out Flying Insect Killer	Piperonyl Butoxide
004822-00113	Johnson Raid Household Flying Insect Killer	Piperonyl Butoxide MGK 264
004822-00133	Improved Formula Raid House & Garden Bug Killer	Pyrethrins Piperonyl Butoxide
004822-00135	Raid Automatic Indoor Fogger	Pyrethrins Piperonyl Butoxide MGK 264
004822-00140	Raid Formula IV Flying Insect Killer	Piperonyl Butoxide Pyrethrins Resmethrin
004822-00141	Raid Flying Insect Killer Formula III	Piperonyl Butoxide Resmethrin
004822-00180	Raid Indoor Fogger II	Pyrethrins Piperonyl Butoxide MGK 264
004822-00279	Raid House & Garden Bug Killer Formula 11	Pyrethrins Piperonyl Butoxide
004822-00280	Raid Flying Insect Killer Formula V	Pyrethrins Piperonyl Butoxide MGK 264
004822-00280	Raid Flying Insect Killer Formula V	MGK 264 Pyrethrins Piperonyl Butoxide Tetramethrin
004822-00281	Raid House & Garden	Pyrethrins Piperonyl Butoxide
004822-00286	Raid Formula 6 Flying Insect Killer	Piperonyl Butoxide Resmethrin
004822-00289	Raid Flying Insect Killer Formula 4	Piperonyl Butoxide
004822-00303	Raid Flying Insect Killer Formula 9	Piperonyl Butoxide
004822-00304	Raid Flying Insect Killer Formula 10	Piperonyl Butoxide Resmethrin
004822-00319	Raid Flying Insect Killer Formula 12.	Piperonyl Butoxide
004822-00321	Raid Fogger 15	Pyrethrins

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
004822-00323	Raid Ant & Roach Formula 6	Piperonyl Butoxide Pyrethrins Permethrin
004822-00327	Raid Flying Insect Killer	Piperonyl Butoxide
004822-00353	Raid Ant and Roach Killer Formula D16	Piperonyl Butoxide Permethrin
004822-00354	Raid Max Roach and Ant Killer 3	Piperonyl Butoxide
004822-00361	Enforcer Flea Killer For Carpets	MGK 264 Pyrethrins Piperonyl Butoxide
004822-00363	Piperonyl Butoxide Technical for Manufacturing Purposes Only	Piperonyl Butoxide
004822-00378	Raid Max Fogger 2	Pyrethrins Piperonyl Butoxide
004822-00386	Raid Indoor Fogger XXIII	Pyrethrins Piperonyl Butoxide
004822-00387	Raid Fogger Formula XXIV	Pyrethrins Piperonyl Butoxide
004822-00391	Raid Ant 7 Roach Killer 12	Pyrethrins Piperonyl Butoxide Permethrin
004822-00403	Raid & Roach Killer 14	Pyrethrins Piperonyl Butoxide Permethrin
004822-00466	P/P Pet Spray	Pyrethrins Piperonyl Butoxide
004822-00467	P/P Flea & Tick Spray No. 3	Pyrethrins Piperonyl Butoxide
005481-00073	Alco Fly Fighter Liquid Concentrate	Dichlorvos (DDVP)
005481-00200	DDVP 90% Fogging Concentrate	Dichlorvos (DDVP)
005481-00206	DDVP 20% Spray Concentrate	Dichlorvos (DDVP)
005481-00334	DDVP 2 Spray OB	Dichlorvos (DDVP)
005481-00340	Alco Bug Spray Pressurized	Dichlorvos (DDVP)
005887-00010	50% Malathion Spray	Malathion
005887-00120	Black Leaf Tomato & Vegetable Spray	Piperonyl Butoxide Pyrethrins
005887-00160	Black Leaf Roach, Ant & Spider Spray	Permethrin Pyrethrin MGK264
005887-00168	50% Malathion Spray	Malathion
007401-00267	Hi-Yield 5% Malathion Dust	Malathion
007401-00438	Ferti-Lome Liquid Fruit Tree Spray	Malathion
008329-00045	Permethrin RTU	Permethrin
008536-00031	Premium Grade Card-O-Sect #25	Resmethrin
008536-00032	NE-1 Insecticide	Resmethrin
008536-00034	Cardinal 3% ULV Insecticide	Resmethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
008660-00255	Permethrin 0.5 Lawn Insect Control	Permethrin
008660-00257	Permethrin 0.32 Lawn Insect Control with Fertilizer	Permethrin
008660-00258	Permethrin 0.38 Lawn Insect Control with Fertilizer	Permethrin
009444-00005	CB Purge Insecticide	Piperonyl Butoxide Pyrethrins
009444-00020	Purge Instant Fogger	Pyrethrins Piperonyl Butoxide
009444-00021	CB-38 Insecticide	Pyrethrins Piperonyl Butoxide
009444-00033	Purge III Industrial Type Insect Killer	Pyrethrins Piperonyl Butoxide MGK 264
009444-00041	CB-40 Insecticide	Pyrethrins Piperonyl Butoxide MGK 264
009444-00082	Purge Fly Spray for Horses	Pyrethrins Piperonyl Butoxide
009444-00088	CB Farm Dairy Insect Fogger	Pyrethrins Piperonyl Butoxide MGK 264
009444-00096	CB-80 Insecticide	Pyrethrins Piperonyl Butoxide
009444-00102	CB Flea & Tick Shampoo	Pyrethrins Piperonyl Butoxide
009444-00111	CB Farm Dairy Insecticide Concentrate	Pyrethrins Piperonyl Butoxide
009444-00124	Purge CB-100 Insecticide	Pyrethrins Piperonyl Butoxide MGK 264
009444-00126	CB S-312 Insecticide	Piperonyl Butoxide
009444-00144	CB-405 Fogger	Pyrethrins Piperonyl Butoxide MGK 264
009444-00147	Country Vet Flea & Tick Dip Concentrate	Pyrethrins Piperonyl Butoxide
009444-00148	Country Vet Pet & Spray	Pyrethrins Piperonyl Butoxide
009444-00149	Country Vet Pet & Kennel Spray	Pyrethrins Piperonyl Butoxide
009444-00162	Purge 30 DS	Pyrethrins Piperonyl Butoxide MGK 264
009444-00172	CB 38-4 For Insect Control	Pyrethrins Piperonyl Butoxide
009444-00176	CB-80-2 WB For Insect Control	Pyrethrins Piperonyl Butoxide
009444-00178	CB-80-4 WB For Insect Control	Pyrethrins Piperonyl Butoxide

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
009444-00179	CB-123-1 For Insect Control	Pyrethrins Piperonyl Butoxide MGK 264
009444-00187	CB S-312 For Insect Control	Piperonyl Butoxide
009444-00197	Country Vet Farm Dairy CV-40-ID Insect Spray	Pyrethrins Piperonyl Butoxide
009444-00198	Country Vet Farm Dairy CV-40-3D Insect Spray	Pyrethrins Piperonyl Butoxide
009444-00199	Country Vet Farm Dairy CV-40-4D Insect Spray	Pyrethrins Piperonyl Butoxide
009444-00200	Country Vet Farm Dairy CV-40-2D Insect Spray	Pyrethrins Piperonyl Butoxide
009444-00201	Intruder II Residual with Cyfluthrin	Pyrethrins Piperonyl Butoxide
009444-00218	Crawling Insect Killer-MP	Piperonyl Butoxide Permethrin
009444-00222	Home Insect Fogger	Pyrethrins Piperonyl Butoxide MGK 264
009444-00233	CB-80-3 Spray for Horses	Pyrethrins Piperonyl Butoxide
009444-00238	Country Vet Purge 1	Pyrethrins Piperonyl Butoxide
009688-00036	Total Release Insect Fogger	Piperonyl Butoxide Pyrethrins
009688-00052	Flying and Crawling Insects Spray IV	Piperonyl Butoxide Pyrethrins
009688-00055	Flying and Crawling Insect Killer V	Piperonyl Butoxide Pyrethrins MGK 264
009688-00103	Chemsico Carpet Powder	Piperonyl Butoxide Pyrethrins
009688-00105	Chemsico Insect Repellent	Permethrin
009688-00112	Chemsico Aerosol Spray A	Permethrin
009688-00114	Chemsico Insecticide K	Piperonyl Butoxide Pyrethrins
009688-00115	Chemsico Ornamental, Houseplant & Vegetable Spray	Piperonyl Butoxide Pyrethrins Permethrin
009688-00116	Chemsico Indoor & Outdoor Spray	Piperonyl Butoxide Permethrin
009688-00142	Chemsico Insecticide Concentrate 10P	Permethrin
009688-00146	Chemsico Insecticide DM	Permethrin
009688-00159	Chemsico Insecticide NT	Piperonyl Butoxide Permethrin
009688-00161	Chemsico Insecticide Concentrate N30-A	Permethrin
009688-00175	Chemsico Insecticide Concentrate FAP	Permethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
009688-00196	Chemsico Garden Dust PP	Piperonyl Butoxide Pyrethrins
009688-00207	Chemsico Insecticide Concentrate 10PT	Permethrin
009688-00226	Chemsico Flea & Tick Killer PP	Piperonyl Butoxide Pyrethrins
009688-0083	Chemsico Lawn Insect Control Granules	Permethrin
009779-00272	Propanil 4E	Propanil
009779-00306	Propanil 60 DF	Propanil
009779-00307	Malathion RTU	Malathion
009779-00338	Propanil 80 EDF	Propanil
009779-00340	Londax Pro-Pack BNB	Propanil
009779-00343	Pro-Pack 80 EDF	Propanil
010163-00044	ProKill Malathion ULV	Malathion
010163-00142	Gowan Malathion 5 Dust	Malathion
010163-00152	Malathion Technical	Malathion
010806-00011	P-30 Insect Spray	Piperonyl Butoxide Pyrethrins MGK 264
028293-00004	Unicom Pet Shampoo	MGK-264 Piperonyl Butoxide
028293-00007	Unicorn Flea & Tick Powder	Piperonyl Butoxide Pyrethrins
028293-00020	Unicorn Fly Repellent #2	MGK-264 Piperonyl Butoxide
028293-00021	Unicorn Blitz RTU Spray	Piperonyl Butoxide Pyrethrins
028293-00025	Unicorn Ear Mite Remedy	Piperonyl Butoxide Pyrethrins
028293-00029	Unicorn Pet Dip	Piperonyl Butoxide Pyrethrins
028293-00030	Unicorn Equine Fly Spray	Piperonyl Butoxide Pyrethrins Butoxypolypropylene Glycol
028293-00085	Unicorn Bird Spray	MGK-264 Piperonyl Butoxide
028293-00093	Unicorn Carpet Dust	Piperonyl Butoxide Pyrethrins
028293-00118	Unicorn Today Flea & Tick Spray	MGK-264 Piperonyl Butoxide
028293-00119	Unicorn Malathion	Malathion
028293-00137	Unicorn Pyrethrin Pet Shampoo II	Piperonyl Butoxide Pyrethrins
028293-00138	Unicorn Carpet Dust II	Piperonyl Butoxide Pyrethrins

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
028293-00140	Unicorn Super Pet Shampoo	MGK-264 Piperonyl Butoxide
028293-00145	Unicorn Flea & Tick Spray	MGK-264 Piperonyl Butoxide
028293-00174	Unicorn Flea & Tick Spray	Piperonyl Butoxide Pyrethrins
028293-00176	Unicorn Aqueous Pet Dip	Piperonyl Butoxide Pyrethrins
028293-00178	Unicorn Animal & Kennel Concentrate	Piperonyl Butoxide Pyrethrins
028293-00180	Pyrethrins Flea & Tick Carpet Powder	Piperonyl Butoxide Pyrethrins
028293-00197	Unicorn Ultra Pet Shampoo II	MGK-264
028293-00207	Unicorn Garden Dust	Piperonyl Butoxide Pyrethrins
028293-00208	Unicorn Garden Spray Concentrate	Piperonyl Butoxide Pyrethrins
028293-00209	Unicorn 14 Day Flea & Tick Spray #3	Piperonyl Butoxide Pyrethrins Permethrin
028293-00219	Unicorn Concentrate 7243	Piperonyl Butoxide Pyrethrins
028293-00220	Unicorn Pressurized Garden Spray	Piperonyl Butoxide Pyrethrins
028293-00224	House and Carpet Spray #7	Piperonyl Butoxide Pyrethrins Permethrin
028293-00225	Unicorn House and Carpet Spray #8	Piperonyl Butoxide Pyrethrins Permethrin
028293-00226	Unicorn House and Carpet Spray #9	Piperonyl Butoxide Pyrethrins Permethrin
028293-00227	Unicorn Residential, Industrial&Garden Spray #2	Piperonyl Butoxide Pyrethrins Permethrin
028293-00228	Unicorn House and Carpet Spray #11	Piperonyl Butoxide Pyrethrins Permethrin
028293-00232	Unicorn .15% Transparent Emulsion Spray	Piperonyl Butoxide Pyrethrins
028293-00275	Unicorn Multi-Purpose House & Garden Insect Killer	MGK-264 Piperonyl Butoxide
028293-00278	Unicorn 1% Granular Turf Fungicide	Triadimefon
028293-00280	Unicorn 1% Granular Turf Fungicide	Triadimefon
028293-00284	Unicorn Cypermethrin Concentrate	CyPermethrin
028293-00288	Unicorn Synergized Pour-On Insecticide II	Piperonyl Butoxide Permethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
028293-00291	Unicorn Malathion 50% EC	Malathion
028293-00292	Unicorn Synergized Pour-On Insecticide III	Piperonyl Butoxide Permethrin
028293-00367	Unicorn .30% Cypermethrin Granules	CyPermethrin
034704-00802	Accost-1G	Triadimefon
040208-00005	Haymaker II Fogging Insecticide	Piperonyl Butoxide Pyrethrins
042750-00063	Co-Star	Glyphosate2,4D
046515-00031	CAI Flea & Tick Spray for Dogs & Cats II	Permethrin Pyrethrins
046515-00054	Permethrin 0.5% Liquid Ready to Use	Permethrin
046813-00061	Wasp & Hornet Killer II	Resmethrin
047000-00008	Chem Tech Metered Refill	Piperonyl Butoxide Pyrethrins
047000-00079	Flyers Insecticide	Resmethrin
047000-00083	Freez-Kill	Resmethrin
047000-00099	Flyer's Insecticide	Resmethrin
047000-00132	Wasp & Hornet Insect Bomb	Resmethrin
048668-00004	PPP Flea & Tick Shampoo	Resmethrin
048668-00005	PPP Flea & Tick Spray	Resmethrin
053883-00040	Martin's 50% Malathion Concentrate	Malathion
067425-00019	ECOPCO JET/X	Piperonyl Butoxide
067603-00001	TSD Multi-Purpose Insect Spray	Permethrin
067760-00026	Fyfanon 6% Dust	Malathion
073049-00069	Powdered Pyrethrum	Pyrethrin
073049-00070	Pyrethrin Extract Crude	Pyrethrins
073049-00073	Pyrethrum Extract Hr.	Pyrethrins
073049-00074	Pyrethrum Powdered	Pyrethrins
073049-00075	Insecticidal Concentrate NO. 1	Piperonyl Butoxide Pyrethrins MGK 264
073049-00077	Ultratec Insect with Pyrethrins/Piperonyl Butox. T.E.C. 3.75%-3.75%	Piperonyl Butoxide Pyrethrins
073049-00081	SBP-1382 Aqueous Pressurized Spray Insecticide 0.50%	Resmethrin
073049-00082	SBP-1382 Insecticide Aqueous Pressurized Spray 0.25%	Resmethrin
073049-00083	SBP-1382 Insecticide Aqueous Pressurized Spray 0.35% for House & Garden	Resmethrin
073049-00084	Your Brand SBP-1382 Insecticide Spray 0.10	Resmethrin
073049-00085	SBP-1382/Bioallethrin Aqueous Pressurized Spray	Resmethrin
073049-00087	SBP-1382 Bioallethrin Insecticide Conc. 10% - 7.5% Formula I	Resmethrin
073049-00088	SBP-1382 Aqueous Press. Spray Insect 0.25/House & Garden	Resmethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
073049-00089	SBP - 1382 Yard and Patio Outdoor Fogger	Resmethrin
073049-00090	SBP-1382 Oil Base Insecticide 0-20%	Resmethrin
073049-00091	Bio Resmethrin Liquid Insecticide Spray 0.25% Formula I	Resmethrin
073049-00092	Your Brand SBP-1382/Bioallethrin(.20%+.125%) Aqueous Press. Spray for H&G	Resmethrin
073049-00095	SBP-1382/Bioallethrin Insecticide Concentrate 10%-6.25% Formula I	Resmethrin
073049-00097	SBP-1382 0.35% Space and Residual Aqueous Pressurized Spray	Resmethrin
073049-00098	SBP-1382 Insecticide Concentrate 12% Formula I with Residual Activity	Resmethrin
073049-00100	SBP-1382 Insecticide Concentrate 12.5% Formula I	Resmethrin
073049-00101	SBP-1382 T.E.C. 6%	Resmethrin
073049-00102	SBP-1382/Bioallethrin Aqueous Pressurized Spray (PD 6.5)	Resmethrin
073049-00103	SBP-1382/Bioallethrin Insecticide Concentrate 8%-16% Formula I	Resmethrin
073049-00106	SBP-1382 Insecticide Transparent Emulsion Spray 0.35%	Resmethrin
073049-00107	Ultratec Insecticide W/SPB-1382 Tran. Emul. Dil. Conc. 2%	Resmethrin
073049-00108	SBP-1382 Aqueous Pressurized Spray Insecticide 0.25%	Resmethrin
073049-00109	SBP-1382 Residual Aqueous Pressurized Ant and Roach Spray 0.35%	Resmethrin
073049-00110	SBP-1382 Insecticide Transparent Emulsion Spray 0.25%	Resmethrin
073049-00111	SBP-1382 Liquid Spray 0.50%	Resmethrin
073049-00112	SBP-1382 Liquid Insecticide Spray 0.5% Formula I	Resmethrin
073049-00113	Vectrin Four-Plus-One	Piperonyl Butoxide Pyrethrins Resmethrin
073049-00124	Pramex Insecticide Concentration 12.5%	Permenthrin
073049-00126	Pramex Insecticide Aqueous Pressurized Spray 0.25% For House and Garden	Permenthrin
073049-00131	SBP-1382 Insecticide Emulsifiable Concentrate 26%	Resmethrin
073049-00132	SBP-1382 Insecticide Emulsifiable 26% Formula I for Repackaging Use	Resmethrin
073049-00133	SBP-1382 Concentrate 16% Formula III	Resmethrin
073049-00134	SBP 1382 Insecticide Concentrate 40% Formula II	Resmethrin
073049-00135	SBP-1382/Esbiothrin/P.B.O Insecticide AQ. Press. Spray 0.20% + 0.10% +	Piperonyl Butoxide Resmethrin
073049-00140	Crossfire Concentrate 1 W/SBP-1382/Esbioth./PIP.BUT. 8.34%-4.17%-16.67% FOR.I	Piperonyl Butoxide Resmethrin
073049-00142	SBP-1382 Oil Base Insecticide 0.20% Formula III	Resmethrin
073049-00143	SBP-1382 Liquid Insecticide Spray 0.25% Formula III	Resmethrin
073049-00144	SBP-1382 Insecticide Press. Spray 0.25% Formula III For Wasps & Hornet	Resmethrin
073049-00146	Ultratec Insecticide W/PYR./ Piperonyl Butoxide Transparent E.C. 2.25-22.5%	Piperonyl Butoxide Pyrethrins
073049-00147	Ultratec Insecticide W/PYR./ Piperonyl Butoxide Transparent Emulsion 2.25%-22.5%	Piperonyl Butoxide Pyrethrins
073049-00148	SBP-1382/Esbiothrin/P.B. Insecticide Conc. 3%-4.5%-18% Formula II	Piperonyl Butoxide Resmethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
073049-00149	PYR./P.B.O. Trans. Emulsion Spray 0.15 + 1.5%	Piperonyl Butoxide Pyrethrins
073049-00164	Tetralate Butacide (15-7.5-15) W-B Concentrate	Piperonyl Butoxide Resmethrin
073049-00165	Tetralate-Butacide Insect Killer WBA N109	Piperonyl Butoxide Resmethrin
073049-00173	Pyraperm 709 Fogger	Piperonyl Butoxide Pyrethrins Permethrin
073049-00188	Permanone Insect Killer R400	Permethrin
073049-00189	Pramex Insecticide E. C. 13.3% For Use on Plants Formula I	Permethrin
073049-00190	SBP-1382/PYR./P.B.O. Transparent Emuls. Spray 0.08 + 0.02+0.02%	Piperonyl Butoxide Pyrethrins Resmethrin
073049-00191	Ford's Permicide Crack & Crevice Spray	Permethrin
073049-00192	Thirty-Five Plus Multi-Purpose Insect Spray	Permethrin
073049-00194	Tomato and Vegetable Insect Spray	Piperonyl Butoxide Pyrethrins
073049-00195	Ford's Garden Spray	Piperonyl Butoxide Pyrethrins
073049-00196	Pet Shampoo	Piperonyl Butoxide Pyrethrins
073049-00198	Ford's Aqua Py Dog & Cat Spray	Piperonyl Butoxide Pyrethrins
073049-00199	Flea & Tick Spray	Piperonyl Butoxide Pyrethrins
073049-00200	Ford's Pyre-Dust Roach Powder	Piperonyl Butoxide Pyrethrins
073049-00201	Ford's Aqua Fog	Piperonyl Butoxide Pyrethrins
073049-00202	Flea & Tick Duster for Carpets and Upholstered Furniture	Piperonyl Butoxide Pyrethrins
073049-00203	Ford's Multipurpose Aerosol	Piperonyl Butoxide Pyrethrins
073049-00204	Ultimate Spray	Piperonyl Butoxide Pyrethrins
073049-00205	Pyre-cide 3-6-10 Oil Concentrate	Piperonyl Butoxide Pyrethrins MGK-264
073049-00206	Blanco 0.2 Liquid Insecticide Spray	Resmethrin
073049-00207	Ford's SBP-1382 Insecticide Transparent Emulsion Spray 0.25%	Resmethrin
073049-00208	CSA House and Garden Spray	Resmethrin
073049-00209	Ford's Commercial Spray	Resmethrin
073049-00211	Pyrenone Aerosol Concentrate 20-5	Piperonyl Butoxide Pyrethrins

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
073049-00214	Pyrenone O.T. 50-5	Piperonyl Butoxide Pyrethrins
073049-00215	Pyrenone O.T. 666 Insecticide	Piperonyl Butoxide Pyrethrins
073049-00216	Emulsifiable Pyrenone 10-1	Piperonyl Butoxide Pyrethrins
073049-00219	Pyrenone O.T. Emulsifiable Concentrate 60-6	Piperonyl Butoxide Pyrethrins
073049-00220	Niagara Pyrenone Aerosol Concentrate 50-6 Insecticide code 777.00	Piperonyl Butoxide Pyrethrins
073049-00221	Special Aerosol Concentrate Insecticide Code	Piperonyl Butoxide Pyrethrins
073049-00224	Intermediate Concentrate WB Insecticide	Piperonyl Butoxide Pyrethrins
073049-00227	Pyrenone General Purpose Spray	Piperonyl Butoxide Pyrethrins
073049-00229	Butamin P&O Concentrate	Piperonyl Butoxide
073049-00230	NIA 17370 Insecticide Spray 0.05	Resmethrin
073049-00231	Synthrin Aqueous Pressurized Spray Insecticide 0.50	Resmethrin
073049-00232	Synthrin House and Garden Insecticide Spray 0.25%	Resmethrin
073049-00233	Tetralate 25-10.6 WB	Resmethrin
073049-00234	Tetramethrin 2.5 FMC 17370 1.06 DWB Concentrate	Resmethrin
073049-00235	Automatic Sequential Pressurized Spray	Piperonyl Butoxide Pyrethrins
073049-00237	Pyrenone Small Animal & Kennel Insecticide Emulsifiable Concentrate	Piperonyl Butoxide Pyrethrins
073049-00239	Niagara Vaporizer Concentrate 3.0-0.3	Piperonyl Butoxide Pyrethrins
073049-00240	Vaporizer Concentrate 0.1%-0.5%	Piperonyl Butoxide Pyrethrins
073049-00241	Pyrenone Industrial Spray Emulsifiable Concentrate	Piperonyl Butoxide Pyrethrins
073049-00242	Pyrenone Double-A Spray	Piperonyl Butoxide Pyrethrins
073049-00243	Pyrenone 60-6 EC Alternate Code 77805	Piperonyl Butoxide Pyrethrins
073049-00244	Vaporizor Conc. 2.4-0.3	Piperonyl Butoxide Pyrethrins
073049-00245	Niagara Pyrenone W-B 40-5 Code 76703	Piperonyl Butoxide Pyrethrins
073049-00246	Multi-Purpose Pyrenone Insecticide Concentrate	Piperonyl Butoxide Pyrethrins
073049-00250	Pyrenone E.C. 10-1 Insecticide	Piperonyl Butoxide Pyrethrins
073049-00251	Pyrenone Mill Spray 2-0.2 Oil Type	Piperonyl Butoxide Pyrethrins

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
073049-00255	Tetralate Multipurpose Insect Killer	Resmethrin
073049-00256	Pyrenone 50%-5% Insecticide Concentrate	Piperonyl Butoxide Pyrethrins
073049-00257	Butamin Indoor/Outdoor Spray	Piperonyl Butoxide
073049-00259	Tetralate 2.0-0.44 WB	Resmethrin
073049-00260	Tetramethrin 26.64 NIA 17370 5.85 WB Concentrate	Resmethrin
073049-00262	Tetralate General Purpose 0.25%-0.25% Insect Killer	Resmethrin
073049-00263	Tetralate 2.5-2.5 WB	Resmethrin
073049-00264	Tetralate 16.670-7.0655	Resmethrin
073049-00265	Tetralate 20.84-20.84 W.B.	Resmethrin
073049-00276	Synthrin House and Garden Insecticide 0.25%	Resmethrin
073049-00287	Drione II Insecticide	Piperonyl Butoxide Pyrethrins
073049-00291	Pyrenone 12.5-5.0 W.P. Base	Piperonyl Butoxide Pyrethrins
073049-00296	Pyrenone-Porch, Patio, Garden and Ornamental Spray I	Piperonyl Butoxide Pyrethrins
073049-00302	Double Action Flea & Tick Powder I	Piperonyl Butoxide Pyrethrins
073049-00304	Butamin P & O Concentrate V	Piperonyl Butoxide
073049-00308	Tetraperm Yard & Patio Spray	Piperonyl Butoxide Permethrin
073049-00309	Permanone Dusting Powder	Piperonyl Butoxide Permethrin
073049-00310	Permanone (20-5) Dust Concentrate	Piperonyl Butoxide Permethrin
073049-00311	Pyraperm Dusting Powder	Piperonyl Butoxide Pyrethrins Permethrin
073049-00312	Pyraperm Dust Concentrate	Piperonyl Butoxide Pyrethrins Permethrin
073049-00313	Tetraperm Crawling Insect Killer	Permethrin
073049-00314	Tetraperm Dual Action Ant & Roach Killer	Permethrin
073049-00315	Tetraperm (16-40) O-B Concentrate	Permethrin
073049-00316	Pyraperm (7.5-15-37.5) O-B Concentrate	Piperonyl Butoxide Pyrethrins Permethrin
073049-00321	Pyraperm Insect Killer WBA N65	Piperonyl Butoxide Pyrethrins Permethrin
073049-00322	Pyraperm Insect Killer WBA N66	Piperonyl Butoxide Pyrethrins Permethrin

Table 1.—Registrations with Pending Requests for Cancellation—Continued

Registration No.	Product Name	Chemical Name
073049-00323	Pyraperm Insect Killer WBA N67	Piperonyl Butoxide Pyrethrins Permethrin
073049-00324	Pyraperm Insect Killer WBA N67A	Piperonyl Butoxide Pyrethrins Permethrin
073049-00325	Pyraperm (6-3-30) W-B Concentrate	Piperonyl Butoxide Pyrethrins Permethrin
073049-00327	Pyraperm Aqueous Crawling Insect Killer	Piperonyl Butoxide Pyrethrins Permethrin
073049-00328	Tetraperm Crawling Insect Killer II	Permethrin
073049-00335	Pyraperm Household Dusting Powder	Piperonyl Butoxide Pyrethrins Permethrin
073049-00336	Permanone Household Dusting Powder	Piperonyl Butoxide Permethrin
073049-00340	Permanone WSB	Permethrin
073049-00341	Permanone 25 WP	Permethrin
073049-00353	Permanone 25 WP	Permethrin
073049-00357	SBP-1382 Micro-Min Insecticide Spray 0.5% with Mineral Oil	Resmethrin
073049-00358	SBP-1382 Insecticide Concentrate 3%	Resmethrin
073049-00364	Intercept H & G Insect Control	Permethrin
073049-00369	Permanone 0.2% RTU H&G Insect Control	Permethrin
073049-00370	Pyrenone Aerosol Concentrate 40-5	Piperonyl Butoxide Pyrethrins
073049-00373	Dairy & Livestock Spray	Piperonyl Butoxide Pyrethrins
073049-00375	Industrial Aqueous Pressurized 4.0-0.5	Piperonyl Butoxide Pyrethrins
073049-00376	Pyrenone Garden Dust	Piperonyl Butoxide Pyrethrins
073049-00377	Pyrenone Garden Spray Concentrate	Piperonyl Butoxide Pyrethrins
073049-00381	Exterm-A-Vape	Resmethrin
073049-0248	Compactor and Kitchen Insecticide	Piperonyl Butoxide Pyrethrins
073049-326	Permanone Aqueous Indoor Fogger	Permethrin
073825-00006	Ecosmart Household Insect Killer	Piperonyl Butoxide

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 30–day period.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number:

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Co. Number	Company Name and Address
4	Bonide Products, Inc. Agent Registrations By Design, Inc. P.O. Box 1019 Salem, VA 24153-3805
70	Value Gardens Supply, LLC D/B/A Garden Value Supply P.O. Box 585 Saint Joseph, MO 64502
88	Hyponex Corporation (and Subsidiaries) 14111 Scottslawn Road Marysville, OH 43041
192	Value Gardens Supply, LLC D/B/A Garden Value Supply P.O. Box 585 Saint Joseph, MO 64502
239	The Scotts Company 14111 Scottslawn Road Marysville, OH 43041
270	Farnam Companies, Inc. D/B/A Central Life Sciences 301 West Osborn Road Phoenix, AZ 85013
305	United Industries Corp. d/b/a WPC Brands Inc. P.O. Box 4406 Bridgeton, MO 63044
432	Bayer Environmental Science 2 T. W. Alexander Drive P.O. Box 12014 Research Triangle Park, NC 27709
478	Realex P.O. Box 142642 St. Louis, MO 63114-0642
498	Chase Products Co. P.O. Box 70 Maywood, IL 60153
499	Whitmire Micro-Gen Research Laboratories, Inc. Agent Name: BASF CORP. 3568 Tree Court Industrial Blvd. St. Louis, MO 63122-6682
506	Walco Linck Company 30856 Rocky Rd Greeley, CO 80631-9375
572	Value Gardens Supply, LLC D/B/A Garden Value Supply P.O. Box 585 Saint Joseph, MO 64502
655	Prentiss, INC. 3600 Mansell Rd, Suite 350 Alpharetta, GA 30022

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Co. Number	Company Name and Address
769	Value Gardens Supply, LLCP.O. Box 585 Saint Joseph, MO 64502
829	Southern Ag Insecticides Ag-Chem Consulting 12208 Quinque Lane Clifton, VA 20124
1015	Douglas Products and Packaging Co. D/B/A Douglas Products and Packaging 4110 136th Street, Northwest Gig Harbor, WA 98332
1021	Douglas Products and Packaging Co. D/B/A Douglas Products and Packaging 4110 136th Street, Northwest Gig Harbor, WA 98332
1203	Delta Foremost Chemical Corp 3915 Air Park St. Memphis, TN 38118
1270	ZEP Inc. 1310 Seaboard Industrial Blvd. NW Atlanta, GA 30318
1381	Winfield Solutions, LLC P.O. Box 64589 St. Paul, MN 55164-0589
1903	Eight in One Pet Products, Inc. 1377 Motor Parkway, Suite 100 Islandia, NY 11749
2596	The Hartz Mountain Corp. 400 Plaza Drive Secaucus, NJ 07094
2724	Wellmark International 1501 E. Woodfield Rd, Suite 200 West Schaumburg, IL 60173
2935	Wilbur-Ellis Company P.O. Box 1286 Fresno, CA 93715
4713	Paul A. Keane & Associates P.O. Box 65436 Tucson, AZ 85728
4822	S.C. Johnson & Son, Inc. 1525 Howe St. Racine, WI 53403

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Co. Number	Company Name and Address
5481	Amvac Chemical Corporation 4695 MacArthur Court, Suite 1250 Newport Beach, CA 92660
5887	Value Gardens Supply, LLCD/B/A Garden Value Supply P.O. Box 585 Saint Joseph, MO 64502
7401	Voluntary Purchasing Group, Inc. 230 FM 87 Bonham, TX 75418-8629
8329	Clarke Mosquito Control Products, Inc. P.O. Box 72197 Roselle, IL 60172
8536	Soil Chemicals Corporation P.O. Box 782 Hollister, CA 95024
8660	United Industries Corp. d/b/a Sylorr Plant Corp P.O. Box 14642 St. Louis, MO 63114-0642
9444	Waterbury Companies, Inc. 129 Calhoun St. P.O. Box 640 Independence, LA 70443
9688	Chemsico Div of United Industries Corp P.O. Box 142642 St Louis, MO 63114-0642
9779	Agriliance, LLC P.O. Box 64089 St. Paul, MN 55164-0089
10163	Gowan Company P.O. Box 5569 Yuma, AZ 85366-5569
10806	Contact Industries Div. of Safeguard Chemical Corp 411 Wales Ave Bronx, NY 10454
28293	Phaeton Corporation Agent Registrations By Design, Inc P.O. Box 1019 Salem, VA 24153
34704	Loveland Products, Inc. P.O. Box 1286 Greeley, CO 80632-1286

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Co. Number	Company Name and Address
40208	Lawson Products, Inc. D/B/A Drummond, A Lawson Brand 600 Corporate Woods Parkway Vernon Hills, IL 60061-3165
42750	Albaugh, Inc. 1525 NE 36th Street Ankeny, IA 50021
46515	Celex Div. of United Industries Corp. P.O. Box 142642 St Louis, MO 63114-0642
46813	K-G Packaging, INC. 316 Highland Avenue Hartford, WI 53027
47000	Chem-Tech, LTD. 4515 Fleur Dr. #303 Des Moines, IA 50321
48668	Professional Pet Products 1873 N.W. 97TH Ave. Miami, FL 33172
67425	Ecosmart Technologies, Inc. Technology Sciences Group, Inc. 1150 18TH Street, N.W., Suite 1000 Washington, District of Columbia 20036
67603	Sherwin Williams Diversified Brands 101 Prospect Ave. Cleveland, OH 44115
67760	Cheminova, Inc. Washington Office 1600 Wilson Boulevard Suite 700 Arlington, VA 22209

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Co. Number	Company Name and Address
73049	Valent BioSciences Corporation 870 Technology Way, Suite 100 Libertyville, IL 60048-6316
73825	Bioganic Safety Brands, Inc. 509 Tower Valley Drive Hillsboro, MO 63050

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

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before March 5, 2010. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. EPA's existing stocks policy (56 FR 29362) provides that: "If a registrant requests to voluntarily cancel a registration where the Agency has identified no particular risk concerns, the registrant has complied with all applicable conditions of reregistration, conditional registration, and data call ins, and the registration is not subject to a Registration Standard, Label Improvement Program, or reregistration decision, the Agency will generally permit a registrant to sell or distribute existing stocks for 1 year after the cancellation request was received. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted."

Upon cancellation of the pesticides identified in Table 1, EPA anticipates allowing sale, distribution and use as described above. Exception to this general policy will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 14, 2010.

Richard P. Keigwin, Jr.,

Director, Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–1583 Filed 2–2–10 8:45 am]

BILLING CODE 6560–50–S

Reader Aids

Federal Register

Vol. 75, No. 22

Wednesday, February 3, 2010

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal__register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

4973–5224 1
5225–5480 2
5481–5674 3

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
13530 5481

Administrative Orders:
Memorandums:
Memo. of January 29, 2010 5485

5 CFR

Proposed Rules:
2423 5003

6 CFR

5 .....5487, 5491

8 CFR

1 5225
292 5225

10 CFR

50 5495

Proposed Rules:
431 5544

14 CFR

43 5204
61 5204
91 5204
97 .....5230, 5232
141 5204
331 5234

Proposed Rules:
71 5007

15 CFR

902 5498

18 CFR

284 5178

20 CFR

10 5499

21 CFR

1309 4973

26 CFR

54 5452

Proposed Rules:
1 5253
54 5410

28 CFR

0 4982

29 CFR

2590 5410

Proposed Rules:
403 5456
1910 5545
2509 5253
2520 5253
2550 5253

30 CFR

Proposed Rules:
57 5009
75 5009

31 CFR

548 5502

32 CFR

706 5235

33 CFR

165 5511

37 CFR

382 5513

Proposed Rules:
41 5012

39 CFR

3020 5236

40 CFR

9 4983
52 5514
180 .....5515, 5518, 5522, 5526
721 4983

Proposed Rules:
721 5546

45 CFR

146 5410

47 CFR

80 5241

Proposed Rules:
52 5013
73 5015

48 CFR

512 5241
552 5241

49 CFR

7 5243
10 5243
26 5535
40 5243
171 5376
172 5376
173 5376
174 5376
178 5376
192 .....5224, 5536
195 5536
390 4996
578 5224
599 5248

Proposed Rules:
23 5551

107 5258
571 5553
1244 5261

50 CFR

648 ..... 5498, 5537
679 ..... 5251, 5541

Proposed Rules:

17 5263
226 5015
648 5016

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 2949/P.L. 111–127
Emergency Aid to American Survivors of the Haiti Earthquake Act (Jan. 27, 2010)
Last List January 26, 2010

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.