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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

[FNS–2008–0033]

RIN 0584–AD65

School Food Safety Program Based on Hazard Analysis and Critical Control Point Principles (HACCP); Approval of Information Collection Request

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; approval of information collection request.

SUMMARY: The final rule entitled School Food Safety Program Based on Hazard Analysis and Critical Control Point Principles (HACCP) was published on December 15, 2009, which implemented a legislative provision requiring school food authorities participating in the National School Lunch Program (NSLP) or the School Breakfast Program (SBP) to develop a school food safety program for the preparation and service of school meals served to children. The Office of Management and Budget (OMB) cleared the associated information collection requirements (ICR) on November 2, 2009. This document announces approval of the ICR.

DATES: The ICR associated with the final rule published in the **Federal Register** on December 15, 2009, at 74 FR 66213, was approved by OMB on December 30, 2009, under OMB Control Number 0584–0550.

FOR FURTHER INFORMATION CONTACT: Lynn Rodgers-Kuperman, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302, (703) 305–2600, or *Lynn.Rogers@fns.usda.gov.*

SUPPLEMENTARY INFORMATION: The December 15, 2009 (74 FR 66213), final rule implemented a legislative provision which requires school food authorities participating in the National School Lunch Program (NSLP) or the School Breakfast Program (SBP) to develop a school food safety program for the preparation and service of school meals served to children. The school food safety program must be based on the (HACCP) system established by the Secretary of Agriculture. The food safety program enables schools to take systematic action to prevent or minimize the risk of food-borne illness among children participating in the NSLP and SBP. The information collection requirements were approved by OMB on December 30, 2009.

Dated: February 4, 2010.

Julia Paradis,

Administrator, Food and Nutrition Service.

[FR Doc. 2010–3476 Filed 2–23–10; 8:45 am]

BILLING CODE 3410–30–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 926, 940 and 960

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1264, 1265 and 1269

RIN 2590–AA33

Federal Home Loan Bank Housing Associates, Core Mission Activities and Standby Letters of Credit

AGENCY: Federal Housing Finance Agency, Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is transferring regulations of the former Federal Housing Finance Board (Finance Board) to the FHFA's regulations. These regulations address, respectively, Federal Home Loan Bank (Bank) housing associates, the Banks' core mission activities, and Bank issuance of standby letters of credits. FHFA is not making any substantive amendments to these regulations, and is making only those changes that are necessary to accomplish the transfer and to account for the fact that FHFA has succeeded the Finance Board as the regulator for the Banks.

DATES: This rule is effective March 26, 2010.

FOR FURTHER INFORMATION CONTACT: Neil R. Crowley, Deputy General Counsel, 202–343–1316, *neil.crowley@fhfa.gov,* Office of General Counsel, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654 (2008), became law and created FHFA as an independent agency of the Federal Government. Among other things, HERA transferred to FHFA the supervisory and oversight responsibilities over the Banks that formerly had been vested in the now abolished Finance Board. The Banks continue to operate under regulations promulgated by the Finance Board until such time as the existing regulations are supplanted by regulations promulgated by FHFA.

II. The Final Regulation

The final regulation relocates rules addressing Bank housing associates from part 926 of the Finance Board regulations to part 1263 of the FHFA regulations; the Banks' core mission activities from part 940 of the Finance Board regulations to part 1265 of the FHFA regulations and Bank issuance of standby letters of credit from part 960 of the Finance Board regulations to part 1269 of the FHFA regulations. This rulemaking is part of FHFA's efforts to transfer the regulations of the former Finance Board from 12 CFR chapter IX, to 12 CFR chapter XII, which contains the FHFA regulations. The rule also makes conforming changes to references to reflect the new part numbers and will add to the new parts definitions that are contained in part 900 of the Finance Board regulations and are applicable to all regulations contained in 12 CFR chapter IX (but would not be applicable to the regulations after they are transferred to 12 CFR chapter XII). The rule also changes references such as those to the Finance Board, to conform to statutory changes made by HERA.

Authority citations in each part also are being amended to conform to statutory changes made by HERA. Finally, the rulemaking will revise newly designated 1264.6(a) to update the address for submitting appeals of a Bank's decision to deny an application for certification as a housing associate. All the changes are either technical or conforming in nature, and no substantive changes are being made to any requirements contained in the regulations.

III. Notice and Public Participation

FHFA finds that good cause exists for adopting these rule changes as a final rule without public notice and comment under 5 U.S.C. 553(b) because the changes simply relocate and redesignate existing Finance Board regulations while making only minor technical and conforming changes to the existing rules. No substantive changes are being made to the regulations. Thus, FHFA believes that public comments are unnecessary and would serve no purpose. The rulemaking reflects the fact that HERA transferred the oversight functions of the Finance Board to the FHFA and is part of the effort to relocate Finance Board regulations from 12 CFR chapter IX to 12 CFR chapter XII.

IV. Paperwork Reduction Act

The information collection contained in the current Federal Home Loan Bank Housing Associates regulation, has been assigned control number 2590–0001 by the Office of Management and Budget (OMB). Neither the transfer of this regulation from part 926 to part 1264 nor any of the conforming changes will substantively or materially modify the approved information collection. The other regulations, and any technical or conforming amendments being made by this rulemaking, do not contain collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As a consequence, FHFA has not submitted any information to the Office of Management and Budget for review.

V. Regulatory Flexibility Act

The final regulation applies only to the Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). The final regulation is also purely administrative in nature and does not alter any requirements currently applicable to the Banks. Therefore in accordance with section 605(b) of the RFA, FHFA certifies that this final regulation will not have significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Parts 926 and 1264

Community development, Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

12 CFR Parts 940 and 1265

Community development, Credit, Federal home loan banks, Housing.

12 CFR Parts 960 and 1269

Community development, Credit, Federal home loan banks, Housing, Letters of credit.

■ For the reasons stated in the preamble, FHFA hereby amends chapters IX and XII, of title 12 of the Code of Federal Regulations as follows:

CHAPTER IX—FEDERAL HOUSING FINANCE BOARD

PART 926—[REDESIGNATED AS PART 1264]

■ 1. Transfer 12 CFR part 926 from chapter IX, subchapter D, to chapter XII, subchapter D and redesignate as 12 CFR part 1264.

PART 1264—FEDERAL HOME LOAN BANK HOUSING ASSOCIATES

■ 2. The authority citation for newly redesignated part 1264 is revised to read as follows:

Authority: 12 U.S.C. 1430b, 4511, 4513 and 4526.

■ 3. Amend newly redesignated part 1264 as indicated in the table below:

Amend:	By removing the reference to:	And adding in its place:
§ 1264.2	part 950 of this chapter	part 950 of this title.
§ 1264.3(a), Introductory text	§ 926.4	§ 1264.4.
§ 1264.3(b)	§ 950.17(b)(2) of this chapter	§ 950.17(b)(2) of this title.
§ 1264.3(b)	§ 926.1	§ 1264.1.
§ 1264.4(a)	§ 926.3(a)(1)	§ 1264.3(a)(1).
§ 1264.4(b), Introductory text	§ 926.3(a)(2)	§ 1264.3(a)(2).
§ 1264.4(c)(1)	§ 926.3(a)(3)	§ 1264.3(a)(3).
§ 1264.4(d)	§ 926.3(a)(4)	§ 1264.3(a)(4).
§ 1264.4(e)	§ 926.3(a)(5)	§ 1264.3(a)(5).
§ 1264.5(b)	part 925 of this chapter	part 1263 of this title.
§ 1264.6(b)	§ 926.5(c)(3)	§ 1264.5(c)(3).

■ 4. In newly redesignated part 1264 revise all references to "Finance Board" to read "FHFA".

■ 5. In newly redesignated § 1264.1, add definitions for "Act," "Bank," and "FHFA" in correct alphabetical order to read as follows:

§ 1264.1 Definitions.

* * * * *

Act means the Federal Home Loan Bank Act as amended (12 U.S.C. 1421 through 1449).

Bank written in title case means a Federal Home Loan Bank established under section 12 of the Act (12 U.S.C. 1432).

FHFA means the Federal Housing Finance Agency.

* * * * *

■ 6. In newly redesignated § 1264.6, revise paragraph (a) to read as follows:

§ 1264.6 Appeals.

(a) *General.* Within 90 calendar days of the date of a Bank's decision to deny an application for certification as a housing associate, the applicant may submit a written appeal to FHFA that includes the Bank's decision resolution and a statement of the basis for the appeal with sufficient facts, information, analysis and explanation to support the applicant's position. Send appeals to the Deputy Director for Federal Home Loan Bank Regulation, Federal Housing Finance Agency, 1625 Eye Street NW., Washington DC 20006, with a copy to the Bank.

* * * * *

CHAPTER IX—FEDERAL HOUSING FINANCE BOARD

PART 940—[REDESIGNATED AS PART 1265]

■ 7. Transfer 12 CFR part 940 from chapter IX, subchapter F, to chapter XII, subchapter D and redesignate as 12 CFR part 1265.

PART 1265—CORE MISSION ACTIVITIES

■ 8. The authority citation for newly redesignated part 1265 is revised to read as follows:

Authority: 12 U.S.C. 1430, 1430b, 1431, 4511, 4513 and 4526.

■ 9. Revise newly redesignated § 1265.1 to read as follows:

§ 1265.1 Definitions.

As used in this part:

Acquired member assets or *AMA* means those assets that may be acquired by a Bank under part 955 of this title.

Advance means a loan from a Bank that is:

(1) Provided pursuant to a written agreement;

(2) Supported by a note or other written evidence of the borrower's obligations; and

(3) Fully secured by collateral in accordance with the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) and applicable regulations.

Bank written in title case means a Federal Home Loan Bank established under section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432).

SBIC means a small business investment company formed pursuant to section 301 of the Small Business Investment Act (15 U.S.C. 681).

Targeted income level means:

(1) For rural areas, incomes at or below 115 percent of the median income for the area, as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four; and

(2) For urban areas, incomes at or below 100 percent of the median income for the area, as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four.

CHAPTER IX—FEDERAL HOUSING FINANCE BOARD

PART 960—[REDESIGNATED AS PART 1269]

■ 10. Transfer 12 CFR part 960 from Chapter IX, subchapter G, to Chapter XII, subchapter D and redesignate as 12 CFR part 1269.

PART 1269—STANDBY LETTERS OF CREDIT

■ 11. The authority citation for newly redesignated part 1269 is revised to read as follows:

Authority: 12 U.S.C. 1429, 1430, 1430b, 1431, 4511, 4513 and 4526.

■ 12. Amend part 1269 as indicated in the table below:

Amend:	By removing the reference to:	And adding in its place:
§ 1269.1, Definition of *SHFA associate*	§ 926.1	§ 1264.1.
§ 1269.1, Definition of *SHFA associate*	§ 926.3(b)	§ 1264.3(b).
§ 1269.2(b)	§ 960.4(a)(2)	§ 1269.4(a)(2).
§ 1269.2(c)(1)	§ 950.7 of this chapter	§ 950.7 of this title.
§ 1269.3(a), Introductory text	§§ 950.17(b)(1)(i) or (ii) of this chapter	§§ 950.17(b)(1)(i) or (ii) of this title.
§ 1269.3(b)	§§ 950.17(b)(2)(i)(A), (B) or (C) of this chapter	§§ 950.17(b)(2)(i)(A), (B) or (C) of this title.
§ 1269.4(a)(1)	§§ 950.17(b)(2)(i)(B), 950.17(d) or 969.2 of this chapter.	§§ 950.17(b)(2)(i)(B), 950.17(d) or 969.2 of this title.
§ 1269.4(c)	part 950 of this chapter	part 950 of this title.
§ 1269.5(b)(1)	§§ 960.2 or 960.3	§§ 1269.2 or 1269.3.
§ 1269.5(b)(2)	§§ 950.7(d), 950.7(e), 950.8, 950.9 and 950.10 of this chapter.	§§ 950.7(d), 950.7(e), 950.8, 950.9 and 950.10 of this title.

■ 13. In newly redesignated § 1269.1, add definitions for "Act," "Bank," "Community lending," and "NRSRO" in correct alphabetical order to read as follows:

§ 1269.1 Definitions.

* * * * *

Act means the Federal Home Loan Bank Act as amended (12 U.S.C. 1421 through 1449).

* * * * *

Bank written in title case means a Federal Home Loan Bank established under section 12 of the Act (12 U.S.C. 1432).

* * * * *

Community lending means providing financing for economic development projects for targeted beneficiaries, and, for community financial institutions (as defined in § 1263.1 of this title), purchasing or funding small business loans, small farm loans or small agri-business loans (as defined in § 950.1 of this title).

* * * * *

NRSRO means a credit rating organization registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization.

* * * * *

Dated: February 15, 2010.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2010–3612 Filed 2–23–10; 8:45 am]

BILLING CODE; P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30709 Amdt. No 3360]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new

obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 24, 2010. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 24, 2010.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located;
3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on February 5, 2010.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 11 MAR 2010

Brewton, AL, Brewton Muni, GPS RWY 6, Orig, CANCELLED
Brewton, AL, Brewton Muni, RNAV (GPS) RWY 6, Orig
Brewton, AL, Brewton Muni, RNAV (GPS) RWY 12, Orig

Brewton, AL, Brewton Muni, RNAV (GPS) RWY 24, Orig
Brewton, AL, Brewton Muni, RNAV (GPS) RWY 30, Orig
Brewton, AL, Brewton Muni, Takeoff Minimums and Textual DP, Amdt 2
Pell City, AL, St. Clair County, RNAV (GPS) RWY 3, Amdt 2A
Dover/Cheswold, DE, Delaware Airpark, RNAV (GPS) RWY 9, Amdt 1
Atlanta, GA, Newman Coweta County, VOR/DME–A, Amdt 8
Le Mars, IA, Le Mars Muni, VOR/DME RWY 36, Amdt 3
Greenville, IL, Greenville, Takeoff Minimums and Obstacle DP, Orig
Greenville, IL, Greenville, VOR/DME–A, Amdt 3
Georgetown, KY, Georgetown Scott Co-Marshall Field, VOR/DME RWY 3, Amdt 1
Winnfield, LA, David G Joyce, RNAV (GPS) RWY 9, Orig-A
Southbridge, MA, Southbridge Muni, GPS RWY 2, Orig, CANCELLED
Southbridge, MA, Southbridge Muni, RNAV (GPS) RWY 2, Orig
Southbridge, MA, Southbridge Muni, Takeoff Minimums and Obstacle DP, Amdt 3
Allegan, MI, Padgham Field, RNAV (GPS) RWY 11, Orig-A
Allegan, MI, Padgham Field, VOR RWY 29, Amdt 14
Mountain Grove, MO, Mountain Grove Memorial, Takeoff Minimums and Obstacle DP, Amdt 1
Drew, MS, Ruleville-Drew, Takeoff Minimums and Obstacle DP, Orig
Hattiesburg/Laurel, MS, Hattiesburg-Laurel Rgnl, RNAV (GPS) RWY 18, Amdt 1
Hattiesburg/Laurel, MS, Hattiesburg-Laurel Rgnl, RNAV (GPS) RWY 36, Amdt 1
Concord, NC, Concord Rgnl, Takeoff Minimums and Obstacle DP, Amdt 3
Whitefield, NH, Mount Washington Rgnl, RNAV (GPS) RWY 10, Amdt 1, CANCELLED
Princeton/Rocky Hill, NJ, Princeton, RNAV (GPS) RWY 10, Amdt 1
Monticello, NY, Sullivan County Intl, NDB RWY 15, Amdt 7
Hohenwald, TN, John A. Baker Field, Takeoff Minimums and Obstacle DP, Orig
Paris, TN, Henry County, Takeoff Minimums and Obstacle DP, Orig
Point Pleasant, WV, Mason County, GPS RWY 25, Orig-A, CANCELLED
Point Pleasant, WV, Mason County, RNAV (GPS) RWY 7, Orig
Point Pleasant, WV, Mason County, RNAV (GPS) RWY 25, Orig

Effective 8 APR 2010

Galena, AK, Edward G. Pitka SR, RNAV (GPS) RWY 7, Amdt 1
Galena, AK, Edward G. Pitka SR, RNAV (GPS) RWY 25, Amdt 1
Galena, AK, Edward G. Pitka SR, Takeoff Minimums and Obstacle DP, Orig
Galena, AK, Edward G. Pitka SR, VOR/DME RWY 7, Amdt 7
Galena, AK, Edward G. Pitka SR, VOR/DME RWY 25, Amdt 10
Nuiqsut, AK, Nuiqsut, Takeoff Minimums and Obstacle DP, Orig
Scottsdale, AZ, Scottsdale, VOR–C, Amdt 1
Bolingbrook, IL, Bolingbrook's Clow Intl, Takeoff Minimums and Obstacle DP, Orig
Carbondale/Murphysboro, IL, Southern Illinois, VOR OR GPS–A, Amdt 5C, CANCELLED
Mount Carmel, IL, Mount Carmel Muni, RNAV (GPS) RWY 4, Orig
Mount Carmel, IL, Mount Carmel Muni, RNAV (GPS) RWY 22, Orig
Vicksburg, MS, Vicksburg Muni, NDB RWY 1, Amdt 2, CANCELLED
Fargo, ND, Hector Intl, RNAV (GPS) RWY 18, Amdt 1
North Platte, NE, North Platte Rgnl Airport Lee Bird Field, ILS OR LOC RWY 30, Amdt 6
North Platte, NE, North Platte Rgnl Airport Lee Bird Field, RNAV (GPS) RWY 35, Orig
North Platte, NE, North Platte Rgnl Airport Lee Bird Field, VOR RWY 35, Amdt 18
Farmingdale, NY, Republic, GPS RWY 1, Orig-A, CANCELLED
Farmingdale, NY, Republic, GPS RWY 14, Orig-B, CANCELLED
Farmingdale, NY, Republic, GPS RWY 19, Orig, CANCELLED
Farmingdale, NY, Republic, ILS OR LOC RWY 14, Amdt 8
Farmingdale, NY, Republic, RNAV (GPS) RWY 1, Orig
Farmingdale, NY, Republic, RNAV (GPS) RWY 14, Orig
Farmingdale, NY, Republic, RNAV (GPS) RWY 19, Orig
Farmingdale, NY, Republic, RNAV (GPS) RWY 32, Orig
Montgomery, NY, Orange County, ILS OR LOC RWY 3, Amdt 3
Montgomery, NY, Orange County, RNAV (GPS) RWY 3, Amdt 1
Montgomery, NY, Orange County, RNAV (GPS) RWY 8, Amdt 1
Montgomery, NY, Orange County, RNAV (GPS) RWY 21, Amdt 1
Montgomery, NY, Orange County, RNAV (GPS) RWY 26, Amdt 1
Enid, OK, Enid Woodring Rgnl, RNAV (GPS) RWY 17, Orig-A
Doylestown, PA, Doylestown, RNAV (GPS) RWY 5, Orig
Doylestown, PA, Doylestown, RNAV (GPS) RWY 23, Amdt 1
Greer, SC, Greenville-Spartanburg Intl-Roger Milliken, ILS OR LOC RWY 22, Amdt 4
Rapid City, SD, Rapid City Rgnl, ILS OR LOC RWY 32, Amdt 18
Rapid City, SD, Rapid City Rgnl, RNAV (GPS) RWY 14, Amdt 2
Rapid City, SD, Rapid City Rgnl, RNAV (GPS) RWY 32, Amdt 1
Fayetteville, TN, Fayetteville Muni, GPS RWY 2, Orig-B, CANCELLED
Fayetteville, TN, Fayetteville Muni, RNAV (GPS) RWY 2, Orig
Fayetteville, TN, Fayetteville Muni, RNAV (GPS) RWY 20, Amdt 1
Burnet, TX, Burnet Muni/Kate Craddock Field, RNAV (GPS) RWY 1, Orig-A
Deer Park, WA, Deer Park, Takeoff Minimums and Obstacle DP, Amdt 1
Spokane, WA, Felts Field, Takeoff Minimums and Obstacle DP, Amdt 5
Spokane, WA, Felts Field, VOR RWY 3L, Amdt 4
Rhinelander, WI, Rhinelander-Oneida County, Takeoff Minimums and Obstacle DP, Amdt 4
Rock Springs, WY, Rock Springs-Sweetwater County, ILS OR LOC/DME RWY 27, Amdt 1
Rock Springs, WY, Rock Springs-Sweetwater County, RNAV (GPS) RWY 9, Orig
Rock Springs, WY, Rock Springs-Sweetwater County, RNAV (GPS) RWY 27, Amdt 1
Rock Springs, WY, Rock Springs-Sweetwater County, RNAV (GPS) Y RWY 27, Orig-A, CANCELLED
Rock Springs, WY, Rock Springs-Sweetwater County, Takeoff Minimums and Obstacle DP, Amdt 6
Rock Springs, WY, Rock Springs-Sweetwater County, VOR/DME RWY 9, Amdt 3

On January 28, 2010 (75 FR 18) the FAA published an Amendment in Docket No. 30705 to Part 97 of the Federal Aviation Regulations under section 97.33.

The following entries have changed effective date to 08 April 2010:

Saluda, SC, Saluda County, RNAV (GPS) RWY 1, Orig
Saluda, SC, Saluda County, RNAV (GPS) RWY 19, Orig

[FR Doc. 2010–3129 Filed 2–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 97

[Docket No. 30710; Amdt. No. 3361]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 24, 2010. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the

regulations is approved by the Director of the Federal Register as of February 24, 2010.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs are available online free of charge. Visit *http://nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by Reference, and Navigation (Air).

Issued in Washington, DC, on February 5, 2010.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
11–Mar–10	IL	FLORA	FLORA MUNI	0/1005	1/22/10	RNAV (GPS) RWY 3, AMDT 1.
11–Mar–10	IN	INDIANAPOLIS	INDIANAPOLIS METROPOLITAN.	0/1787	1/22/10	VOR RWY 33, AMDT 9.
11–Mar–10	IN	MARION	MARION MUNI	0/2083	1/22/10	VOR RWY 4, AMDT 13.
11–Mar–10	IL	FLORA	FLORA MUNI	0/2119	1/22/10	LOC/DME RWY 21, ORIG–B.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
11–Mar–10	IN	INDIANAPOLIS	INDIANAPOLIS METROPOLITAN.	0/2120	1/22/10	NDB RWY 15, AMDT 2.
11–Mar–10	IN	MARION	MARION MUNI	0/2159	1/21/10	VOR RWY 15, AMDT 10.
11–Mar–10	IN	MARION	MARION MUNI	0/2160	1/21/10	RNAV (GPS) RWY 33, ORIG.
11–Mar–10	IA	MUSCATINE	MUSCATINE MUNI	0/2161	1/21/10	VOR RWY 6, ORIG–C.
11–Mar–10	IA	MUSCATINE	MUSCATINE MUNI	0/2162	1/21/10	ILS OR LOC RWY 24, AMDT 1.
11–Mar–10	IA	FORT MADISON	FORT MADISON MUNI	0/2310	1/21/10	VOR/DME OR GPS A, AMDT 6A.
11–Mar–10	TX	MESQUITE	MESQUITE METRO	0/2446	1/22/10	ILS OR LOC RWY 17, AMDT 1B.
11–Mar–10	KS	HAYS	HAYS RGNL	0/2448	1/22/10	VOR RWY 34, AMDT 5B.
11–Mar–10	KS	HAYS	HAYS RGNL	0/2449	1/22/10	VOR/DME RWY 16, AMDT 3D.
11–Mar–10	KS	HAYS	HAYS RGNL	0/2450	1/22/10	VOR/DME RWY 34, AMDT 2D.
11–Mar–10	KS	HAYS	HAYS RGNL	0/2451	1/22/10	VOR RWY 16, AMDT 3B.
11–Mar–10	CA	LONG BEACH	LONG BEACH/DAUGHERTY FIELD.	0/2456	1/22/10	RNAV (RNP) Y RWY 30, ORIG–A.
11–Mar–10	ID	HAILEY	FRIEDMAN MEMORIAL	0/2457	1/21/10	RNAV (RNP) Y RWY 31, AMDT 1.
11–Mar–10	CA	PALM SPRINGS	PALM SPRINGS INTL	0/2458	1/22/10	RNAV (RNP) Y RWY 13R, AMDT 1.
11–Mar–10	CA	PALM SPRINGS	PALM SPRINGS INTL	0/2459	1/22/10	RNAV (RNP) Z RWY 13R, ORIG.
11–Mar–10	CA	PALM SPRINGS	PALM SPRINGS INTL	0/2460	1/22/10	RNAV (RNP) Y RWY 31L, AMDT 1.
11–Mar–10	IA	CEDAR RAPIDS	THE EASTERN IOWA	0/2475	1/22/10	RNAV (GPS) RWY 13, AMDT 1A.
11–Mar–10	IA	SPENCER	SPENCER MUNI	0/2481	1/22/10	VOR RWY 30, AMDT 3.
11–Mar–10	IA	CEDAR RAPIDS	THE EASTERN IOWA	0/2482	1/22/10	ILS OR LOC RWY 27, AMDT 6.
11–Mar–10	KS	HAYS	HAYS RGNL	0/2494	1/22/10	ILS OR LOC RWY 34, ORIG–C.
11–Mar–10	CA	SAN LUIS OBISPO	SAN LUIS COUNTY REGIONAL.	0/2499	1/22/10	ILS RWY 11, AMDT 1.
11–Mar–10	NV	RENO	RENO/TAHOE INTL	0/2508	1/22/10	VOR D, AMDT 6A.
11–Mar–10	TX	BEAUMONT	BEAUMONT MUNI	0/2572	1/26/10	VOR/DME RWY 13, AMDT 3A.
11–Mar–10	FL	ORLANDO	EXECUTIVE	0/2660	1/26/10	VOR/DME RWY 25, AMDT 2B.
11–Mar–10	IL	CHICAGO	CHICAGO MIDWAY INTL	0/2859	1/26/10	RNAV (GPS) RWY 31R, ORIG.
11–Mar–10	IL	MOLINE	QUAD CITY INTL	0/2860	1/26/10	RNAV (GPS) RWY 9, ORIG.
11–Mar–10	TX	BAY CITY	BAY CITY MUNI	0/2922	1/26/10	NDB RWY 13, AMDT 4.
11–Mar–10	FL	MELBOURNE	MELBOURNE INTL	0/2935	1/26/10	RNAV (GPS) RWY 9R, ORIG–A.
11–Mar–10	FL	MELBOURNE	MELBOURNE INTL	0/2936	1/26/10	VOR RWY 9R, AMDT 20.
11–Mar–10	FL	MELBOURNE	MELBOURNE INTL	0/2937	1/26/10	RNAV (GPS) RWY 9L, ORIG.
11–Mar–10	OK	CUSHING	CUSHING MUNI	0/2944	1/26/10	RNAV (GPS) RWY 36, AMDT 1.
11–Mar–10	TX	BEAUMONT	BEAUMONT MUNI	0/2948	1/26/10	RNAV (GPS) RWY 13, ORIG–B.
11–Mar–10	TX	BEAUMONT	BEAUMONT MUNI	0/2949	1/26/10	VOR/DME RWY 31, AMDT 4A.
11–Mar–10	TX	BEAUMONT	BEAUMONT MUNI	0/2950	1/26/10	RNAV (GPS) RWY 31, ORIG–B.
11–Mar–10	PA	LATROBE	ARNOLD PALMER RGNL	0/2978	1/26/10	NDB RWY 23, AMDT 13B.
11–Mar–10	VA	FRANKLIN	FRANKLIN MUNI–JOHN BEVERLY ROSE.	0/2981	1/26/10	VOR/DME RWY 27, AMDT 9D.
11–Mar–10	VA	FRANKLIN	FRANKLIN MUNI–JOHN BEVERLY ROSE.	0/2982	1/26/10	RNAV (GPS) RWY 27, ORIG.
11–Mar–10	PA	BELLEFONTE	BELLEFONTE	0/2984	1/26/10	VOR OR GPS A, AMDT 1A.

[FR Doc. 2010–3122 Filed 2–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81–19–000]

Natural Gas Pipelines; Project Cost and Annual Limits

February 18, 2010.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.308(x)(1), the Director of the Office of Energy Projects (OEP) computes and publishes the project cost and annual limits for natural gas pipelines blanket construction certificates for each calendar year.

DATES: This final rule is effective February 24, 2010 and establishes cost limits applicable from January 1, 2010 through December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Michael J. McGehee, Director, Division of Pipeline Certificates, (202) 502–8962.

Publication of Project Cost Limits Under Blanket Certificates

Order of the Director, OEP

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the "limits specified in Tables I and II shall be

adjusted each calendar year to reflect the 'GDP implicit price deflator' published by the Department of Commerce for the previous calendar year."

Pursuant to § 375.308(x)(1) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Energy Projects. The cost limits for calendar year 2010, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

List of Subjects in 18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

Jeff C. Wright,

Director, Office of Energy Projects.

■ Accordingly, 18 CFR Part 157 is amended as follows:

PART 157—[AMENDED]

■ 1. The authority citation for Part 157 continues to read as follows:

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

■ 2. Table I in § 157.208(d) is revised to read as follows:

§ 157.208 Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities.

* * * * *

(d) * * *

TABLE I

Year	Limit	
	Auto. proj. cost limit (Col. 1)	Prior notice proj. cost limit (Col. 2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000
1993	6,400,000	17,700,000
1994	6,600,000	18,100,000
1995	6,700,000	18,400,000
1996	6,900,000	18,800,000
1997	7,000,000	19,200,000
1998	7,100,000	19,600,000
1999	7,200,000	19,800,000
2000	7,300,000	20,200,000
2001	7,400,000	20,600,000
2002	7,500,000	21,000,000
2003	7,600,000	21,200,000
2004	7,800,000	21,600,000
2005	8,000,000	22,000,000
2006	9,600,000	27,400,000

TABLE I—Continued

Year	Limit	
	Auto. proj. cost limit (Col. 1)	Prior notice proj. cost limit (Col. 2)
2007	9,900,000	28,200,000
2008	10,200,000	29,000,000
2009	10,400,000	29,600,000
2010	10,500,000	29,900,000

* * * * *

■ 3. Table II in § 157.215(a)(5) is revised to read as follows:

§ 157.215 Underground storage testing and development.

(a) * * *

(5) * * *

TABLE II

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000
1993	4,000,000
1994	4,100,000
1995	4,200,000
1996	4,300,000
1997	4,400,000
1998	4,500,000
1999	4,550,000
2000	4,650,000
2001	4,750,000
2002	4,850,000
2003	4,900,000
2004	5,000,000
2005	5,100,000
2006	5,250,000
2007	5,400,000
2008	5,550,000
2009	5,600,000
2010	5,700,000

* * * * *

[FR Doc. 2010–3650 Filed 2–23–10; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0704; FRL–9107–2]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Volatile Organic Compound Emission Control Measures for Lake and Porter Counties in Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving into the Indiana State Implementation Plan (SIP) several volatile organic compound (VOC) control rules. The purpose of these rules is to satisfy Indiana's VOC reasonably available control technology (RACT) requirements for the Lake and Porter County portion of the Chicago-Gary-Lake County, IL–IN, 8-hour ozone nonattainment area. These rules are approvable because they satisfy the control and enforceability requirements of the Clean Air Act (Act), including Indiana's requirement to adopt VOC RACT rules consistent with the Control Technique Guideline (CTG) documents issued by EPA in 2006, 2007 and 2008. EPA proposed these rules for approval on October 16, 2009, and received no comments.

DATES: This final rule is effective on March 26, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID Nos. EPA–R05–OAR–2009–0704. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* 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 either electronically through *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886–6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air

Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Public Comments Were Received on the Proposed Approval and What Is EPA's Response?
II. What Action Is EPA Taking?
III. What Is the Purpose of This Action?
IV. Statutory and Executive Order Reviews

I. What Public Comments Were Received on the Proposed Approval and What Is EPA's Response?

No comments were received.

II. What Action Is EPA Taking?

EPA is approving several new VOC rules into Indiana's SIP because they are consistent with the Act, including its VOC RACT requirements. These include rules for source categories for which the Indiana Department of Environmental Management (IDEM) had previously indicated it had no sources (negative declarations) and rules intended to satisfy CTGs issued in 2006, 2007 and 2008. EPA is also approving a negative declaration for the 2008 CTG "Control Technique Guidelines for Fiberglass Boat Manufacturing Materials" in which IDEM documented that it has no sources subject to this CTG.

III. What Is the Purpose of This Action?

The primary purpose of these rules is to satisfy the requirement in section 182(b) of part D of title I of the Act that VOC RACT rules be adopted for ozone nonattainment areas. Section 182(b)(2)(A) of the Act requires that for nonattainment areas classified as moderate or above, States must revise their SIPs to include RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment. The Chicago-Gary-Lake County, IL–IN, is an 8-hour ozone nonattainment area classified as moderate. These rules satisfy the requirement for VOC RACT rules for existing, pre-2006, CTG and major non-CTG source categories which were due on September 15, 2006, as well as the requirement to adopt VOC RACT rules for the CTG documents issued by EPA in 2006, 2007 and 2008.

On March 24, 2008 (73 FR 15416), EPA made a finding that Indiana failed to submit those VOC RACT rules which were due on September 15, 2006, for the Chicago-Gary-Lake County, IL–IN, 8-hour ozone nonattainment area. Indiana subsequently submitted the required VOC RACT rules for the Lake and Porter County portion of that nonattainment area to EPA on September 4, 2009, and December 10, 2009. Failure to submit a complete VOC RACT submittal would have triggered the offset sanction identified in section 179(b)(2) of the Act on September 24, 2009, and would trigger the highway funding sanction in accordance with section 179(b)(1) of the Act on March 24, 2010.

EPA would have been required by section 110(c) of the Act to promulgate a Federal Implementation Plan (FIP) if it had not approved these VOC RACT rules into Indiana's SIP by March 24, 2010. Final approval of these rules ends any obligation for EPA to promulgate a FIP addressing this VOC RACT requirement.

In EPA's October 16, 2009, proposal (74 FR 53193), we presented a detailed legal and technical analysis of the State's submission. The reader is referred to that notice for additional background on the submission and the bases for EPA's approval.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 26, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 14, 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

■ 2. Section 52.770 is amended by adding paragraph (c)(193) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(193) On December 10, 2009, the Indiana Department of Environmental Management submitted several volatile organic compound rules for approval into the Indiana State Implementation Plan for the Lake and Porter County portion of the Chicago-Gary-Lake County, IL–IN, 8-hour ozone nonattainment area. This includes both revisions to existing rules and also new rules. Also submitted were subsequent technical corrections to typographical, clerical, or spelling errors for some of these rules.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 1: General provisions, Section 0.5: Definitions, Section 2: Compliance Methods, and Section 4: Testing procedures, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090220FRA).

(B) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 2: Surface Coating Emission Limitations, Section 1: Applicability, Section 2: Automobile and light duty truck coating regulations, Section 5: Paper coating operations, Section 6: Metal furniture coating operations, Section 7: Large appliance coating operations, Section 9: Miscellaneous metal and plastic parts coating operations, and Section 10: Flat wood panels; manufacturing operations, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090220FRA).

(C) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 5: Miscellaneous Operations, Section 5: Graphic arts operations, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090220FRA).

(D) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 16: Offset Lithographic Printing and Letterpress Printing, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090221FRA).

(E) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 17: Industrial Solvent Cleaning Operations, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090221FRA).

(F) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 18: Synthetic Organic Chemical Manufacturing Industry Air Oxidation, Distillation, and Reactor Processes, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090222FRA).

(G) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 19: Control of Volatile Organic Compound Emissions from Process Vents in Batch Operations, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090222FRA).

(H) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 20: Industrial Wastewater, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090222FRA).

(I) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 21: Aerospace Manufacturing and Rework Operations, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090222FRA).

(J) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 22: Miscellaneous Industrial Adhesives, filed with the Publisher of the Indiana Register on November 3, 2009, and became effective on December 3, 2009. Published in the Indiana Register on December 2, 2009 (DIN: 20091202–IR–326090221FRA).

(K) Corrections to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 1: General provisions, Section 2: Compliance Methods and Section 4: Testing procedures, filed with the Publisher of the Indiana Register on November 18, 2009, and became effective on January 2, 2010. Published in the Indiana Register on December 16, 2009 (DIN: 20091216–IR–326090220ACA).

(L) Corrections to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 2: Surface Coating Emission Limitations, Section 2: Automobile and light duty truck coating operations, filed with the Publisher of the Indiana Register on November 18, 2009, and became effective on January 2, 2010. Published in the Indiana Register on December 16, 2009 (DIN: 20091216–IR–326090220ACA).

(M) Corrections to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 16: Offset Lithographic Printing and Letterpress Printing, filed with the Publisher of the Indiana Register on November 18, 2009, and became effective on January 2, 2010. Published in the Indiana Register on December 16, 2009 (DIN: 20091216–IR–326090221ACA).

(N) Corrections to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 17: Industrial Solvent Cleaning Operations, filed with the Publisher of the Indiana Register on November 18, 2009, and became effective on January 2, 2010. Published in the Indiana

Register on December 16, 2009 (DIN: 20091216–IR–326090221ACA).

(O) Corrections to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 18: Synthetic Organic Chemical Manufacturing Industry Air Oxidation, Distillation, and Reactor Processes, filed with the Publisher of the Indiana Register on November 19, 2009, and became effective on January 3, 2010. Published in the Indiana Register on December 16, 2009 (DIN: 20091216–IR–326090222ACA).

(P) Corrections to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 19: Control of Volatile Organic Compound Emissions from Process Vents in Batch Operations, filed with the Publisher of the Indiana Register on November 19, 2009, and became effective on January 3, 2010. Published in the Indiana Register on December 16, 2009 (DIN: 20091216–IR–326090222ACA).

(Q) Corrections to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 20: Industrial Wastewater, filed with the Publisher of the Indiana Register on November 19, 2009, and became effective on January 3, 2010. Published in the Indiana Register on December 16, 2009 (DIN: 20091216–IR–326090222ACA).

(R) Corrections to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 21: Aerospace Manufacturing and Rework Operations, filed with the Publisher of the Indiana Register on November 19, 2009, and became effective on January 3, 2009. Published in the Indiana Register on December 16, 2009 (DIN: 20091216–IR–326090222ACA).

(S) Corrections to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 22: Miscellaneous Industrial Adhesives, filed with the Publisher of the Indiana Register on November 18, 2009, and became effective on January 2, 2010. Published in the Indiana Register on December 16, 2009 (DIN: 20091216–IR–326090221ACA).

[FR Doc. 2010–3523 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0009; FRL–9115–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Opacity Source Surveillance Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Virginia State Implementation Plan (SIP). The revisions update methods for determining compliance with opacity standards for existing, new and modified stationary sources. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on April 26, 2010 without further notice, unless EPA receives adverse written comment by March 26, 2010. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2010–0009 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2010–0009, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2010–0009. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 814–2181, or by e-mail at *pino.maria@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us," or "our" is used, we mean EPA.

I. Background

On August 25, 2008, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of amendments to Title 9 of the Virginia Administrative Code (VAC) to update methods for determining compliance with opacity standards for existing, new, and modified stationary sources.

Amendments to regulations 9VAC5–40–20 and 9VAC5–50–20 allow the use of continuous opacity monitoring system (COMS) data to determine compliance with opacity standards. The amendments also allow the use of other methods approved by EPA.

II. Summary of SIP Revision

These revisions update regulations 9VAC5–40–20 and 9VAC5–50–20 to allow the use of data from a "continuous monitoring by transmissometer" or COMS, provided that the devise meets Performance Standard 1—Specifications and Test Procedures for Continuous Opacity Monitoring Systems in Stationary Sources in Appendix B to 40 CFR part 60. The revisions also require that the devise be properly maintained and prohibit any alteration of the resulting data. Previously, compliance with opacity standards was determined by EPA Method 9, which requires a certified smoke reader to observe the emissions leaving the stack during daylight hours. EPA Method 9 had been the only Federally acceptable method to determine compliance with opacity standards and visibility requirements. However, on February 24, 1997, EPA promulgated its Credible Evidence Revisions, which clarified that non-reference test data, *i.e.,* any creditable evidence, can be used in enforcement actions and for compliance determinations under the Clean Air Act (62 FR 8314). Thus, Method 9 is not the exclusive means to determining compliance with opacity standards, and the use of data from COMS is deemed acceptable. This change strengthens the Virginia SIP by allowing the use of COMS data to determine compliance with opacity standards, which will make compliance determinations easier.

The revisions also limit the use of alternative compliance methods to only methods which EPA has approved. These changes strengthen the Virginia SIP, which had previously allowed alternative methods, but did not specify that those methods must be approved by EPA.

Virginia made these revisions to make regulations 9VAC5–40–20 and 9VAC5–50–20 consistent with § 10.1–1307.3.B of the Code of Virginia, which reads as follows:

> "The Executive Director or his duly authorized representative may pursue enforcement action for a violation of opacity requirements or limits based on (i) visual observations conducted pursuant to methods approved by the U.S. Environmental Protection Agency, (ii) data from certified continuous opacity monitors, or (iii) other methods approved by the U.S. Environmental Protection Agency."

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by Federal law to maintain program delegation, authorization or approval," since Virginia must "enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. * * *" The opinion concludes that "[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval."

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that "[t]o the extent consistent with requirements imposed by Federal law," any person making a voluntary disclosure of information to a State agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since "no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity."

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a State audit privilege and immunity law can affect only State enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the State plan, independently of any State enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, State audit privilege or immunity law.

IV. Final Action

EPA is approving revisions to the Virginia SIP that amend regulations 9VAC5–40–20 and 9VAC5–50–20 to update methods for determining compliance with opacity standards for existing, new, and modified stationary sources. The amendments allow the use of data from COMS or other EPA-approved methods to determine compliance with opacity standards.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on April 26, 2010 without further notice unless EPA receives adverse comment by March 26, 2010. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a

subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 26, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action, which revises the Virginia SIP to update methods for determining compliance with opacity standards for existing, new and modified stationary sources, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 1, 2010.

W.C. Early,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by revising the entries for Chapter 40, Section 5–40–20 and Chapter 50, Section 5–50–20 to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation (former SIP citation)
*	*	*	*	*
9 VAC 5 Chapter 40 Existing Stationary Sources				

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation (former SIP citation)
*	*	*	*	*
Part I Special Provisions				
*	*	*	*	*
5–40–20	Compliance	12/12/07	02/24/10 [Insert page number where the document begins].	Revisions to paragraph A.3.
*	*	*	*	*
9 VAC 5 Chapter 50 New and Modified Stationary Sources				
*	*	*	*	*
Part I Special Provisions				
*	*	*	*	*
5–50–20	Compliance	12/12/07	02/24/10 [Insert page number where the document begins].	Revisions to paragraph A.3.
*	*	*	*	*

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[FR Doc. 2010–3512 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0529; FRL–8812–1]

Laminarin; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of laminarin in or on all food commodities when applied preharvest as a biochemical pesticide to stimulate natural defense mechanisms in plants. Laboratoires Goëmar SA c/o SciReg, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of laminarin.

DATES: This regulation is effective February 24, 2010. Objections and requests for hearings must be received on or before April 26, 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–2008–0529. 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: Chris Pfeifer, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0031; e-mail address: *pfeifer.chris@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0529 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 26, 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–2008–0529, by one of the following methods:

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

II. Background and Statutory Findings

In the **Federal Register** of July 31, 2008 (73 FR 44719) (FRL–8374–3), 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 tolerance petition (PP 7E7276) by Laboratoires Goëmar SA c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of laminarin. This notice included a summary of the petition prepared by the petitioner Laboratoires Goëmar SA c/o SciReg, Inc. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require 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.... " Additionally, section 408(b)(2)(D) of FFDCA requires that 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 performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Laminarin, a naturally occurring β-glucan (polysaccharide carbohydrate), may be extracted from many types of brown algae (e.g., *Laminaria digitata*). Generally, β-glucans are major constituents in the bran of most cereal grains and are intentionally added to many dietary supplements and texturing agents; therefore, these carbohydrates are typically consumed as a regular part of the human diet. Laminarin, specifically, is an integral part of the human diet in countries such as Ireland, France, and Japan, where *Laminaria digitata* is used for sea-vegetable production. As a biochemical active ingredient, laminarin stimulates the natural defense reactions of agricultural crops such as fruiting vegetables, tomato, eggplant, pepper, zucchini, cucurbits, watermelon, melons, grape, apple, pear, and strawberries against particular disease organisms (e.g., gray mold, powdery mildew, downy mildew, fire blight, and bacterial spot). As a naturally occurring oligosaccharide (a carbohydrate), residues of the active ingredient are indistinguishable from other naturally occurring plant oligosaccharides. In addition to the extensive history of consumption of β-glucans—particularly laminarin in this case—without documented toxicological effects, the data submitted to the Agency, in conjunction with and in support of this tolerance exemption, confirm that laminarin is virtually nontoxic and poses no dietary risks to humans.

Because laminarin is considered "toxicologically innocuous," no residue studies are required to support a tolerance exemption. However, laminarin's low toxicity profile notwithstanding, another justification for this exemption from the requirement of a tolerance is the unlikelihood of residues for this biochemical pesticide in or on food. Laminarin is intended for application as a systemic acquired resistance (SAR) inducer—a preventative mode of action. As such, it is applied early in a crop's life cycle—in its growing stages—to help build immunity to disease organisms such as mold and bacterial infection. Furthermore, as a biochemical, it is prone to biodegrade rapidly. Data indicate that the active ingredient is more than 65% biodegraded after two weeks (Master Record Identification Number (MRID No.) 472649–54). Calculations indicate that it would be fully biodegraded long before any consumption would occur because the most likely final application of the pesticide would occur early in the growing season for plants treated with

this pesticide. Accordingly, no exposures beyond background levels are expected.

Summaries of the toxicological data submitted in support of this exemption from the requirement of a tolerance follow:

A. Acute Toxicity

Acute toxicity studies, submitted to support the registration of the end-use product containing laminarin, confirm a low toxicity profile and buttress the finding that this active ingredient poses no significant human health risk with regard to new food uses. Altogether, the acute toxicity data show virtual nontoxicity for all routes of exposure and suggest that any dietary risks associated with this carbohydrate would be negligible.

1. The acute oral median lethal doses (LD_{50}s) in rats were greater than 2,000 milligrams per kilogram (mg/kg) and confirmed negligible toxicity through the oral route. There were no observed toxicological effects on the test subjects in either of the two acute oral studies submitted (MRID Nos. 472649–30 and 472649–73). Laminarin is Toxicity Category III for acute oral toxicity.

2. The acute dermal median lethal dose (LD_{50}) in rats was greater than 5,000 mg/kg. These data substantiated laminarin's relative dermal nontoxicity to the general public (MRID Nos. 472649–31 and 472649–74). Laminarin is Toxicity Category IV for acute dermal toxicity.

3. The acute inhalation median lethal concentration (LC_{50}) was greater than 1.02 milligrams per liter (mg/L) in rats and showed no significant inhalation toxicity (MRID No. 472649–32). Laminarin is Toxicity Category III for acute inhalation toxicity.

4. A skin irritation study on rabbits indicated that laminarin was not irritating to the skin (MRID No. 472649–34). Laminarin is Toxicity Category IV for dermal irritiation.

5. Data indicated laminarin is not a dermal sensitizer (MRID Nos. 472649–35 and 472649–78).

Data indicate that laminarin is not acutely toxic. No toxic endpoints were established in any of the acute toxicity studies, and no significant toxicological effects were observed in any of the acute toxicity studies.

B. Mutagenicity

Three mutagenicity studies, using laminarin as the test substance, were performed. These studies are sufficient to confirm that there are no expected dietary or non-occupational risks of mutagenicity with regard to new food uses.

1. The Reverse Mutation Assay (MRID No. 472649–42) showed that laminarin did not induce mutant colonies relative to control groups.

2. The *In vitro* Mammalian Cells in Culture Assay (MRID No. 472649–43) demonstrated that laminarin did not damage chromosomes or the mitotic apparatus of bone marrow cells.

3. A Bone Marrow Micronucleus Assay (MRID No. 472649–44) indicated that no toxicity was noted in either sex at any dose up to the limit dose of 2,000 mg/kg.

C. Subchronic Toxicity

Based on its biodegradation properties, residues of laminarin are not expected to result in significant dietary exposure beyond the levels expected in background dietary exposures. Nonetheless, three subchronic oral toxicity studies satisfied the data requirements for subchronic toxicity and indicated that laminarin has no subchronic toxicological effect.

1. A 28–day Oral Toxicity Study (MRID No. 472649–37) found no toxicological effects regarding mortality, clinical observations, neurotoxicity assessment, body weight, food consumption, hematology, clinical chemistry, organ weights, and macroscopic or microscopic observations. The no observable effect level (NOEL) was determined to be 1,000 milligrams per kilogram per day (mg/kg/day).

2. A 90–day Oral Toxicity Study (MRID No. 472649–38) found no statistical difference in hematology, clinical chemistry, or urinalysis between test subjects and the control. The NOAEL was determined to be 1,000 mg/kg/day.

3. Another 90–day Oral Toxicity Study (MRID No. 472649–39) also found no statistical difference in hematology, clinical chemistry, or urinalysis between test subjects and the control. The NOAEL was again determined to be 1,000 mg/kg/day.

D. Developmental Toxicity

The data submitted to the Agency demonstrate a clear lack of developmental toxicity and supports the Agency's conclusion that there is no risk of developmental toxicity associated with new food uses. Data submitted to the Agency satisfy the data requirements for developmental toxicity and indicate that laminarin poses negligible risk with regard to developmental toxicity.

1. A Prenatal Developmental Toxicity Study (MRID No. 472649–40) found no significant treatment-related reproductive effects or fetal abnormalities and established a no observable adverse effect level (NOAEL) of 1,000 mg/kg/day.

2. A second Prenatal Developmental Toxicity Study (MRID No. 472649–41) also found no significant treatment-related reproductive effects or fetal abnormalities and confirmed a NOAEL of 1,000 mg/kg/day.

E. Effects on Endocrine Systems

There is no available evidence demonstrating that laminarin is an endocrine disruptor in humans. As a result, the Agency is not requiring information on the endocrine effects of laminarin at this time. However, the Endocrine Disruption Screening Program (EDSP) has established a protocol, which guides the Agency in selecting suspect ingredients for review, and the Agency reserves the right to require new information should the program require it. Presently, based on the lack of exposure and the negligible toxicity profile of laminarin, no adverse effects to the endocrine are known or expected. Overall, the lack of evidence of endocrine disruption is consistent with laminarin's low toxicity profile and supports this exemption from the requirement of a tolerance.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Because of laminarin's ability to biodegrade relatively quickly and the typical time during plant growth that it will be applied, the Agency does not anticipate many residues being present in or on food at the time of consumption. Moreover, any residues that are present in or on food at the time of consumption as a result of pesticide use are likely to be indistinguishable from naturally occurring laminarin due to its natural occurrence and ubiquitous presence in foods and dietary supplements. Finally, the Agency believes that it is unlikely that any exposure to the residues of laminarin will result in dietary risks because of the nontoxic mode of action as a SAR inducer and the pesticide's negligible toxicity profile.

1. *Food.* Exposure to residues of laminarin on foods is expected to be negligible. Data submitted to the Agency

show that laminarin is 65% to 71% biodegraded within two weeks, and that it hydrolyzes very rapidly into glucose. Because applications necessarily occur early in the growing season (due to its mode of action as a SAR inducer), and given its short-lived presence on crops, no significant pesticidal residues are anticipated for harvested foods. However, in the event of exposure to residues of laminarin, no dietary risks are anticipated. As described in Unit III., acute, subchronic, mutagenic and developmental studies support its nontoxic profile. Furthermore, it is already present in foods without any known detrimental effects. Indeed, there is no information in the public literature suggesting any health issues to either animals or plants relative to this compound. Lastly, proposed rates of application of laminarin will result in substantially fewer residues in or on foods as a result of pesticide application than the quantities of laminarin already consumed in foods and those allowed in dietary supplements. In sum, no dietary exposure is expected; however, any potential dietary exposures would not be expected to pose any quantifiable risk, mainly due to laminarin's nontoxic profile.

2. *Drinking water exposure*. Residues of laminarin are not expected to be present in drinking water as applications of laminarin are made directly to terrestrial crops. Laminarin residues are not expected to percolate through the soil because residues are not expected to persist beyond the time it would typically take for any residues to percolate into the groundwater. In the event of errant spray drift or extraordinary rainfall, laminarin will not persist in water due to its rapid hydrolyzation into glucose. Moreover, given laminarin's nontoxic profile as described in Unit III., risks from miniscule aquatic exposure would be negligible. Altogether, drinking water exposure is not expected to pose any quantifiable risk due to both a lack of residues and the nontoxicity of laminarin.

B. Other Non-Occupational Exposure

Non-occupational exposure is not expected because lamarin is not approved for residential uses. The active ingredient is applied directly to commodities and degrades rapidly. Furthermore, the Agency notes that health risks are not expected from any pesticidal exposure to this active ingredient, no matter the circumstances. An August 2009 Agency risk assessment of laminarin clearly establishes that even prolonged and regular occupational exposures, which are associated with this active ingredient, pose negligible risks. Laminarin is characterized by its biodegradability, low toxicity profile, nontoxic, SAR-inducing mode of action, and demonstrable lack of dietary effects.

1. *Dermal exposure*. Non-occupational dermal exposures to laminarin are expected to be negligible because of its directed agricultural use. Even in the event of dermal exposure to residues, the nontoxic profile of laminarin (as described in Unit III.) is not expected to result in any risks through this route of exposure.

2. *Inhalation exposure*. Non-occupational inhalation exposures are not expected to result from the agricultural uses of laminarin. Any inhalation exposure associated with this new agricultural use pattern is expected to be occupational in nature.

V. Cumulative Effects

Pursuant to FFDCA section 408(b)(2)(D)(v), EPA has considered available information concerning the cumulative effects of exposure to laminarin residues and other substances that have a common mechanism of toxicity. These considerations include the possible cumulative effects of such residues on infants and children. Because laminarin operates through a nontoxic mode of action, there is no common mechanism of toxicity between this and any other substances; therefore, this provision does not apply. Nevertheless, given that no exposure to residues are expected when applications are made in accordance with EPA-approved labeling and good agricultural practices, and laminarin has a long history of dietary consumption without incident, the Agency concludes that there is no reason to anticipate cumulative effects from the residues of this active ingredient with other related pesticides.

VI. Determination of Safety for U.S. Population, Infants and Children

Health risks to humans, including infants and children, are considered negligible with regard to the pesticidal use of laminarin. As illustrated in Unit III., acute toxicity studies indicate that laminarin has negligible toxicity. It is ubiquitous in nature and present in fruits and vegetables. To date, there is no history of toxicological incident involving its consumption and its use in food supplements is already allowed by the United States Food and Drug Administration. Of equal note, little to no exposure to the residues of laminarin is expected. Pesticidal applications are applied directly to agricultural crops, and data suggest that residues are not expected beyond the time of harvest. Accordingly, little to no dietary exposure is expected. As such, the Agency has determined that this food use of laminarin poses no foreseeable risks to human health or the environment. Thus, there is a reasonable certainty of no harm to the general U.S. population, including infants and children, from exposure to this active ingredient.

1. *U.S. population*. The Agency has determined that there is a reasonable certainty that no harm will result from aggregate exposure to residues of laminarin to the U.S. population. This includes all anticipated dietary exposures and other non-occupational exposures for which there is reliable information. The Agency arrived at this conclusion based on the low levels of mammalian dietary toxicity associated with laminarin, the natural ubiquity of laminarin in foodstuffs, and information suggesting that the pesticidal use of laminarin will not result in a significant, if any, exposure. For these reasons, the Agency has determined that laminarin residues in and on all food commodities will be safe, and that there is a reasonable certainty that no harm will result from aggregate exposure to residues of laminarin.

2. *Infants and children*. FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database unless the EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety), which are often referred to as uncertainty factors, are incorporated into EPA risk assessments either directly or through the use of a margin of exposure analysis, or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk.

Based on all the information evaluated for laminarin, the Agency concludes that there are no threshold effects of concern and, as a result, the provision requiring an additional margin of safety does not apply.

VII. Other Considerations

A. Endocrine Disruptors

There is no evidence, at this time, that suggests that laminarin will compromise the endocrine system, function in a manner similar to any known hormone, or act as an endocrine disruptor.

B. Analytical Method(s)

Through this action, the Agency proposes an exemption from the requirement of a tolerance of laminarin when used on food commodities, without any numerical limitations for residues. EPA has determined that residues resulting from the pesticidal use of laminarin are unlikely and that there are no significant toxicity concerns in the event that residues of the active ingredient are present. As a result, the Agency has concluded that an analytical method is not required for enforcement purposes for laminarin.

C. Codex Maximum Residue Level

There are no codex maximum residue levels established for residues of laminarin.

VIII. Conclusions

Based on the data submitted to support this tolerance exemption, and other information available to the Agency, EPA is establishing an exemption from the tolerance requirements, pursuant to FFDCA section 408(c), for residues of laminarin in or on all food commodities.

IX. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these 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).

X. 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: February 15, 2010.

Steven Bradbury,

Acting Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 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 180.1295 is added to subpart D to read as follows:

§ 180.1295 Laminarin; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of laminarin in or on all food commodities when laminarin is applied preharvest.

[FR Doc. 2010–3672 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

EPA–HQ–OPP–2009–0569; FRL–8812–5

Nicosulfuron; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of nicosulfuron, [3-pyridinecarboxamide, 2-((((4,6-dimethoxypyrimidin-2-yl) aminocarbonyl) aminosulfonyl))-N,N-dimethyl]; in or on Bermudagrass, forage and Bermudagrass, hay. This action is in response to EPA granting crisis exemptions to the Texas Department of Agriculture and the Oklahoma Department of Agriculture under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on Bermudagrass, forage and Bermudagrass, hay. This regulation establishes maximum permissible levels for residues of nicosulfuron in Bermudagrass and hay. The time-limited tolerances expire and are revoked on December 31, 2011.

DATES: This regulation is effective February 24, 2010. Objections and

requests for hearings must be received on or before April 26, 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–2009–0569. 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: Stacey Groce, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–2505; e-mail address: *groce.stacey@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–2009–0569 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 26, 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–2009-0569, 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 residues of the herbicide nicosulfuron, in or on Bermudagrass, forage and Bermudagrass, hay at 10 parts per million (ppm) and 25 (ppm) respectively. These time-limited tolerances expire and are revoked on December 31, 2011. 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 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 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 Nicosulfuron on Bermudagrass Forage and Hay and FFDCA Tolerances

The Texas and Oklahoma Departments of Agriculture requested emergency exemptions for use of nicosulfuron on Bermudagrass and hay to control field sandbur species, and issued crisis exemptions for this use pursuant to 40 CFR part 166, subpart C of FIFRA. The states provided information indicating that sandbur species is a serious pest that commonly infests Bermudagrass and hay.

As part of its evaluation of the emergency exemption applications, EPA assessed the potential risks presented by residues of nicosulfuron in or on Bermudagrass, forage and Bermudagrass, hay. In doing so, EPA

considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerances 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 exemptions in order to address urgent non-routine situations and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances 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, 2011, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on Bermudagrass, forage and Bermudagrass, hay 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 nicosulfuron meets FIFRA's registration requirements for use on Bermudagrass, forage and Bermudagrass, hay or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these time-limited tolerance decisions serve as a basis for registration of nicosulfuron by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for persons in any States other than Texas and Oklahoma to use this pesticide on the applicable crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemptions for nicosulfuron, 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 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 expected as a result of these emergency exemption requests and the time-limited tolerances for residues of nicosulfuron [3-pyridinecarboxamide, 2-((((4,6-dimethoxypyrimidin-2-yl) aminocarbonyl) aminosulfonyl))-N,N-dimethyl] in or on Bermudagrass, forage and Bermudagrass, hay at 10 ppm and 25 ppm respectively. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. 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 nicosulfuron used for human risk assessment can be found at *http://www.regulations.gov* in the July 14, 2009 document "Nicosulfuron: Human Health Risk Assessment for Proposed Section 18 Use on Bermudagrass," pages 10 and 11 of 30 in docket ID number EPA–HQ–OPP–2009–0569.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to nicosulfuron, EPA considered exposure under the time-limited tolerances established by this action as well as exposures pursuant to existing tolerances in (40 CFR 180.454). EPA assessed dietary exposures from nicosulfuron in food as follows:

i. *Acute exposure*. No acute effects were identified in the toxicological studies for nicosulfuron; therefore, a quantitative assessment of acute dietary exposure was not conducted.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used tolerance level residues and 100 percent crop treated (PCT) assumptions for all registered and proposed commodities.

iii. *Cancer*. EPA has classified nicosulfuron as "not likely to be carcinogenic to humans" based on the lack of tumorigenic effects in rodent (rat and mice) bioassays at the limit doses and lack of mutagenic effects in the *in vitro* and *in vivo* genotoxicity assays.

iv. *Anticipated residue and PCT information*. EPA did not use anticipated residue and/or PCT information in the dietary assessment for nicosulfuron. Tolerance level residues and/or 100 PCT were assumed for all registered and proposed 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 nicosulfuron in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of nicosulfuron. 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 First Index Reservoir Screening Tool (FIRST) for surface water and the Screening Concentration in Ground Water (SCI-GROW) model for ground water, the estimated drinking water concentrations (EDWCs) of nicosulfuron for chronic exposures for non-cancer assessments are estimated to be 0.7 parts per billion (ppb) for surface water and 0.06 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 0.7 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).

Nicosulfuron is not registered for any specific use patterns that would result in residential exposure. Therefore, a residential risk assessment was not conducted.

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 nicosulfuron to share a common mechanism of toxicity with any other substances, and nicosulfuron does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that nicosulfuron 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 the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

C. 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 Food Quality Protection Act (FQPA) SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. There is no quantitative or qualitative evidence of increased susceptibility observed following *in utero* nicosulfuron exposure to rats or rabbits in the prenatal developmental studies or following prenatal/postnatal exposure in young rats in the 2–generation reproduction study. The toxicity database is considered adequate and includes acceptable developmental toxicity studies in the rat and rabbit and a rat reproductive study.

There were no developmental or reproductive effects observed in rats, but in rabbits (clinical signs, decreased body weight gain during dosing, increased abortions), postimplantation loss and decreased fetal body weight were observed at the maternal toxicity LOAEL. However, these effects were only observed at maternally toxic doses.

3. *Conclusion*. EPA has determined that reliable data show that 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 nicosulfuron is considered adequate for purposes of assessing human health risk from this emergency exemption use. Available data suggest that nicosulfuron is poorly absorbed and that toxicity is low. Further, data suggest increased pre and/or post natal susceptibility was not observed.

ii. The toxicity database for nicosulfuron is generally complete except for more recently required neurotoxicity and immunotoxicity testing requirements.

iii. There is no evidence of neurotoxicity or immunotoxicity in the available studies.

iv. There are no residual uncertainties with regard to assessing pre-and/or postnatal toxicity.

v. There are no residential use patterns for this chemical and the exposure assessments are conservative and will not underestimate risks.

D. 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. None of the toxicology studies available for nicosulfuron indentified an adverse effect resulting from a single-oral exposure; therefore, dietary exposure presents no acute risks of concern.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to nicosulfuron from food and water will utilize <1% of the cPAD for (children 3-5) the population subgroup receiving the greatest exposure. There are no residential uses for nicosulfuron. As explained in the unit regarding residential use patterns, chronic residential exposure to residues of nicosulfuron is not expected, so chronic risk is a function of dietary exposure alone. Thus, the chronic aggregate exposure for the most exposed group is below EPA's level of concern.

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).

Nicosulfuron 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 nicosulfuron 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 non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Nicosulfuron 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 nicosulfuron 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.*There is no cancer risk associated with the proposed use. Nicosulfuron is "not likely to be carcinogenic to humans" based on lack of tumorigenic effects in rodent (rats and mice) bioassays at the limit doses and lack of mutagenic effects in the *in vitro* and *in vivo* genotoxicity studies.

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

V. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement methodology (Ciba-Geigy, AG-499, and High Performance Liquid Chromatography/Ultraviolet (PLC/UV) method)) is available to enforce the time-limited tolerance expression. The method was recommended for inclusion in the Pesticide Analytical Manual Vol. II (PAM II).

B. International Residue Limits

There are currently no Canadian, Mexican, or Codex maximum residue limits (MRLs) for nicosulfuron on the commodities for which tolerances are being established.

VI. Conclusion

Therefore, time-limited tolerances are established for residues of the herbicide nicosulfuron, [3-pyridineccarboxamide, 2-((((4,6-dimethoxypyrimidin-2-yl) aminocarbonyl)aminosulfonyl))-N,N-dimethyl], in or on Bermudagrass, forage and Bermudagrass, hay at 10 ppm and 25 ppm respectively. These tolerances expire and are revoked on December 31, 2011.

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: February 5, 2010.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.454 redesignate the existing paragraph as paragraph (a) and add paragraph (b) to read as follows:

§ 180.454 Nicosulfuron; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances specified in the following table are established for residues of the herbicide nicosulfuron, [3-pyridineccarboxamide, 2-((((4,6-dimethoxypyrimidin-2-yl) aminocarbonyl)aminosulfonyl))-N,N-dimethyl], in or on the specified agricultural commodities, resulting from use of the pesticide pursuant to FFIFRA section 18 emergency exemptions. The tolerances expire and are revoked on the date specified in the table.

Commodity	Parts per million	Expiration/ revocation date
Bermuda grass, forage	10	12/31/11
Bermuda grass, hay ...	25	12/31/11

* * * * *

[FR Doc. 2010–3673 Filed 2–23–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0885; FRL–8810–3]

Flumioxazin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of flumioxazin in or on vegetable, cucurbit, group 9; leaf petioles subgroup 4B; and hop, dried cones. This regulation additionally deletes the existing tolerances on almond and melon, subgroup 9A, as they will be superseded by inclusion in tree nut group 14 and cucurbit vegetable group 9, respectively. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 24, 2010. Objections and requests for hearings must be received on or before April 26, 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–2008–0885. 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: Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7390; e-mail address: *nollen.laura@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 and Guidelines."

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–2008–0885 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 26, 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–2008–0885, 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 April 13, 2009 (74 FR 16866) (FRL–8396–6), 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 8E7462) by IR-4, 500 College Rd. East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.568 be amended by establishing tolerances for residues of the herbicide flumioxazin, 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)-2 H -1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1 H -isoindole-1,3(2 H)-dione, in or on vegetable, cucurbit, group 9 at 0.03 parts per million (ppm); leaf petioles, subgroup 4B at 0.02 ppm; and hop, dried cones at 0.07 ppm. The petition additionally requested that EPA revoke the existing tolerance on almonds, as a tolerance on nut, tree, group 14 has been established; and requested that EPA delete the existing tolerance for melon subgroup 9A,

because it will be replaced by the proposed tolerance for vegetable, cucurbit, group 9. That notice referenced a summary of the petition prepared on behalf of IR-4 by Valent U.S.A. Corporation, 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.

Based upon review of the data supporting the petition, EPA has revised the proposed tolerance on hop, dried cones. The reason for this change is explained 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 residues of flumioxazin on vegetable, cucurbit, group 9 at 0.03 ppm; leaf petioles subgroup 4B at 0.02 ppm; and hop, dried cones at 0.05 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.

Flumioxazin has mild or no acute toxicity when administered via the oral, dermal and inhalation routes of exposure. It has little or no toxicity with respect to eye or skin irritation and is not a dermal sensitizer. Subchronic and chronic toxicity studies demonstrated that the key toxic effects associated with flumioxazin include anemia and impacts on the liver and the cardiovascular system. Hematologic (hematopoietic) effects of anemia were noted in rats, including alterations in hemoglobin parameters. Increased absolute and relative liver weights and/or increased alkaline phosphatase values were observed in dogs.

There was no evidence (quantitative or qualitative) of susceptibility following *in-utero* oral exposure in rabbits. Developmental studies in the rat resulted in cardiovascular anomalies, including ventricular septal defects. In the two-generation reproduction study, systemic effects (clinical signs and mortality as well as a decrease in body weight/gain and food consumption) were noted in males and females; more severe offspring effects (decrease in the number of live born and decreased pup body weights) were noted at lower doses than that which resulted in parental effects.

None of the acute, subchronic, chronic, developmental or reproduction studies indicated an effect on the nervous systems. Based on the lack of evidence of carcinogenicity in mice and rats, flumioxazin is classified as "not likely to be carcinogenic to humans." Flumioxazin did not induce significant increases in any tumor type in either rats or mice under the conditions of the studies, and it did not induce any mutagenic activity in the required battery of mutgenicity studies.

Specific information on the studies received and the nature of the adverse effects caused by flumioxazin 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 "Flumioxazin. Human Health Risk Assessment for the Proposed Aquatic Use and Proposed Food Uses on Cucurbit Vegetables, Leaf Petioles, and Hops," at pages 58-62 in docket ID number EPA–HQ–OPP–2008-0885.

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 flumioxazin used for human risk assessment can be found at *http://www.regulations.gov* in the document "Flumioxazin. Human Health Risk Assessment for the Proposed Aquatic Use and Proposed Food Uses on Cucurbit Vegetables, Leaf Petioles, and Hops," at pages 26-28 in docket ID number EPA–HQ–OPP–2008-0885.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to flumioxazin, EPA considered exposure under the petitioned-for tolerances as well as all existing flumioxazin tolerances in 40 CFR 180.568. EPA assessed dietary exposures from flumioxazin 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 effect was identified for the general population. However, EPA identified potential acute effects (cardiovascular effects in offspring) for the population subgroup, females 13 to 49 years old.

In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA used tolerance-level residues, Dietary Exposure Evaluation Model (DEEM) default processing factors for all processed commodities (with the exception of tomato, which used the empirical processing factor of 1x), and assumed 100 percent crop treated (PCT) for all proposed commodities.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment, EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA used tolerance-level residues, DEEM default processing factors for all processed commodities (with the exception of tomato, which used the empirical processing factor of 1x), and assumed 100 PCT for all proposed commodities.

iii. *Cancer*. Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, EPA has classified flumioxazin as "not likely to be carcinogenic to humans." Therefore, a quantitative 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 flumioxazin. Tolerance level residues or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water*. A hydrolysis study for flumioxazin indicates that flumioxazin forms the metabolite 482-HA, which can further hydrolyze into the metabolites APF and THPA. The rates of the two hydrolytic reactions are very pH dependent, but flumioxaxin is not very stable at any likely environmental pH. Data also indicates that THPA and APF are likely to be very mobile. Although THPA can comprise a major portion of the total residue in water, it does not possess a phenyl ring and is thus considered significantly less toxic than flumioxazin, APF, and 482-HA. For this reason, THPA has not been included as a residue of concern in drinking water. Therefore, the residues of concern in drinking water are flumioxazin and its 482-HA and APF degradates. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for flumioxazin and its degradates of concern in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of flumioxazin and its degradates of concern. 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 First Index Reservoir Screening Tool (FIRST) model, the estimated drinking water concentrations (EDWCs) of flumioxazin, 482-HA and APF for acute exposures are estimated to be 1.03 parts per billion (ppb), 6.87 ppb, and 26.46 ppb, respectively, for surface water. For chronic exposures for non-cancer assessments, the EDWCs of 482-HA and APF are estimated to be 4.84 ppb and 12.85 ppb, respectively, for surface water. Based on the Screening Concentration in Ground Water (SCI-GROW) model, for both acute and chronic (non-cancer) exposures, the EDWCs of 482-HA and APF are estimated to be 45.27 ppb and 2.66 ppb, respectively, for ground water. EDWCs of flumioxazin are estimated to be negligible in ground water for acute exposures and in both surface and ground water for chronic exposures.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. The EDWC of 48 ppb (0.048 ppm), the total EDWC for flumioxazin residues in groundwater (including flumioxazin, 482-HA, and APF), was used to assess the contribution to drinking water for both the acute and chronic dietary risk assessments.

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).

Flumioxazin is currently registered for use in the following areas that could result in residential exposures: Walkways, parking lots and non-grassy areas around residential dwellings. EPA assessed residential exposure using the following assumptions: Short-term dermal and inhalation exposure to adult handlers resulting from the use of flumioxazin within residential settings. For the above use sites, no postapplication exposure to adults or children from flumioxazin is expected.

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 flumioxazin to share a common mechanism of toxicity with any other substances, and flumioxazin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that flumioxazin 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*. The prenatal and postnatal toxicology database for flumioxazin includes rat and rabbit prenatal developmental toxicity studies and a two-generation reproduction toxicity study in rats. There is no evidence of increased susceptibility following *in-utero* oral exposure in rabbits; however, there is evidence of increased quantitative susceptibility of rat fetuses to *in utero* exposure to flumioxazin in the oral and dermal developmental studies. In both studies, there was an increased incidence in fetal cardiovascular anomalies (including ventricular septal defects) in the absence of maternal toxicity. Additionally, quantitative susceptibility was observed in the two-

generation rat reproduction study, in which offspring effects (decrease in the number of live born and decreased pup body weights) were observed at lower doses than those which caused parental/systemic toxicity (red substance in vagina and increased mortality in females as well as decreases in male and female body weights, body weight gains and food consumption).

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:

i. The toxicity database for flumioxazin is complete except for immunotoxicity, acute neurotoxicity, and subchronic neurotoxicity testing. Recent changes to 40 CFR part 158 make acute and subchronic neurotoxicity testing (OPPTS Guideline 870.6200), and immunotoxicity testing (OPPTS Guideline 870.7800) required for pesticide registration; however, the existing data are sufficient for endpoint selection for exposure/risk assessment scenarios, and for evaluation of the requirements under the FQPA.

The available data for flumioxazin do not show the potential for neurotoxic effects. In the subchronic and chronic toxicity studies, signs of anemia (a potential immunotoxic effect) were observed. In the rat, hematologic (hematopoietic) effects of anemia were noted, including alterations in hemoglobin parameters. Flumioxazin is a protporphyrinogen oxidase (PPO) inhibitor, which inhibits the biosynthesis of chlorophyll in plants (giving flumioxazin its weed-control properties). In animals, PPO is responsible for one of the later steps in heme synthesis; therefore, the inhibition of PPO results in anemia. Although anemia can potentially be considered an immunotoxic effect, in this case it's likely the anemia is due to the inhibited heme formation (which can interfere with the porphyrin component of heme, a hematopoietic effect resulting in anemia), and the blood effects are not considered to be the result of potential immunotoxicity in this case. Thus, EPA has concluded that flumioxazin does not directly impact the nervous system or directly target the immune system. The Agency does not believe that conducting a functional immunotoxicity study will result in a NOAEL lower than the regulatory dose for risk assessment; therefore, an additional database uncertainty factor is not needed to account for potential immunotoxicity or neurotoxicity.

ii. There is no indication that flumioxazin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is evidence of increased quantitative susceptibility of the young following exposure to flumioxazin in the oral and dermal developmental toxicity studies in the rat and in the two-generation rat reproduction study; therefore, a degree of concern analysis was performed to determine the level of concern for the effects observed when considered in the context of all available toxicity data and to identify any residual concerns after establishing toxicity endpoints and traditional UFs to be used in the flumioxazin risk assessment. In considering the overall toxicity profile and the endpoints and doses selected for the flumioxazin risk assessment, EPA characterized the degree of concern for the susceptibility observed in the rat developmental and two-generation reproductive studies as low and determined that there are no residual uncertainties for prenatal and/or postnatal toxicity because:

a. The only missing toxicity data for flumioxazin are the newly required neurotoxicity and immunotoxicity studies; however, no additional UF is needed in the absence of these studies because there is no evidence to indicate that flumioxazin targets the nervous system or the immune system. Further, EPA has concluded that a developmental neurotoxicity study is not required.

b. There are clear NOAELs and LOAELs for the developmental and offspring effects noted in the rat developmental toxicity and two-generation reproductive toxicity studies, and the doses and endpoints have been selected from these studies for risk assessment for the relevant exposed populations, i.e., pregnant females and children (with the exception of the chronic dietary endpoint, for which a chronic study was chosen for endpoint selection).

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on conservative assumptions, including 100 PCT data and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to flumioxazin in drinking water. Postapplication exposure to children is not expected. These assessments will not underestimate the exposure and risks posed by flumioxazin.

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 flumioxazin will occupy 9% of the aPAD for females 13 to 49 years old, the population subgroup where a potential acute risk was identified.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to flumioxazin from food and water will utilize 19% of the cPAD for children less than 1 year 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 flumioxazin 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).

Flumioxazin is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to flumioxazin. Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that the combined short-term food, water, and residential exposures aggregated result in aggregate MOEs of 2,400 or greater. As the aggregate MOEs for short-term exposure are greater than 100 (the LOC) for all exposure scenarios, short-term aggregate exposures to flumioxazin are not of concern to EPA.

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). Flumioxazin 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 flumioxazin 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*. Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, flumioxazin 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 flumioxazin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The following adequate enforcement methodology is available to enforce the tolerance expression: A gas chromatography/nitrogen-phosphorus detection (GC/NPD) method. 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 Codex, Canadian or Mexican maximum residue limits established for residues of flumioxazin on commodities associated with this petition.

C. Revisions to Petitioned-For Tolerances

Based on analysis of the residue field trial data supporting the petition, EPA revised the proposed tolerance on hop, dried cones from 0.07 ppm to 0.05 ppm. EPA revised this tolerance level 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*. EPA has also revised the introductory text in § 180.568 to clarify in the tolerance expression: (1) That, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of flumioxazin 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 flumioxazin, 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)-2*H*-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1*H*-isoindole-1,3(2*H*)-dione, in or on vegetable, cucurbit, group 9 at 0.03 ppm; leaf petioles subgroup 4B at 0.02 ppm; and hop, dried cones at 0.05 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 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).

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: February 1, 2010.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.568 is amended in paragraph (a) by revising the introductory text, removing the entries for "Almond" and "Melon, subgroup 9A" from the table; and by alphabetically adding "Hop, dried cones"; "Leaf petioles subgroup 4B"; and "Vegetable, cucurbit, group 9" to the table to read as follows:

§ 180.568 Flumioxazin; tolerances for residues.

(a) * * * Tolerances are established for residues of flumioxazin, 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)-2*H*-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1*H*-isoindole-1,3(2*H*)-dione, 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 flumioxazin.

Commodity	Parts per million
* * *	* *
Hop, dried cones	0.05
Leaf petioles subgroup 4B	0.02
* * *	* *
Vegetable, cucurbit, group 9	0.03
* * *	* *

* * * * *

[FR Doc. 2010–3166 Filed 2–23–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Subchapter R

[EPA–HQ–OPPT–2007–0392; FRL–8798–9]

RIN 2070–AJ21

Final Clarification for Chemical Identification Describing Activated Phosphors for TSCA Inventory Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final clarification.

SUMMARY: This is a clarification under which certain activated phosphors that are not on the Toxic Substances Control Act (TSCA) section 8(b) Chemical Substance Inventory (TSCA Inventory) will be considered to be new chemical substances under TSCA section 5, and thus will be subject to applicable notification requirements under TSCA section 5. In certain letters and other statements issued by EPA from 1978 to 2003, the Agency erroneously indicated that activated phosphors (otherwise known as doped phosphors) constitute mixtures of phosphors and dopants for purposes of the TSCA Inventory, and thus that they were not separately reportable as chemical substances under TSCA section 5(a) new chemical notification requirements. This clarification is necessary because EPA's statements in this area have not been consistent.

DATES: EPA's clarification is effective August 24, 2011.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–0392. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

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

For technical information contact: David Schutz, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9262; e-mail address: *schutz.david@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be affected by this action if you are, or may in the future be, a manufacturer or importer of an activated phosphor that requires submission of a premanufacture notification (PMN) or exemption request under TSCA section 5. Special procedures will apply to persons who manufactured these chemical substances after the publication of the Initial TSCA Inventory and before the effective date of this final chemical identification clarification document in the **Federal Register**. Potentially affected entities may include, but are not limited to:

- Chemical manufacturers or importers (NAICS codes 325, 3251), e.g., anyone who manufactures or imports, or who plans to manufacture or import, an activated phosphor for a non-exempt commercial purpose.
- Electric lighting equipment manufacturing, electric lamp bulb and part manufacturing (NAICS codes 3351, 33511), e.g., anyone who manufactures or imports, or who plans to manufacture or import, lighting equipment containing an activated phosphor for a non-exempt commercial purpose.

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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What Action is the Agency Taking?

EPA is clarifying that certain previous EPA statements which indicated that activated phosphors are mixtures rather than chemical substances in their own right were erroneous, and that TSCA Inventory listing may be required for these materials. This action provides a clarification in the approach used for the chemical identification of activated (doped) phosphors for purposes of listing on the TSCA Inventory. This clarification was proposed in the **Federal Register** issue of January 16, 2008 (73 FR 2854) (FRL–8131–8) and a reopening of comments on the proposed clarification was announced in the **Federal Register** issue of May 2, 2008 (73 FR 24187) (FRL–8360–7).

An activated phosphor is a substance resulting from the chemical combination of a mixture of metal oxides, carbonates, phosphates or acid phosphates, chlorides, and/or fluorides, most frequently by sintering, along with a small amount of one or more dopants. Dopants can include such substances as

yttrium, europium, germanium, gallium, strontium, antimony, manganese, or magnesium. When an activated phosphor is electrically excited, it emits light. The color and electrical efficiency of light emission is a function of the parent phosphor and of the dopant which is present.

EPA is required under TSCA section 8(b), 15 U.S.C. 2607(b), to compile and keep current an inventory of chemical substances manufactured (which includes import) or processed for commercial purposes in the United States. This inventory is known as the TSCA Chemical Substance Inventory (TSCA Inventory). EPA promulgated a rule in the **Federal Register** issue of December 23, 1977 (42 FR 64572) under TSCA section 8(a), 15 U.S.C. 2607(a), to compile an inventory of chemical substances in commerce at that time. Building on several earlier interim policies, EPA promulgated a rule in the **Federal Register** issue of May 13, 1983 (48 FR 21722) setting forth procedures for the submission, receipt, and health and safety review of PMNs covering chemical substances not yet in commerce when required under TSCA section 5, 15 U.S.C. 2604. Section 8(b)(1) of TSCA, 15 U.S.C. 2607(b)(1), instructs EPA to add a PMN substance to the TSCA Inventory as of the earliest date on which it is manufactured or processed in the United States.

Manufacture of a non-exempt new chemical substance is prohibited prior to the expiration of the new chemical notice review period. Once EPA receives a PMN, the Agency has 90 days to review the notice (unless for good cause EPA extends the review period); the Agency has 30 or 45 days to complete its review of exemption requests. During the review period, EPA may act under TSCA section 5(e) or 5(f) to regulate the new chemical substance. If EPA has not prohibited manufacture of the chemical substance during the review period, manufacture may begin subject to any restrictions or testing requirements imposed upon the submitter during the review period (these restrictions may be imposed upon others via a Significant New Use Rule (SNUR) and subsequent action under TSCA section 5(e) or 5(f) taken in follow-up to a significant new use notification (SNUN)). When manufacture begins, the notice submitter must provide a Notice of Commencement of Manufacture or Import (NOC), after which EPA adds the chemical substance to the TSCA Inventory. If the Agency receives a new chemical notice submission for a chemical substance which EPA determines is excluded from consideration as a chemical substance under TSCA (generally because it meets the criteria for one of the excepted categories at TSCA section 3(2)(B), which include mixtures, pesticides, tobacco, food, drugs, etc.) the Agency will not accept the new chemical notice. Similarly, during the period 1978–1979, when EPA was accepting submissions for the Initial TSCA Inventory, and during 1979–1983, prior to promulgation of the May 13, 1983 PMN rule, the Agency rejected notifications for materials which it determined to be excluded.

B. Why is the Agency Taking this Action?

Partly as a result of the Agency's incomplete information and understanding of the chemistry involved in manufacturing activated phosphors, from 1978 through 2003, EPA was inconsistent in its statements to potential submitters and in its actions regarding whether activated phosphors are considered distinct chemical substances for purposes of the TSCA Inventory. During the period 1978–1979, when EPA received submissions for the Initial TSCA Inventory, it accepted many doped phosphors for listing, but in some cases it sent "problem letters" to the manufacturers of doped phosphors indicating that they were mixtures of the phosphor and dopants and thus ineligible for listing.

In October 1979, the Agency wrote to a lighting manufacturer and stated that such listings could be "unnecessary" and that their continued inclusion on the TSCA Inventory would be "closely examined." In January 1980, a lighting manufacturer wrote to the Agency to challenge problem letters it had received. The manufacturer stated that the materials it manufactured should be excluded from mixture status because they had characteristic crystal structures and that volatile reaction products given off during their manufacture showed that chemical synthesis was occurring. In March 1982, the Agency wrote to a lighting manufacturer and suggested that certain chlorophosphate activated phosphors could be regarded either as physically altered chlorophosphates or as mixtures, thus not subject to premanufacture notice. In August 1983, the Agency wrote to the lighting manufacturer which had challenged the problem letters and informed it that the materials had, in fact, been placed on the TSCA Inventory, and in addition that a new chemical notice was appropriate for another activated phosphor but that 'low levels' of an activator would not require a separate new chemical notice.

In January 1993, a lighting manufacturer submitted a Low Volume Exemption (LVE) Application for an activated phosphor with a letter referencing much of the history as described in this document and asserting that, based on Agency positions, no submission should be necessary, but the Agency did accept the application and granted the LVE. After that LVE was granted, the manufacturer submitted a letter asserting that activated phosphors should, in fact, be considered to be mixtures and requested that the Agency issue a clarifying statement. In response, the Agency met with the manufacturer on the issue and indicated that activated phosphors should be considered chemical substances instead of mixtures, but did not issue a written clarification.

In 1995, EPA issued the publication entitled "Toxic Substances Control Act Inventory Representation for Products Containing Two or More Substances: Formulated and Statutory Mixtures (Formulated and Statutory Mixtures)," available at *http://www.epa.gov/opptintr/newchems/pubs/mixtures.txt*), which provided guidance regarding the mixture definition given at 40 CFR 710.2(q) and 720.3(u):

> *Mixture* means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except "mixture" does include (1) any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined, and if all of the chemical substances comprising the combination are not new chemical substances, and (2) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water.

"Formulated and Statutory Mixtures" discusses common examples of mixtures, including paints, blended fuels, and solvent combinations. "Mixture" can include, as well, solid solutions—homogeneous crystalline phases composed of several distinct chemical species. Alloys are solid solutions, and are considered mixtures. For the purposes of TSCA, multi-component blends or formulations of chemical substances, or certain reaction product combinations which can be completely characterized as consistently formed definite sets of their constituent chemical substances, are considered to be mixtures of chemical substances. Mixtures are not reportable, although their constituent chemical substances are. Most important in the context of

this document, a mixture can often provide its function over some range of constituent ratios, consequently it is unusual if the ratios of chemical substances which comprise a mixture are necessarily definite or stoichiometric, and if the mixture components are deliberately reacted together to manufacture a chemical substance, EPA does not consider this reaction product to be a mixture for TSCA purposes except in very specialized circumstances which are not present in the case of the activated phosphors.

In June 1998, a lighting manufacturer wrote to the Agency and stated that, in the absence of any negative response by the Agency within 60 days of the letter, it intended to rely on its interpretation of "Formulated and Statutory Mixtures," and that it believed that that interpretation precluded TSCA Inventory listing for activated phosphors. The Agency did not respond to that letter. Based on a 2003 request from a lighting manufacturer, and cognizant of the history described in this document, EPA held a meeting with the manufacturer in September 2003 and as a result has reexamined some earlier assumptions—particularly about non-stoichiometry and non-reaction between chemical substances used to make activated phosphors—which may have led it to believe that activated phosphors could be considered mixtures.

The result of this reexamination is this clarification that EPA generally considers activated phosphors to be distinct chemical substances under TSCA. EPA's clarification on the potential need to report activated phosphor materials is based on its updated understanding about reaction characteristics and stoichiometry in activated phosphor manufacture: Activated phosphors are in general synthesized by means of a solid state reaction at high temperature and typically using precise quantities of the precursor chemical substances, both for the base materials and for the dopants which control the quality of light emitted. Precise ratios of component materials are used to maintain strict stoichiometry in the end product, and component materials are thoroughly blended before reaction for uniformity of the product. Heat may be absorbed or released by the reactant mixture at certain temperatures, typically by the release of water; this is often an indication of chemical substance synthesis. During the manufacture of activated phosphors, other volatile reaction products are often emitted, another indication that chemical substances are being formed. The phosphor and the amount of dopant added need to be controlled with high precision, and during sintering the doped phosphor undergoes oxidation state changes. Each of these reaction characteristics is a strong indication that a chemical substance is being synthesized. Since most or all of these characteristics are generally present in activated phosphor manufacture, EPA believes that activated phosphors are manufactured for commercial purposes with chemical reaction. Additionally, activated phosphor products have a different function from the material which would be produced by the same synthetic process in the absence of dopant, and which would not emit the characteristic light, which is the primary property sought. Because dopants provide the primary property sought from these materials, small or even trace amounts of dopant are considered to be reactants which must be included in the chemical identity. Therefore, in EPA's view these materials are not "mixtures" of phosphors and dopants.

C. Why is this Chemical Identity Clarification Necessary?

Because EPA does not view activated phosphors as mixtures, some previous EPA statements that such materials may not need to be reviewed through the new chemicals process were incorrect. As a result of certain past EPA statements, some manufacturers of activated phosphors have not submitted new chemical notices under TSCA section 5 because those statements incorrectly indicated that activated phosphors were covered for TSCA purposes if the phosphors and activators were already on the TSCA Inventory. Other manufacturers have submitted new chemical notices for similar materials, and they have generally been given TSCA Inventory listings. Several industry representatives have asked EPA to clarify the Agency's chemical identity policy for activated phosphors. EPA now agrees that it is necessary to add listings to the TSCA Inventory for activated phosphors which have been manufactured but not listed. This document provides a clarification to previous statements on chemical identity for activated phosphors. On the effective date of this clarification, activated phosphors that are not on the TSCA Inventory will be considered new chemical substances under TSCA section 5.

Because some of the statements provided by the Agency prior to 2003 led some manufacturers to believe that the products they manufactured were already on the TSCA Inventory if the phosphors and activators were on the TSCA Inventory, some manufacturers of activated phosphor products have not submitted new chemical notices required under TSCA section 5. This chemical identification problem is similar to one involving monomer acid and its derivatives, which was resolved through Agency-industry dialog and a period for submission of new chemical notices (Correction to Chemical Nomenclature for Monomer Acid and Derivatives for TSCA Inventory Purpose published in the **Federal Register** issue of June 27, 2001 (66 FR 34193) (FRL–6784–6)). The Agency is addressing this activated phosphor situation in a similar manner.

III. Activated Phosphors Under the TSCA Inventory and Implications for TSCA Section 5 Reporting

EPA is clarifying that those of EPA's earlier statements which indicated that activated phosphors are mixtures rather than chemical substances in their own right were erroneous, and that TSCA Inventory listing or TSCA section 5(h)(4) exemption will be required for these materials. Pursuant to TSCA section 5(a)(1), 15 U.S.C. 2604(a)(1), new chemical notices will be required for activated phosphors not on the TSCA Inventory (and for which a TSCA section 5(h)(4) exemption has not been granted) and which are manufactured on or after the effective date of the clarification. See EPA PMN regulations at 40 CFR part 720 for details regarding when reporting is required. Consistent with TSCA Inventory correction guidelines published in the **Federal Register** issue of July 29, 1980 (45 FR 50544), EPA does not consider activated phosphors that were never reported for the Initial TSCA Inventory to be eligible for TSCA Inventory correction as an alternative to new chemical notice submission.

A. What are the Nature and Scope of this Clarification?

EPA does not believe that activated phosphors are mixtures rather than chemical substances in their own right. Thus listing on the TSCA Inventory established under TSCA section 8(b) may be required for these chemical substances. This clarification will affect anyone who manufactures, or who plans to manufacture, an activated phosphor not currently listed on the TSCA Inventory and for a TSCA-covered use.

B. What are the Key Dates and Provisions of this Clarification?

The effective date for this clarification, described in Unit II.B., will

be 18 months after date of publication of this final document in the **Federal Register**. After the effective date, any person manufacturing an activated phosphor for a non-exempt commercial purposes and who has not met the new chemical substances requirements of TSCA section 5 will not be considered in compliance with TSCA. By that date, companies required to submit PMNs or exemption notices must have done so at least 90 days (for PMNs, less for exemption notices) before the effective date, to ensure that Agency review is completed before this clarification takes effect.

By that date, companies required to submit premanufacture notices or exemption applications must have done so at least 90 days (for PMNs, less for exemption applications) before the effective date, to ensure that Agency review is completed before this clarification takes effect. New chemical notice review may entail suspension of the notice review period (either by EPA or at the request of the submitter). If a new chemical notice seeking an exemption is rejected, a PMN may need to be filed. Because manufacture may not continue after the 18–month period provided in this notice, companies are advised to submit any required new chemical notices well before the effective date to ensure that all issues are resolved in a timely fashion.

EPA will work closely with manufacturers to resolve chemical identity issues for any specific material that the manufacturer believes should be viewed as a mixture.

To facilitate the new chemical notice process for activated phosphors currently being manufactured but which are not listed on the TSCA Inventory as distinct chemical substances, EPA will allow an exception to its TSCA new chemicals program policy limit of six chemical substances per consolidation notice for these chemical substances. EPA encourages persons intending to manufacture activated phosphors to file new chemical notices using the proper chemical identity immediately instead of delaying their submissions to near the effective date of this document.

New chemical notices filed in response to this chemical identification clarification shall, as specified in 40 CFR 720.50, include all information normally included with a new chemical notice submission, such as toxicity data on the chemical substance that are in the possession or control of the notice submitter, or known to or reasonably ascertainable by the notice submitter.

C. Will a New Chemical Notice Be Required for Persons Who Did Not Submit One Due to an Incorrect EPA Statement, Regardless of Whether They Still Manufacture the Chemical Substance?

Where required by TSCA section 5 and in accordance with 40 CFR part 720, a new chemical notice must have been submitted for any manufacture for a non-exempt commercial purpose that takes place on or after August 24, 2011. No new chemical notice need be submitted for manufacture taking place before that date. For example, if you manufactured such a phosphor in 1986 but will not be resuming manufacture after August 24, 2011, you are not required to submit a new chemical notice at this time. However, if you later form an intention to manufacture the activated phosphor on or after the effective date of this clarification and the chemical substance has not in the interim been placed on the TSCA Inventory due to another company's manufacture or import, you will need to submit a new chemical notice (and the review period must be completed) before commencing manufacture. Activated phosphors manufactured before August 24, 2011 can be used or processed after the effective date, whether a new chemical notice has been filed or not.

D. Discussion of Public Comments on the Proposed Clarification

The Agency reviewed and considered the comments submitted on the proposed clarification published in the **Federal Register** issue of January 16, 2008. Copies of all submitted comments are available in the docket for this action.

1. *Comment.* Commenter OSRAM Sylvania questions the Agency's authority for requiring new chemical reporting for chemical substances that have been in production for some time. The commenter states that "EPA lacks the authority to extend the scope of the TSCA Inventory and PMN requirements to the regulations of these existing chemicals." The commenter suggests that the Agency use TSCA Inventory correction procedures to deal with activated phosphors, and argues that the clarification as to the TSCA Inventory status of activated phosphors constitutes rulemaking, as "it would impose new, substantive legal obligations upon a class of chemicals and companies."

Response. EPA disagrees with the comment. TSCA section 3(2) defines "chemical substance" in relevant part as "any organic or inorganic substance of a particular molecular identity." Two chemicals with differing molecular identities are therefore considered different chemical substances under TSCA. TSCA section 3(9) defines a "new chemical substance" as "any chemical substance which is not included in the chemical substance list compiled and published under section 2607(b) of this title" (i.e., the TSCA Inventory). TSCA section 5(a)(1) applies PMN reporting requirements (or applicable exemptions) to new chemical substances. Thus, regardless of the fact that an activated phosphor may have been in commerce for years, if it has not been reported for the TSCA Inventory or added to the TSCA Inventory via PMN and NOC per 40 CFR part 720, it constitutes a new chemical substance subject to TSCA section 5.

This clarification does not create obligations under TSCA. Requirements for new chemical notice reporting are self-executing in TSCA, flowing from TSCA section 5(a)(1) (with "chemical substance" being defined in TSCA section 3(2) and "mixture" defined in TSCA section 3(8)). The purpose of this document is simply to provide notice of how EPA intends to enforce these provisions with respect to activated phosphors. EPA does not believe that this action constitutes rulemaking, but if it were rulemaking it would be interpretive rulemaking not subject to notice and comment under the Administrative Procedure Act (APA).

The TSCA Inventory correction guidelines published in the **Federal Register** issue of July 29, 1980 indicate that materials that were never reported for the Initial TSCA Inventory are not eligible for TSCA Inventory correction as an alternative to premanufacture notice submission. The guidelines describe three main categories as appropriate for correction: Corrections to the identity of previously reported materials, corrections identifying previously unrecognized isolated intermediates, and corrections made in response to Agency communications which identify reporting errors and request corrections. For the first category, the TSCA Inventory correction procedures are appropriate when errors may have been made in reporting the identity ("(1) corrections of typographical or transcriptional errors in recording chemical identity on the Inventory reporting forms..") or when new information improving a previously reported identity can be developed because improvements in analytical methods and equipment regarding a previously reported chemical substance indicate that the accurate description of the chemical substance is different from what was previously reported ("(2)

refinement of the identity of a reported substance, e.g., by narrowing the range of the values for a polymer; (3) identification of new components in the material, e.g., finding that a chemical substance reported as A is actually a mixture of A and B; and (4) discovery that a chemical substance is different from that reported previously, e.g., determining that a substance reported as A is actually C or that a substance reported as D is actually a mixture of E and F.") Manufacturers' failure to report activated phosphors for the TSCA Inventory under the first category is covered by none of the four eligibility criteria listed in this unit, which cover improved information about a previously reported chemical rather than failure to report it. Neither the second nor the third category is applicable here.

Under these guidelines, a blanket exclusion from TSCA section 5 reporting, and inclusion on the TSCA Inventory by correction, for all activated phosphors including those first manufactured subsequent to the reporting period for the Initial TSCA Inventory, would be inappropriate. EPA believes such an exclusion would prevent these materials from receiving the environmental, workplace safety, and consumer safety review contemplated by TSCA.

2. *Comment*. Commenter Color Pigment Manufacturers Association (CPMA) stated that because the EPA made its initial error in 1978, when materials were being entered into the TSCA Inventory by survey, EPA should allow for listing of the materials which are the subject of the action by survey and correction to the TSCA Inventory.

Response. CPMA has raised three issues here: Addition to the TSCA Inventory by survey for materials which were first manufactured before the end of the Initial TSCA Inventory reporting period, addition to the TSCA Inventory by survey for materials which were first manufactured after the end of the Initial TSCA Inventory reporting period, and use of the TSCA Inventory correction mechanism to enter non-TSCA Inventory materials onto the TSCA Inventory. CPMA's comment provides no apparent rationale for allowing survey addition to the TSCA Inventory for materials first manufactured after the Initial TSCA Inventory reporting closed in 1979. We have responded to the suggestion that the corrections procedure be used for activated phosphor materials in our response to the comment by OSRAM Sylvania, in Unit III.D.1.

In regard to materials which were in commerce already before the end of the Initial TSCA Inventory reporting period in 1978, the Initial TSCA Inventory has been closed to survey reporting since the end of TSCA Inventory reporting in 1979, with the only mechanism for changing the Initial TSCA Inventory listings and compilation having been TSCA Inventory corrections. Although there may have been some persons manufacturing activated phosphors during the Initial TSCA Inventory reporting period for TSCA who were confused by EPA guidance at that time, irrespective of the guidance, those persons should have reported for the Initial TSCA Inventory in some manner to account for their manufactured activated phosphor products. For example, in their Initial TSCA Inventory reporting, some persons may have identified their phosphor compounds without including the activators (dopants) in the chemical names. Others may have viewed their activated phosphors to be mixtures of two chemical substances (i.e., the activator and the phosphor host material), and reported both of their perceived mixture components.

EPA believes that a survey process for adding certain activated phosphors which may have been in commerce before 1978 to the TSCA Inventory at this late date would not be warranted. TSCA section 5 reporting for all activated phosphors not on the TSCA Inventory (and for which a TSCA section 5(h)(4) exemption has not been granted) and which are to be manufactured on or after the effective date of this clarification is a practical way to enable the affected manufacturers to come into compliance without undue disruption; it will facilitate the safety and environmental impact review for these materials intended in the statute; and the criteria used to assess these materials will be uniform.

3. *Comment.* Commenter American Chemistry Council (ACC) stated that this is more than a 'clarification', but that it is a reversal of a position held for 20 years. Therefore, a public review and comment period, and consultation with stakeholders, is in order.

Response. Rather than having stated a consistent position, EPA's guidance has been inconsistent, as noted in the proposal. This clarification provides the guidance necessary to go forward with one policy about the activated phosphor materials. A significant number of manufacturers have in fact submitted PMNs and exemption notices covering over 200 activated phosphors (this includes reporting forms for the Initial TSCA Inventory) and the Initial TSCA Inventory reporting form and PMN substances have been given TSCA Inventory listings. The Agency has provided an opportunity for stakeholder input in the comment process via the proposed clarification, and met with one manufacturer before the clarification was written and one during the comment period.

Most of the chemical substances subject to this clarification, and which are reportable, were manufactured after the close of the TSCA Inventory reporting period and new chemical notices would have been submitted had there not been any erroneous guidance from EPA. Therefore, the net new chemical notice reporting burden should be little greater than if EPA had issued accurate guidance on activated phosphors after the publication of the Initial TSCA Inventory. Those who have already reported activated phosphors will not need to do anything, while those who have not yet reported such chemical substances must do so by the effective date of this document. In this way, new chemical notices will finally have been submitted for all of the activated phosphors initially manufactured for a non-exempt commercial use. Due to the confusion caused by EPA's earlier erroneous guidance, the Agency wishes to minimize any inconvenience to the chemical industry by providing an exception to its TSCA new chemicals program policy of a limit of six chemical substances per consolidation notice for these chemical substances and by setting an effective date for the consistent interpretation at 18 months after date of publication of this document in the **Federal Register**.

4. *Comment*. Commenter ACC said 12 months is not sufficient to do the work required to come into compliance with this clarification. ACC noted that regulated industry is doing a good deal of ongoing work to come into compliance with the European Union REACH program. EPA should lengthen time to come into compliance to 18–24 months.

Response. The Agency believes that the number of new chemical notice submissions which will be prepared to conform to the clarification will not be large, nor will they be unusually difficult to write. EPA's estimate of the total number of premanufacture notices it will receive in response to this clarification is 30. After considering this comment, however, EPA agrees that 1 year could provide insufficient time to complete the new chemical notice review process for all activated phosphors affected by this clarification. Therefore, EPA has extended by 6 months the time that manufacturers and

importers who are currently manufacturing or importing affected activated phosphors would have had under the proposed clarification to complete the TSCA section 5 review process.

Under the proposed clarification, such manufacturers would have had to submit a premanufacture notice to EPA within 6 months after publication of the final clarification in order for EPA to have had the entire 180 day period authorized by TSCA section 5 (90 days plus opportunity for up to a 90–day extension under TSCA section 5(c)) to complete the PMN review. This time frame may have been too short in some circumstances. Under this final clarification, such manufacturers and importers will have up to12 months to submit a PMN in order for EPA to have the entire 180–day review period (90 days plus opportunity for up to a 90–day extension under TSCA section 5(c)) to complete the review of a PMN. This approach will allow such manufacturers and importers additional time to compile the information necessary to prepare and submit PMNs or exemption requests. However, EPA encourages manufacturers and importers to submit PMNs or, alternatively, exemption requests as soon as possible after publication of the final clarification. Doing so will provide EPA with more time to complete any consent orders and, if necessary, establish testing requirements for those activated phosphors for which EPA may have concerns of potential unreasonable risk to human health or the environment.

5. *Comment*. Commenter CPMA said this action is onerous and punitive for CPMA members, and results from EPA's mistake. It will be disruptive if it results in materials being unavailable for manufacture during the PMN review process, and will be costly to small businesses.

Response. As noted in Unit III.D.1., it is the statute that imposes the requirement for new chemical notice reporting. This document is not punitive; rather it clarifies EPA's views with respect to the chemical identity of activated phosphors. The commenter is correct that the need for this action arises from the Agency's error, and EPA will make a diligent effort to complete the new chemical notice reviews as quickly as possible. We recommend that manufacturers submit as promptly as possible, and well before the effective date of the clarification. As noted in Unit III.D.4., we have lengthened the time period for coming into conformity with the clarification to 18 months from 12 months as proposed, and the effective date of the clarification has been chosen to enable the reviews to be completed before the effective date. CPMA provided no information to support the claim that there are such small businesses and that the economic impact on them would be significant. EPA estimates that the number of new chemical notices which may be received from small businesses is 10. When EPA receives applications from small business as a result of this clarification we will make every effort to assist these submitters to navigate the process as necessary.

6. *Comment*. Commenter CPMA said the Agency has not provided any evidence in the proposed clarification that the phosphor materials subject to the clarification pose a significant risk to humans or the environment.

Response. TSCA compels TSCA section 5 review for new chemical substances, regardless of what information may be available regarding their risks. A TSCA section 5 notice presents information available to the submitter regarding risk for review and assessment by EPA.

7. *Comment*. Commenter CPMA states that EPA rarely meets the statutory 90–day review period for inorganic substances, and that a multi-year review would impose a burden on manufacturers of these materials. Commenter cited several cases.

Response. EPA will strive to complete the review of new chemical notices submitted in response to this clarification promptly. For more than 80% of submitted chemical substances, the new chemical notice review process is completed at the EPA Focus meeting, which takes place well before the end of the statutory 90–day PMN review period, and without the chemical substance being restricted or regulated in any way. For those new chemical substances for which EPA determines that regulatory action may be necessary, the new chemical notice review period may be suspended by the submitter to enable the Agency to consider additional information in its review and, if necessary, to develop and negotiate a consent order. The cases cited by the submitter were cases in which TSCA section 5(e) consent orders, which enabled the submitters to commence manufacture subject to certain conditions, were signed within a year of submission. The Agency recommends that affected manufacturers should submit their new chemical notices early in the period following publication of this document, and that they consult prior to submission with EPA's New Chemicals Management Branch ((202) 564–9373) in the New Chemicals Program to determine what information will facilitate quick review.

8. *Comment*. Commenter CPMA said EPA has not substantiated that activated phosphors are not statutory mixtures and this action relative to activated phosphors is inconsistent with EPA policy on other mixtures.

Response. EPA believes that activated phosphors are chemical substances, not mixtures, under TSCA. These chemical substances consist of reaction products resulting from chemical bond formation between the activators and the host materials or precursors. As a result, the Agency considers the activators to be chemically incorporated in the activated phosphors, becoming part of the phosphor structure and composition.

9. *Comment*. Commenter OSRAM Sylvania said the host portion, not the activators, should be used in determining the TSCA Inventory status of phosphors.

Response. EPA believes that an activated phosphor is appropriately viewed as a chemical substance instead of a mixture under TSCA because the activator species (also known as dopants) are chemically incorporated into the structure of activated phosphors, and because the dopants provide the essential property of luminescence to the materials. Chemical incorporation is consistent with the wording used by the commenter to describe activated phosphors, such as "The activator(s) occupies lattice points at random or interstitial positions in the structure," and "...to form the host materials with the activators incorporated into the crystal structure," and is consistent with EPA's understanding of the nature of the activators' chemical interaction and incorporation during the manufacture of activated phosphors.

IV. Statutory and Executive Order Reviews

This document announces a clarification of one aspect of the TSCA Inventory chemical identification policy. This action is not a regulatory action under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866.

This document does not contain any new information collection requirements that would require additional review and approval by OMB under the Paperwork Reduction Act (PRA) 44 U.S.C. 3501 *et seq*. Under PRA, 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, or is otherwise required to submit the specific information by a statute. The OMB control numbers for EPA's regulations are codified in 40 CFR chapter I, after appearing in the preamble of the final rule, are further 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 a list at 40 CFR 9.1.

The information collection activities related to the submission of information pursuant to TSCA section 5 have already been approved by OMB under OMB Control No. 2070–0012 (EPA Information Collection Request [ICR] No. 574). The burden for that ICR is estimated to average 100 hours per respondent, including time for reading the regulations, processing, compiling, and reviewing the requested data, generating the request, storing, filing, and maintaining the data.

This action is not subject to notice-and-comment requirements under the APA or any other statute, and is not subject to the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 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 action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Nor does this action significantly or uniquely affect the communities of tribal governments as specified by Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (59 FR 22951, November 9, 2000).

Executive Orders 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997) and 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), do not apply to this action because this action is not "economically significant" as defined by section 3(f) of Executive Order 12866. Nor does this action establish an environmental standard that may have a negatively disproportionate effect on children, or otherwise have any significant adverse effect on the supply, distribution, or use of energy.

This action does not involve any technical standards that require the Agency's 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).

This action will not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency is not required to and has not considered environmental justice-related issues.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1966, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

List of Subjects in 40 CFR Subchapter R

Environmental protection, Chemical substances, Hazardous substances, Imports, Manuafacturing, Reporting and recordkeeping requirements.

Dated: February 17, 2010.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 2010–3675 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 207

[DFARS Case 2009–D014]

RIN 0750–AG61

Defense Federal Acquisition Regulation Supplement; Acquisition Strategies To Ensure Competition Throughout the Life Cycle of Major Defense Acquisition Programs

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the Weapon Systems Acquisition Reform Act of 2009, section 202, Acquisition Strategies to Ensure Competition throughout the Lifecycle of Major Defense Acquisition Programs.

DATES: *Effective Date:* February 24, 2010.

Comment Date: Comments on this interim rule should be submitted in writing to the address shown below on or before April 26, 2010, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2009–D014, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

E-mail: dfars@osd.mil. Include DFARS Case 2009–D014 in the subject line of the message.

Fax: 703–602–0350.

Mail: Defense Acquisition Regulations System, Attn: Ms. Meredith Murphy, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, 703–602–1302.

SUPPLEMENTARY INFORMATION:

A. Background

On May 22, 2009, The Weapon Systems Acquisition Reform Act (Pub. L. 111–23) was enacted to improve the organization and procedures of DoD for the acquisition of major weapon systems. This law establishes new oversight entities within DoD, as well as new and varied weapon system acquisition and management reporting requirements.

Section 202 directs the Secretary of Defense (SECDEF) to ensure that the acquisition strategy for each MDAP includes: (1) Measures to ensure competition at both the prime contract and subcontract level of the MDAP throughout its life cycle as a means to improve contractor performance; and (2) adequate documentation of the rationale for selection of the

subcontractor tier or tiers. It also outlines measures to ensure such competition. Furthermore, it requires the SECDEF: (1) To take specified actions to ensure fair and objective "make-buy" decisions by prime contractors on MDAPs; and (2) whenever a decision regarding the source of repair results in a plan to award a contract for performance of maintenance and sustainment of a major weapon system, to ensure that such contract is awarded on a competitive basis with full consideration of all sources.

B. Regulatory Flexibility Act

DoD does not expect this interim rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the change is to internal Government operating procedures. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2009–D014) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comments. This action is necessary because section 202 of the Weapon Systems Acquisition Reform Act of 2009 became effective upon enactment on May 22, 2009. However, pursuant to 41 U.S.C. 418b, DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Part 207

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 207 is amended as follows:

■ 1. The authority citation for 48 CFR part 207 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 207—ACQUISITION PLANNING

■ 2. Section 207.106 is amended by adding a new paragraph (S–72) to read as follows:

207.106 Additional requirements for major systems.

* * * * *

(S–72)(1) In accordance with section 202 of the Weapon Systems Acquisition Reform Act of 2009 (Pub. L. 111–23), acquisition plans for major defense acquisition programs as defined in 10 U.S.C. 2430, shall include measures that—

(i) Ensure competition, or the option of competition, at both the prime contract level and subcontract level (at such tier or tiers as are appropriate) throughout the program life cycle as a means to improve contractor performance; and

(ii) Document the rationale for the selection of the appropriate subcontract tier or tiers under paragraph (S–72)(1)(i) of this section, and the measures which will be employed to ensure competition, or the option of competition.

(2) Measures to ensure competition, or the option of competition, may include, but are not limited to, cost-effective measures intended to achieve the following:

(i) Competitive prototyping.

(ii) Dual-sourcing.

(iii) Unbundling of contracts.

(iv) Funding of next-generation prototype systems or subsystems.

(v) Use of modular, open architectures to enable competition for upgrades.

(vi) Use of build-to-print approaches to enable production through multiple sources.

(vii) Acquisition of complete technical data packages.

(viii) Periodic competitions for subsystem upgrades.

(ix) Licensing of additional suppliers.

(x) Periodic system or program reviews to address long-term competitive effects of program decisions.

(3) In order to ensure fair and objective "make-or-buy" decisions by prime contractors, acquisition strategies and resultant solicitations and contracts shall—

(i) Require prime contractors to give full and fair consideration to qualified sources other than the prime contractor for the development or construction of major subsystems and components of major weapon systems;

(ii) Provide for Government surveillance of the process by which prime contractors consider such sources and determine whether to conduct such development or construction in-house or through a subcontract; and

(iii) Provide for the assessment of the extent to which the prime contractor has given full and fair consideration to qualified sources in sourcing decisions as a part of past performance evaluations.

(4) Whenever a source-of-repair decision results in a plan to award a contract for the performance of maintenance and sustainment services on a major weapon system, to the maximum extent practicable and consistent with statutory requirements, the acquisition plan shall prescribe that award will be made on a competitive basis after giving full consideration to all sources (including sources that partner or subcontract with public or private sector repair activities).

[FR Doc. 2010–3713 Filed 2–23–10; 8:45 am]

BILLING CODE 5001–08–P

Proposed Rules

Federal Register
Vol. 75, No. 36
Wednesday, February 24, 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.

FEDERAL ELECTION COMMISSION

11 CFR Parts 8 and 111

[Notice 2010–04]

Collection of Administrative Debts; Collection of Debts Arising From Enforcement and Administration of Campaign Finance Laws

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission ("Commission") requests comments on proposed rules implementing statutory provisions regarding the collection of debts owed to the United States Government. The Commission also proposes integrating its rules regarding the collection of debts arising solely from the Administrative Fines program into the new proposed rules.

DATES: Comments must be received on or before March 26, 2010.

ADDRESSES: All comments must be in writing, must be addressed to Ms. Amy L. Rothstein, Assistant General Counsel, and must be submitted in either e-mail, facsimile, or paper copy form. Commenters are strongly encouraged to submit comments by e-mail to ensure timely receipt and consideration. E-mail comments must be sent to *debtcollectionrules@fec.gov.* If e-mail comments include an attachment, the attachment must be in either Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments must be sent to (202) 219–3923, with paper copy follow-up. Paper comments and paper copy follow-up of faxed comments must be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter or they will not be considered. The Commission will post all comments on its Web site after the comment period ends.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Rothstein, Assistant General Counsel, or Ms. Esther D. Heiden, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission is proposing new rules to implement the Debt Collection Improvement Act of 1996 ("DCIA"), Public Law 104–134, 110 Stat. 1321–358. The DCIA governs the Federal government's debt collection activities, and mandates that all nontax debts or claims owed to the United States that have been delinquent for a period of 180 days shall be referred to the U.S. Department of the Treasury or a Treasury-designated collection center for appropriate action to collect or terminate collection of the claim or debt. 31 U.S.C. 3711(g)(1). The purposes of the DCIA are: (1) To maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools; (2) to minimize the costs of debt collection by consolidating related functions and activities and using interagency teams; (3) to reduce losses arising from debt management activity by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies; (4) to ensure that the public is fully informed of the Federal government's debt collection policies and that debtors are aware of their obligations to repay amounts owed to the Federal government; (5) to ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures that are both reasonable and protect the interests of the United States; (6) to encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral; and (7) to rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies. Public Law 104–134, sec. 31001(b), 110 Stat. 1321–358.

The Federal Claims Collection Standards ("FCCS"), 31 CFR parts 900–904, were promulgated by the U.S. Department of the Treasury and the U.S. Department of Justice. The FCCS prescribes the standards that Federal agencies must use in the administrative collection, offset, compromise, and suspension or termination of collection activity for civil claims of money, funds, or property as defined by 31 U.S.C. 3701(b). The FCCS applies unless more specific Federal statutes or agency regulations apply, and in certain cases involving bankruptcy. The FCCS clarifies and simplifies Federal debt collection procedures, and prescribes the steps that an agency must take before initiating debt collection to ensure that individuals' rights are protected. These steps include notifying the debtor of the debt and the consequences of failing to resolve the debt. *See* 31 CFR 901.2. The FCCS provides agencies with limited discretion to adopt agency-specific regulations, tailored to the legal and policy requirements applicable to various types of Federal debt. The Commission seeks comment on all sections of the proposed rules in this notice.

The regulations proposed here would incorporate the provisions of the DCIA and the FCCS, in some instances directly, and in other instances by cross-reference.

II. Proposed 11 CFR Part 8—Collection of Administrative Debts

The Commission is proposing to add new part 8 and new subpart C to part 111 of its regulations to provide for debt collection. The two provisions taken together are designed to cover all types of debt that the Commission must collect. The proposed approach of separating the two general categories of debt in the regulations at proposed 11 CFR part 8 and 11 CFR part 111 subpart C is for the convenience of the reader. Placing provisions concerning the collection of debts arising from the Commission's enforcement of the campaign finance laws in 11 CFR part 111 is consistent with the current placement of the regulations for collecting Administrative Fines debts with the enforcement provisions of part 111; placing the other debt collection provisions in 11 CFR part 8 also enables general administrative provisions to be located together.

A. Proposed 11 CFR 8.1—Purpose and Scope

Proposed 11 CFR 8.1 provides that the purpose of the proposed regulations is

to apply the collection standards set out in the DCIA and the FCCS.

B. Proposed 11 CFR 8.2—Debts That Are Covered

Proposed 11 CFR 8.2 states that the new Commission regulations in part 8 cover only those debts that are either owed by current and former Commission employees, or arise from the provision of goods or services by contractors or vendors doing business with the Commission. The proposed regulations in part 8 would not cover debts arising from compliance matters, administrative fines, alternative dispute resolution, repayments of public funds, and court judgments arising from the Commission's enforcement of the campaign finance laws, which would be covered in proposed 11 CFR part 111 subpart C. Proposed section 8.2 mirrors proposed 11 CFR 111.51. The Commission's proposed regulations also would not cover other types of debt that are specifically excluded from the FCCS, such as debts involving criminal actions of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other person having an interest in the claim, and debts under the Internal Revenue Code of 1986.

C. Proposed 11 CFR 8.3—Administrative Collection of Claims

Proposed 11 CFR 8.3 states that the Commission will collect the claims or debts covered by proposed 11 CFR part 8 in accordance with the FCCS, and adopts by cross-reference the relevant provisions of the DCIA, and U.S. Department of the Treasury and Department of Justice debt collection regulations. *See* 31 U.S.C. 3701 *et seq.;* 31 CFR 285.2, 285.4, 285.7, 285.11, and parts 900–904. Proposed section 8.3 also states that the Commission will refer debts to the U.S. Department of the Treasury for collection no later than 180 days after the debts become delinquent. The proposed rule includes examples of collection actions that the U.S. Department of the Treasury might take: Referral to another debt collection center, referral to a private collection contractor, or referral to the Department of Justice for litigation. These examples are taken from the U.S. Department of the Treasury regulation governing the transfer of debts to the U.S. Department of the Treasury, and are not a comprehensive list of the actions that the U.S. Department of the Treasury may take in collecting such debt. *See* 31 CFR 285.12(c)(2). During the 180 days before the mandatory transfer of a debt to the U.S. Department of the Treasury, the Commission may take any action under these proposed rules to attempt to collect the debt.

D. Proposed 11 CFR 8.4—Bankruptcy Claims

Proposed 11 CFR 8.4 recognizes that in cases where a debtor has sought protection under the Bankruptcy Code, the Code, particularly 11 U.S.C. 106, 362, and 553, may require the Commission to take different action from that prescribed under the debt collection regulations set forth in proposed part 8 and the FCCS. In these situations, bankruptcy law will govern the debt collection process.

E. Proposed 11 CFR 8.5—Interest, Penalties, and Administrative Costs

Proposed 11 CFR 8.5 states that the Commission shall assess interest, penalties, and administrative costs on debts owed to the United States, in accordance with Federal law. The Commission shall waive collection of interest and administrative costs on debts or portions of debts that are paid within thirty days after the date on which interest begins to accrue.

The proposed regulation also provides that the Commission may, at its discretion, waive collection of interest, penalties, or administrative costs on any debt that is not paid within thirty days after the date on which interest begins to accrue. The proposed regulation states that the Commission may waive collection of interest, penalties, or administrative costs if it determines that: (1) Collection is against equity and good conscience or is not in the best interest of the United States, including when an administrative offset or installment agreement is in effect; or, (2) waiver is appropriate under the criteria for compromise of debts set forth at 31 CFR 902.2(a).

III. Proposed Removal of 11 CFR 111.45

The Commission proposes to remove current 11 CFR 111.45. This provision governs debt collection with respect to the Administrative Fines program. Under the proposed new regulations, these debts would be covered by proposed 11 CFR Part 111 Subpart C—Collection of Debts Arising from Enforcement and Administration of Campaign Finance Laws. The Commission requests comments on this proposal.

IV. Proposed 11 CFR Part 111 Subpart C—Collection of Debts Arising From Enforcement and Administration of Campaign Finance Laws

The proposed regulations in 11 CFR part 111 subpart C would govern the Commission's collection of debts arising from compliance matters, administrative fines, alternative dispute resolution, repayments of public funds, and court judgments arising from the Commission's enforcement of the campaign finance laws. The proposed regulations cover the collection of debts only, and will be invoked only after the completion of existing Commission processes during which respondents or other parties have had a full and fair opportunity to demonstrate that no civil penalty or repayment should be imposed. *See* 11 CFR parts 111 and 9038, and 9008.11–9008.15.

A. Proposed 11 CFR 111.50—Purpose and Scope

Proposed 11 CFR 111.50 provides that the purpose of the proposed regulations is to apply the collection standards set out in the DCIA and the FCCS. This proposed provision would treat debts under proposed 11 CFR part 111 in a similar manner to those owed by employees and vendors under proposed new 11 CFR 8.1.

B. Proposed 11 CFR 111.51—Debts That Are Covered

Proposed 11 CFR 111.51 states that the new Commission regulations in 11 CFR part 111 subpart C would cover only those debts arising from compliance matters, administrative fines, alternative dispute resolution, repayments of public funds, and court judgments arising from the Commission's enforcement and administration of the campaign finance laws. The proposed regulations in 11 CFR part 111 subpart C would not cover debts either owed by current and former Commission employees, or arising from the provision of goods or services by contractors or vendors doing business with the Commission, which would be covered by proposed new 11 CFR part 8. This proposed new provision would treat debts under proposed 11 CFR part 111 in a similar manner to those owed by employees and vendors under proposed new 11 CFR 8.2, and the two provisions are designed to cover all types of debt that the Commission must collect. The Commission's proposed regulations also would not cover other types of debt that are specifically excluded from the FCCS, such as debts involving criminal actions of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other person having an interest in the claim, and debts under the Internal Revenue Code of 1986.

C. Proposed 11 CFR 111.52—Administrative Collection of Claims

Proposed 11 CFR 111.52 states that the Commission will collect all claims or debts in accordance with the FCC, and adopts by cross-reference the relevant DCIA, U.S. Department of the Treasury, and U.S. Department of Justice debt collection provisions. *See* 31 U.S.C. 3701 *et seq.;* 31 CFR 285.2, 285.4, 285.7, 285.11, and parts 900–904. This proposed provision would treat the debts covered by proposed new 11 CFR part 111 subpart C in a similar manner to those owed by employees and vendors under proposed new 11 CFR 8.3. The proposed provision also states that the Commission will refer debts to the U.S. Department of the Treasury for collection no later than 180 days after the debt becomes delinquent. The proposed rule includes examples of collection actions that the U.S. Department of the Treasury might take: Referral to another debt collection center, or referral to a private collection contractor. These examples are taken from the U.S. Department of the Treasury regulation governing the transfer of debts to the U.S. Department of the Treasury, and are not a comprehensive list of the actions that the U.S. Department of the Treasury may take in collecting such debt. *See* 31 CFR 285.12(c)(2). During the 180 days before the mandatory transfer of a debt to the U.S. Department of the Treasury, the Commission may take any action under these proposed rules, or may go to court under the Commission's litigating authority in 31 U.S.C. 437g to attempt to collect the debt.

D. Proposed 11 CFR 111.53—Litigation by the Commission

Proposed 11 CFR 111.53 states that nothing in the debt collection procedures precludes the Commission from filing suit under 2 U.S.C. 437g to enforce compliance with a conciliation agreement, seek a civil money penalty, petition the court for a contempt order, or otherwise exercise its authority to enforce or administer the campaign finance laws and regulations.

E. Proposed 11 CFR 111.54—Bankruptcy Claims

Proposed 11 CFR 111.54 recognizes that in cases where a debtor has sought protection under the Bankruptcy Code, the Code, particularly 11 U.S.C. 106, 362, and 553, may require the Commission to take different action from that prescribed under the debt collection regulations set forth in proposed part 111 and the FCCS. In this event, bankruptcy law will govern the debt collection process. *See* 31 CFR 901.3(a)(5). The Commission requests comments on this proposed section.

F. Proposed 11 CFR 111.55—Interest, Penalties, and Administrative Costs

Proposed 11 CFR 111.55 states that the Commission shall assess interest, penalties, and administrative costs on debts owed to the United States, as required by Federal law. *See* 31 U.S.C. 3717. The Commission shall waive collection of interest and administrative costs on debts or portions of debts that are paid within thirty days after the date on which interest begins to accrue.

The proposed regulation also provides that the Commission may, at its discretion, waive collection of interest, penalties, or administrative costs on any debt that is not paid within thirty days after the date on which interest begins to accrue. The proposed regulation states that the Commission may waive collection of interest, penalties, or administrative costs if it determines that: (1) Collection is against equity and good conscience or is not in the best interest of the United States, including when an administrative offset or installment agreement is in effect; or, (2) waiver is appropriate under the criteria for compromise of debts set forth at 31 CFR 902.2(a). This proposed provision would treat the debts covered by proposed new 11 CFR part 111 subpart C in a similar manner to those owed by employees and vendors under proposed new 11 CFR 8.5.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached proposed rules would not, if promulgated, have a significant economic impact on a substantial number of small entities. There are two bases for this certification. First, that the attached proposed rules would implement statutorily required processes for collecting unpaid debts, and any economic impact of these rules would be caused by the statutory mandate, rather than agency decisions contained in these proposed rules. Second, the provisions in the proposed rules relate to agency management and procedure and do not impose new substantive or compliance requirements directly on members of the public. If the proposed provision regarding the imposition of interest, penalties, and administrative costs could be viewed as imposing a new requirement on the public, the proposed regulation would merely implement the statutory requirement that the Commission assess these additional costs and provides that the Commission could exercise its discretion to waive the assessment of such costs in appropriate circumstances. Thus, any incremental economic impact of this rule on small entities would not be significant. Therefore, the Commission certifies that the attached proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

11 CFR Part 8

Administrative practice and procedure, Debt collection procedures, Government contracts, Law enforcement, Penalties.

11 CFR Part 111

Administrative practice and procedure, Debt collection procedures, Elections, Law enforcement, Penalties.

For the reasons set out in the preamble, the Federal Election Commission proposes to amend Chapter 1 of Title 11 of the Code of Federal Regulations as follows:

1. Part 8 is to read as follows:

PART 8—COLLECTION OF ADMINISTRATIVE DEBTS

Sec.
8.1 Purpose and scope.
8.2 Debts that are covered.
8.3 Administrative collection of claims.
8.4 Bankruptcy claims.
8.5 Interest, penalties, and administrative costs.

Authority: 31 U.S.C. 3701, 3711, and 3716–3720A, as amended; 2 U.S.C. 431 *et seq.,* as amended; 31 CFR parts 285, and 900–904.

§ 8.1 Purpose and scope.

This part prescribes standards and procedures under which the Commission will collect and dispose of certain debts owed to the United States, as described in 11 CFR 8.2. The regulations in this part implement the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701, 3711, and 3716–3720A, as amended; and the Federal Claims Collection Standards, 31 CFR parts 900–904. The activities covered include: The collection of claims of any amount; compromising claims; suspending or terminating the collection of claims; referring debts to the U.S. Department of the Treasury for collection action; and referring debts under this part 8 of more than $100,000 (exclusive of any interest and charges) to the Department of Justice for litigation.

§ 8.2 Debts that are covered.

(a) The procedures covered by this part apply to debts that are either owed by current and former Commission employees, or arise from the provision

of goods or services by contractors or vendors doing business with the Commission.

(b) The procedures covered by this part do not apply to any of the following debts:

(1) Debts that are covered by 11 CFR 111.51, regarding debts arising from compliance matters, administrative fines, alternative dispute resolution, repayments, and court judgments arising under the statutes specified in 11 CFR 111.51(a).

(2) Debts involving criminal actions of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other person having an interest in the claim.

(3) Debts based in whole or in part on conduct in violation of the antitrust laws.

(4) Debts under the Internal Revenue Code of 1986.

(5) Debts between the Commission and another Federal agency. The Commission will attempt to resolve interagency claims by negotiation in accordance with Executive Order 12146, 3 CFR pp. 409–12 (1980 Comp.).

(6) Debts that have become subject to salary offset under 5 U.S.C. 5514.

§ 8.3 Administrative collection of claims.

(a) The Commission shall act to collect all claims or debts. These collection activities will be undertaken promptly and followup action will be taken as appropriate in accordance with 31 CFR 901.1.

(b) The Commission may take any and all appropriate collection actions authorized and required by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 *et seq.* The U.S. Department of the Treasury regulations at 31 CFR 285.2, 285.4, 285.7 and 285.11, and the Federal Claims Collection Standards issued jointly by the Department of Justice and the U.S. Department of the Treasury at 31 CFR parts 900–904 also apply. The Commission has adopted these regulations by cross-reference.

(c) The Commission will refer debts to the U.S. Department of the Treasury no later than 180 days after the debt has become delinquent. On behalf of the Commission, the U.S. Department of the Treasury will attempt to collect the debt, in accordance with the statutory and regulatory requirements and authorities applicable to the debt and action. This may include referral to another debt collection center, a private collection contractor, or the Department of Justice for litigation. *See* 31 CFR 285.12 (Transfer of debts to Treasury for collection). This requirement does not apply to any debt that:

(1) Is in litigation or foreclosure;

(2) Will be disposed of under an approved asset sale program;

(3) Has been referred to a private collection contractor for a period of time acceptable to the U.S. Department of the Treasury; or

(4) Will be collected under internal offset procedures within three years after the debt first became delinquent.

(d) The U.S. Department of the Treasury is authorized to charge a fee for services rendered regarding referred or transferred debts. The Commission will add the fee to the debt as an administrative cost, in accordance with 11 CFR 8.5.

§ 8.4 Bankruptcy claims.

When the Commission learns that a bankruptcy petition has been filed by a debtor, before proceeding with further collection action, the Commission will take any necessary action in accordance with the provision of 31 CFR 901.2(h).

§ 8.5 Interest, penalties, and administrative costs.

(a) The Commission shall assess interest, penalties, and administrative costs on debts owed to the United States Government in accordance with 31 U.S.C. 3717 and 31 CFR 901.9.

(b) The Commission shall waive collection of interest and administrative costs on a debt or any portion of the debt that is paid in full within thirty days after the date on which the interest begins to accrue.

(c) The Commission may waive collection of interest, penalties, and administrative costs if it:

(1) Determines that collection is against equity and good conscience or not in the best interest of the United States, including when an administrative offset or installment agreement is in effect; or,

(2) Determines that waiver is appropriate under the criteria for compromise of debts set forth at 31 CFR 902.2(a).

(d) The Commission is authorized to impose interest and related charges on debts not subject to 31 U.S.C. 3717, in accordance with common law.

PART 111—COMPLIANCE PROCEDURES

2. The authority citation for part 111 is revised to read as follows:

Authority: 2 U.S.C. 432(i), 437g, 437d(a), 438(a)(8); 28 U.S.C. 2461 nt; 31 U.S.C. 3701, 3711, 3716–3719, and 3720A, as amended; 31 CFR parts 285 and 900–904.

Subpart B—Administrative Fines

§ 111.45 [Removed and Reserved]

3. Subpart B is amended by removing and reserving section 111.45.

4. Subpart C is added to read as follows:

Subpart C—Collection of Debts Arising From Enforcement and Administration of Campaign Finance Laws

Sec.

111.50 Purpose and scope.
111.51 Debts that are covered.
111.52 Administrative collection of claims.
111.53 Litigation by the Commission.
111.54 Bankruptcy claims.
111.55 Interest, penalties, and administrative costs.

Subpart C—Collection of Debts Arising From Enforcement and Administration of Campaign Finance Laws

§ 111.50 Purpose and scope.

This subpart C prescribes standards and procedures under which the Commission will collect and dispose of certain debts owed to the United States, as described in 11 CFR 111.51. The regulations in this subpart implement the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701, 3711, and 3716–3720A, as amended; and the Federal Claims Collection Standards, 31 CFR parts 900 through 904. The activities covered include: The collection of claims of any amount; compromising claims; suspending or terminating the collection of claims; and referring debts to the U.S. Department of the Treasury for collection action.

§ 111.51 Debts that are covered.

(a) The procedures of this subpart C of part 111 apply to claims for payment or debt arising from, or ancillary to, any action undertaken by or on behalf of the Commission in furtherance of efforts to ensure compliance with the Federal Election Campaign Act, 2 U.S.C. 431 *et seq.,* as amended, and to administer the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.,* or the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.,* and Commission regulations, including:

(1) Negotiated civil penalties in enforcement matters and alternative dispute resolution matters;

(2) Civil money penalties assessed under the administrative fines program;

(3) Claims reduced to judgment in the courts and that are no longer in litigation;

(4) Repayments of public funds under the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.;* or

(5) Repayment of public funds under the Presidential Primary Matching

Payment Account Act, 26 U.S.C. 9031 *et seq.*

(b) The procedures covered by this subpart do not apply to any of the following debts:

(1) Debts that result from administrative activities of the Commission that are governed by 11 CFR part 8.

(2) Debts involving criminal actions of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other person having an interest in the claim.

(3) Debts based in whole or in part on conduct in violation of the antitrust laws.

(4) Debts under the Internal Revenue Code of 1986.

(5) Debts between the Commission and another Federal agency. The Commission will attempt to resolve interagency claims by negotiation in accordance with Executive Order 12146, 3 CFR pp. 409–12 (1980 Comp.).

(6) Debts that have become subject to salary offset under 5 U.S.C. 5514.

§ 111.52 Administrative collection of claims.

(a) The Commission shall act to collect all claims or debts. These collection activities will be undertaken promptly and follow up action will be taken as appropriate in accordance with 31 CFR 901.1.

(b) The Commission may take any and all appropriate collection actions authorized and required by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 *et seq.* The U.S. Department of the Treasury regulations at 31 CFR 285.2, 285.4, 285.7, and 285.11, and the Federal Claims Collection Standards issued jointly by the Department of Justice and the U.S. Department of the Treasury at 31 CFR parts 900 through 904, also apply. The Commission has adopted these regulations by cross-reference.

(c) The Commission will refer debts to the U.S. Department of the Treasury no later than 180 days after the debt has become delinquent. On behalf of the Commission, the U.S. Department of the Treasury will attempt to collect the debt, in accordance with the statutory and regulatory requirements and authorities applicable to the debt and action. This may include referral to another debt collection center, or a private collection contractor. *See* 31 CFR 285.12 (Transfer of debts to Treasury for collection). This requirement does not apply to any debt that:

(1) Is in litigation or foreclosure;

(2) Will be disposed of under an approved asset sale program;

(3) Has been referred to a private collection contractor for a period of time acceptable to the U.S. Department of the Treasury; or

(4) Will be collected under internal offset procedures within three years after the debt first became delinquent.

(d) The U.S. Department of the Treasury is authorized to charge a fee for services rendered regarding referred or transferred debts. The Commission will add the fee to the debt as an administrative cost, in accordance with 11 CFR 111.55.

§ 111.53 Litigation by the Commission.

Nothing in this subpart C precludes the Commission from filing suit in the appropriate court to enforce compliance with a conciliation agreement under 2 U.S.C. 437g(a)(5)(D), seek a civil money penalty under 2 U.S.C. 437g(a)(6), petition the court for a contempt order under 2 U.S.C. 437g(a)(11), or otherwise exercise its authority to enforce or administer the statutes specified in 11 CFR 111.51(a).

§ 111.54 Bankruptcy claims.

When the Commission learns that a bankruptcy petition has been filed by a debtor, before proceeding with further collection action, the Commission will take any necessary action in accordance with the provision of 31 CFR 901.2(h).

§ 111.55 Interest, penalties, and administrative costs.

(a) The Commission shall assess interest, penalties, and administrative costs on debts owed to the United States Government, pursuant to 31 U.S.C. 3717. Interest, penalties, and administrative costs will be assessed in accordance with 31 CFR 901.9.

(b) The Commission shall waive collection of interest and administrative costs on a debt or any portion of the debt that is paid within thirty days after the date on which the interest begins to accrue.

(c) The Commission may waive collection of interest, penalties, and administrative costs if it:

(1) Determines that collection is against equity and good conscience or not in the best interest of the United States, including when an administrative offset or installment agreement is in effect; or,

(2) Determines that waiver is appropriate under the criteria for compromise of debts set forth at 31 CFR 902.2(a).

(d) The Commission is authorized to impose interest and related charges on debts not subject to 31 U.S.C. 3717, in accordance with common law.

Dated: February 19, 2010.

On behalf of the Commission.

Matthew S. Peterson,

Chairman, Federal Election Commission.

[FR Doc. 2010–3687 Filed 2–23–10; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 300

[Notice 2010–03]

Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events

AGENCY: Federal Election Commission.

ACTION: Change of public hearing date.

SUMMARY: On December 7, 2009, the Federal Election Commission published a notice of proposed rulemaking relating to participation by Federal candidates and officeholders in non-Federal fundraising events, with a public hearing scheduled for March 10, 2010 at 10 a.m. The Commission has rescheduled the public hearing for March 16, 2010 at 10 a.m. The comment periods for this rulemaking have not changed.

DATES: The hearing will be held on March 16, 2010 and will begin at 10 a.m. The initial comment period ended on Monday, February 8, 2010. The reply comment period will end on Monday, February 22, 2010.

ADDRESSES: The hearing will be held in the Commission's ninth floor meeting room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Rothstein, Assistant General Counsel, Mr. David C. Adkins, or Mr. Neven F. Stipanovic, Attorneys, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On December 7, 2009, the Federal Election Commission published a notice of proposed rulemaking ("NPRM") relating to participation by Federal candidates and officeholders in non-Federal fundraising events. *See* 74 FR 64016 (December 7, 2009). The NPRM stated that the Commission would hold a hearing on the proposed rules on March 10, 2010 at 10 a.m. The purpose of this Notice is to announce that the Commission has changed the date of the public hearing to March 16, 2010 at 10 a.m. Reply comments will still be due by February 22, 2010.

Individuals who plan to attend the public hearing and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact the

Commission Secretary, at (202) 694–1040, at least 72 hours prior to the hearing date.

On behalf of the Commission,

Dated: February 18, 2010.

Matthew S. Petersen,

Chairman, Federal Election Commission.

[FR Doc. 2010–3639 Filed 2–23–10; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0981; Directorate Identifier 2008–NM–073–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 747 Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier NPRM for an airworthiness directive (AD) that applies to certain Model 747 airplanes. The original NPRM would have superseded an existing AD that currently requires repetitive inspections of the body station (BS) 2598 bulkhead, and corrective actions if necessary. The existing AD also currently requires a terminating modification for the repetitive inspections and a post-modification inspection of the modified area. The original NPRM proposed to continue to require those actions using revised service information. For certain airplanes, the original NPRM proposed to require new repetitive inspections, an interim modification, and post-interim modification inspections. For certain airplanes, the original NPRM also proposed to require replacing any previously repaired aft inner chord and reinstalling the terminating modification. The original NPRM resulted from reports of cracked aft inner chords on airplanes after certain requirements of the existing AD were done. This new action revises the original NPRM for airplanes that are converted to the Model 747–400 large cargo freighter (LCF) configuration by reducing the threshold and repeat intervals of certain post-modification inspections. This new action also revises the original NPRM for all airplanes by proposing that certain inspections of the upper aft outer chords and diagonal brace attachment fittings, flanges, and rods continue after the terminating modification. We are proposing this supplemental NPRM to prevent fatigue cracking of the BS 2598 bulkhead structure, which could result in inability of the structure to carry horizontal stabilizer flight loads, and loss of controllability of the airplane.

DATES: We must receive comments on this supplemental NPRM by March 22, 2010.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2008–0981; Directorate Identifier 2008–NM–073–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for an AD (the "original NPRM") to supersede AD 2006–05–06, amendment 39–14503 (71 FR 12125, March 9, 2006). The original NPRM applied to certain Model 747 airplanes. The original NPRM was published in the **Federal Register** on September 23, 2008 (73 FR 54751). The original NPRM proposed to require repetitive inspections of the body station (BS) 2598 bulkhead, and corrective actions if necessary; and a terminating modification for the repetitive inspections and a post-modification inspection of the modified area. The original NPRM proposed to require those actions using revised service information. For certain airplanes, the original NPRM proposed to require new repetitive inspections, an interim modification, and post-interim modification inspections. For certain airplanes, the original NPRM also proposed to require replacing any previously repaired aft inner chord and reinstalling the terminating modification.

Actions Since Original NPRM was Issued

Since we issued the original NPRM, Boeing informed us that the compliance times of certain post-modification inspections need to be revised for Model 747–400 series airplanes that have been modified to operate in a freighter configuration. These airplanes are referred to as large cargo freighters, or LCF. Boeing states that higher operating

stresses for the subject structure on the Model 747–400 LCF airplanes mean that these airplanes need a lower inspection threshold and shorter repeat intervals than those specified in the original NPRM. We agree, and we have revised paragraphs (m), (q), and (r) of the original NPRM to reduce the threshold and repetitive intervals.

In addition, Boeing informed us that for all airplanes certain inspections of the upper aft outer chords and diagonal brace attachment fittings, flanges, and rods need to be continued after the terminating modification is accomplished. Adding the reinforcing modification and replacing the aft inner chord as specified in the NPRM does not alter the upper aft outer chord and diagonal brace attachment fittings, flanges, and rods. Therefore, we have revised paragraph (q) of the original NPRM to specify that certain inspections must continue after the terminating modification.

Comments

We have considered the following comments on the original NPRM.

Request To Revise Costs of Compliance

Northwest Airlines requests that we revise the "Costs of Compliance" section of the original NPRM to include Boeing's current cost of the modification kit. Northwest Airlines states that the current cost is $52,218 rather than the $33,716 quoted in the original NPRM.

We agree that the cost of the modification kit has changed. We have revised the "Costs of Compliance" section of this supplemental NPRM to include the new cost of the kit.

Request To Delay the AD Pending Revised Service Information

All Nippon Airways and Japan Airlines request that we delay issuing the AD until Boeing revises Alert Service Bulletin 747–53A2427 to Revision 5 (we referred to Boeing Alert Service Bulletin 747–53A2427, Revision 4, dated March 6, 2008, in the original NPRM). All Nippon Airways explains that it has discussed several discrepancies in Revision 4 with Boeing, and that Boeing clarified those discrepancies in an information notice (IN). All Nippon Airways states that, since INs are not approved by the FAA, it will be a burden to operators to request alternative methods of compliance (AMOCs) once the proposed rule is mandated. As an alternative, All Nippon Airways proposes that we include the additional information from the IN in the final rule.

In addition, Boeing has informed us that there is a discrepancy in the modification drawing specified in Boeing Alert Service Bulletin 747–53A2427, Revision 4, dated March 6, 2008. The drawing does not include a step to "zero-time" certain existing fastener holes in the affected areas. The zero-timing is intended to remove any undetectable cracks in the affected fastener holes.

We agree that we should refer to the most recent service information possible. We have reviewed Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009. The revised service information includes the information in the IN referred to by the commenter (the IN clarifies fastener codes and repair instructions) and does not require any additional work on airplanes on which the inspections, interim modification, and repair specified in earlier revisions of the service bulletin were done. Therefore, we have revised paragraphs (i), (j), (o), (s), (t), (u), and (v) of this supplemental NPRM to refer to Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009. We have also added new paragraph (w) to the supplemental NPRM to give credit for doing certain actions in accordance with Boeing Alert Service Bulletin 747–53A2427, Revision 4, dated March 6, 2008.

We have also reviewed Boeing Service Bulletin 747–53–2473, Revision 1, dated February 20, 2007; and Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009. We referred to Boeing Service Bulletin 747–53–2473, dated March 24, 2005, as the appropriate source of service information for accomplishing the required actions specified in paragraph (m) of the NPRM.

Boeing Service Bulletin 747–53–2473, Revision 1, dated February 20, 2007, retains and clarifies the same procedures as in Boeing Service Bulletin 747–53–2473, dated March 24, 2005, and adds procedures to replace repaired aft inner chords on certain airplanes on which the actions specified in Boeing Service Bulletin 747–53–2473, dated March 24, 2005, were done.

Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009, adds procedures to inspect to determine if certain fasteners were installed, and to do related investigative and corrective actions if necessary, for airplanes on which the support frame modification specified in Boeing Service Bulletin 747–53–2473, dated March 24, 2005; or Revision 1, dated February 20, 2007; was done. The related investigative actions include an open-hole high frequency eddy current (HFEC) inspection of the fastener holes of a certain type of fastener for cracks, and a review of maintenance records to verify that an open-hole HFEC inspection was performed at certain other fastener holes and the holes were zero-timed. For airplanes on which the holes were not zero-timed, the service bulletin specifies an HFEC inspection of the holes for cracks, and corrective actions if necessary. Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009, also adds procedures to do post-modification inspections.

We have revised paragraph (m) of this supplemental NPRM to refer to Boeing Service Bulletin 747–53–2473, Revision 1, dated February 20, 2007; and Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009. We have revised paragraph (q) of this supplemental NPRM to refer to Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009.

We have also revised paragraphs (n) and (r) of this supplemental NPRM to refer to Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009, for the post-modification inspections.

Explanation of Change to Paragraph (r) of This Supplemental NPRM

Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009, also adds procedures for post-modification inspections. In paragraph (r) of the NPRM, we specified doing a post-modification inspection for cracking and repair of any crack, in accordance with a method approved by the FAA. Because Boeing Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009, specifies doing support frame post-modification inspections, we have revised paragraph (r) of this supplemental NPRM to refer to that service bulletin. The support frame post-modification inspections consist of the following inspections specified in Parts 1, 2, and 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009.

The "Part 1—Support Frame Inspections" include the following inspections:

- A detailed inspection for cracking of the support frame and access cut-out forward and aft sides at station 2598.
- A surface HFEC inspection for cracking of the lower floor support chord at station 2598.
- A low frequency eddy current (LFEC) inspection for cracking of the support frame outer chord at station 2598.
- A surface and open-hole HFEC inspection for cracking of the support

frame outer chord and fitting at station 2598.

- An ultrasonic or surface HFEC inspection for cracking of the support frame outer chord at station 2598.

The "Part 2—Hinge Support Inspection" is an open-hole HFEC inspection for cracking in the back-up fittings, frame support fitting and hinge fitting at station 2598.

The "Part 3—Support Frame Inspections" include the following inspections:

- Detailed inspections for cracking of the frame web around the periphery of the aft inner chord and the entire modified support frame.
- Surface HFEC inspections for cracking in the upper forward inner chord, aft inner chord, upper splice fitting, lower forward inner chord, and frame support fitting, lower splice fitting, hinge frame support fitting.
- An LFEC or open-hole HFEC for cracking in the upper aft inner chord.
- Ultrasonic inspections for cracking in the upper and lower forward inner chord and frame support fitting.
- A surface HFEC inspection for cracking of the frame web.
- An LFEC for cracking in the aft outer chord.

If any cracking is found, the service bulletin specifies the corrective action as contacting Boeing for repair data and doing the repair.

Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009, specifies that the initial compliance times for doing support frame post-modification inspections ranges between within 1,500 flight cycles after doing the modification to within 20,000 flight cycles after doing the modification, depending on the inspection and airplane configuration. The service bulletin specifies that the repetitive interval for the support frame post-modification inspections ranges between 1,000 flight cycles and 6,000 flight cycles, depending on the inspection.

Explanation of New Compliance Time for Certain Airplanes in Paragraph (m) of This Supplemental NPRM

For airplanes that are modified as specified in paragraph (m) of the supplemental NPRM and are converted to the Model 747–400 Large Cargo Freighter (LCF) configuration, the repetitive inspection specified in paragraph (k)(2) of this AD must be done thereafter at intervals not to exceed 1,800 flight cycles. We have revised paragraph (m) of this AD accordingly.

Clarification of Compliance Time

We have revised paragraph (q)(2) of this supplemental NPRM to specify that the applicable related investigative and corrective actions must be done before further flight, as specified in Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009.

Explanation of Change Made to Paragraph (x)(3) of This Supplemental NPRM

Boeing Commercial Airplanes has received an Organization Designation Authorization (ODA), which replaces their previous designation as a Delegation Option Authorization (DOA) holder. We have revised paragraph (x)(3) of this AD to delegate the authority to approve an alternative method of compliance for any repair required by this AD to the Boeing Commercial Airplanes ODA.

Explanation of Added/Removed Paragraphs in the Supplemental NPRM

We have added a new paragraph (d) to this supplemental NPRM to provide the Air Transport Association (ATA) of America subject code for this proposed AD. This code is added to make this supplemental NPRM parallel with other new AD actions. We have re-identified subsequent paragraphs accordingly.

Paragraph (n) of the original NPRM indicates that, after the effective date of the AD, Boeing Alert Service Bulletin 747–53A2427, Revision 4, dated March 6, 2008, must be used to accomplish the requirements of paragraphs (h) and (i) of the original NPRM (*i.e.,* paragraphs (i) and (j) of this supplemental NPRM). We have removed paragraph (n) of the original NPRM, and have referred to Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, in paragraphs (i) and (j) of this supplemental NPRM.

Explanation of Additional Change to "Costs of Compliance" Paragraph

We have revised the "Costs of Compliance" section to clarify which costs are retained from AD 2006–05–06 and which costs are new in this supplemental NPRM.

Explanation of Changes Made to the Manufacturer Name

We have revised this supplemental NPRM to identify the legal name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

FAA's Determination and Proposed Requirements of the Supplemental NPRM

We are proposing this supplemental NPRM because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design. Certain changes described above expand the scope of the original NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

Costs of Compliance

There are about 998 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Surface HFEC inspections (required by AD 2006-05-06) and open-hole HFEC inspections (new proposed action).	2	None	$160, per inspection cycle	162	$25,920, per inspection cycle.
Detailed inspections (required by AD 2006-05-06).	2	None	$160, per inspection cycle	162	$25,920, per inspection cycle.
Terminating modification (partially required by AD 2006-05-06; additional modification actions in this new proposed action).	126	$52,218	$62,298	162	$10,092,276.

ESTIMATED COSTS—Continued

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Interim modification (new proposed action).	4	4,000	$4,320	162	$699,840.
Replacement of previously repaired aft inner chords (new proposed action).	2	None	$160	162	$25,920.
Support Frame upper Corner Fastener Inspection (new proposed action).	8	None	$640	162	$103,680.
Post-modification inspection (new proposed action).	4	None	$320	162	$51,840.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14503 (71 FR 12125, March 9, 2006) and adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2008–0981; Directorate Identifier 2008–NM–073–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by March 22, 2010.

Affected ADs

(b) This AD supersedes AD 2006–05–06, Amendment 39–14503.

Applicability

(c) This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category, line numbers 1 though 1307 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Unsafe Condition

(e) This AD results from reports of cracked aft inner chords on airplanes after certain requirements of the existing AD were done. We are issuing this AD to prevent fatigue cracking of the body station (BS) 2598 bulkhead structure, which could result in inability of the structure to carry horizontal stabilizer flight loads, and loss of controllability of the airplane.

Compliance

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

Restatement of Requirements of AD 2006–05–06

Repetitive High Frequency Eddy Current (HFEC) Inspections of the Bulkhead Frame Supports

(g) Before the accumulation of 10,000 total flight cycles, or within 1,000 flight cycles after August 16, 2001 (the effective date of AD 2001–14–07, amendment 39–12318, which was superseded by AD 2006–05–06), whichever occurs later: Do an open-hole HFEC inspection to find cracking of the bulkhead frame support under the hinge support fittings of the horizontal stabilizer on the left and right sides at BS 2598, in accordance with Figure 2 of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2449, Revision 1, dated May 24, 2001; or Revision 2, dated March 14, 2002. Repeat the inspection after that at intervals not to exceed 3,000 flight cycles. Inspections accomplished before August 16, 2001, per Boeing Alert Service Bulletin 747–53A2449, dated June 8, 2000, are considered acceptable for compliance with the applicable inspection specified in this paragraph.

Repair of Any Cracked Bulkhead Frame Support

(h) If any cracking is found during any inspection required by paragraph (g) of this AD, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (x) of this AD.

Repetitive Inspections of Inner Chords, Frame Support Fitting, and Splice Fitting

(i) Do a surface HFEC inspection of the forward and aft inner chords, the frame support, and the splice fitting of the forward inner chord of the upper corners of the station 2598 bulkhead to find cracking, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000; Revision 3, dated September 27, 2001; or Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009; at the latest of the times specified in paragraphs (i)(1) and (i)(2) of this AD, as applicable. Repeat the inspection after that at intervals not to exceed 1,500 flight cycles. After the effective date of this AD, Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, must be used.

(1) For airplanes having line numbers 1 through 1241 inclusive:

(i) Before the accumulation of 6,000 total flight cycles.

(ii) Within 500 flight cycles after August 28, 2001 (the effective date of AD 2001–15–03, amendment 39–12337, which was superseded by AD 2006–05–06).

(iii) For airplanes inspected before August 28, 2001, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998 (including inspections of the splice fitting); or Revision 1, dated October 28, 1999: Within 1,500 flight cycles after accomplishment of the last inspection done in accordance with the original service bulletin or Revision 1, as applicable.

(2) For airplanes having line numbers 1242 through 1307 inclusive:

(i) Before the accumulation of 16,000 total flight cycles.

(ii) Within 500 flight cycles after August 28, 2001.

(iii) For airplanes inspected before August 28, 2001, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998 (including inspections of the splice fitting), or Revision 1, dated October 28, 1999: Within 1,500 flight cycles after accomplishment of the last inspection done in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; or Revision 1, dated October 28, 1999, as applicable.

Repair of Any Cracked Inner Chord, Frame Support, or Splice Fitting

(j) If any cracking is found during the inspections required by paragraph (i) of this AD, before further flight, repair in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000; Revision 3, dated September 27, 2001; or Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009. After the effective date of this AD, Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, must be used. Where Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000; Revision 3, dated September 27, 2001; or Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009; specifies that the manufacturer may be contacted for disposition of certain repair conditions, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (x) of this AD.

Repetitive Detailed Inspections of BS 2598 Bulkhead

(k) Before the accumulation of 10,000 total flight cycles, or within 1,000 flight cycles after October 27, 2003 (the effective date of AD 2003–19–08, amendment 39–13311, which was superseded by AD 2006–05–06), whichever is later: Do a detailed inspection of the BS 2598 bulkhead for discrepancies (cracking, elongated fastener holes) of the areas specified in paragraphs (k)(1) and (k)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2467, dated July 26, 2001; or Revision 1, dated April 28, 2005. Repeat the inspections after that at intervals not to exceed 3,000 flight cycles, except as required by paragraph (m) of this AD. Doing the modification specified in paragraph (m) or (q) of this AD terminates the inspection of the area specified in paragraph (k)(1) of this AD.

(1) The lower aft inner chords.

(2) The upper aft outer chords, and the diagonal brace attachment fittings, flanges, and rods.

Note 1: For the purposes of this AD, a detailed inspection is "an intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirrors magnifying lenses, etc. may be necessary. Surface cleaning and elaborate procedures may be required."

Repair of Any Cracked BS 2598 Bulkhead

(l) If any discrepancy is found during any inspection required by paragraph (k) of this AD: Before further flight, repair in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2467, dated July 26, 2001; or Revision 1, dated April 28, 2005. If the service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (x) of this AD.

Terminating Modification With New Compliance Time for Certain Airplanes for the Inspection Specified in Paragraph (k)(2) of This AD

(m) Except as provided by paragraph (q) of this AD: Before the accumulation of 20,000 total flight cycles, or within 48 months after April 13, 2006 (the effective date of AD 2006–05–06), whichever occurs later, modify the bulkhead by doing all applicable actions including surface and open-hole HFEC inspections for cracking of the upper forward inner chords, aft inner chords, upper splice fittings, and frame support fittings, as specified in the Accomplishment Instructions of Boeing Service Bulletin 747–53–2473, dated March 24, 2005; Revision 1, dated February 20, 2007; or Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009. Repair any cracks before further flight, in accordance with Boeing Service Bulletin 747–53–2473, dated March 24, 2005; Revision 1, dated February 20, 2007; or Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009. Where Boeing Service Bulletin 747–53–2473, dated March 24, 2005; Revision 1, dated February 20, 2007; or Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009 specifies that the manufacturer may be contacted for disposition of certain repair conditions: Before further flight, repair the cracks using a method approved in accordance with the procedures specified in paragraph (x) of this AD. Accomplishment of the modification terminates the requirements of paragraphs (g), (i), and (k)(1) of this AD. After the effective date of this AD, Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009 must be used for the actions specified in this paragraph. For airplanes that are converted to the Model 747–400 Large Cargo Freighter (LCF) configuration, repeat the inspection specified in paragraph (k)(2) of this AD thereafter at intervals not to exceed 1,800 flight cycles.

Post-Modification Inspection and Repair

(n) Except as provided by paragraphs (q) and (r) of this AD: Within 20,000 flight cycles after doing the modification required by paragraph (m) of this AD, inspect the BS 2598 bulkhead for cracks, and repair any cracks before further flight, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO).

New Requirements of This AD

Terminating Repair for Repetitive Surface HFEC Inspections

(o) As of the effective date of this AD, accomplishing the aft inner chord repair required by paragraph (j) of this AD in accordance with the applicable structural repair manual (SRM) specified in the Accomplishment Instructions of Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, ends the repetitive surface HFEC inspections required by paragraph (i) of this AD for that side of the bulkhead only.

Replacement of Previously Repaired Aft Inner Chord and Reinstallation of Terminating Modification

(p) For airplanes on which the terminating modification required by paragraph (m) of this AD has been done in accordance with Boeing Service Bulletin 747–53–2473, dated March 24, 2005: Within 1,500 flight cycles after doing the modification, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, do a one-time general visual inspection for repairs installed previously on the left and right side aft inner chords. For airplanes with previously installed repairs, before further flight, do rework (*i.e.,* replace any previously repaired aft inner chord with a new aft inner chord and reinstall the terminating modification), using a method approved in accordance with the procedures specified in paragraph (x) of this AD.

Revised Terminating Modification

(q) Doing the applicable modification required by paragraph (q)(1) or (q)(2) of this AD at the applicable time terminates the requirements of paragraph (m) of this AD and the repetitive inspections required by paragraphs (g), (i), and (k)(1) of this AD. For airplanes that are converted to the Model 747–400 LCF configuration, the inspection specified in paragraph (k)(2) of this AD must be repeated thereafter at intervals not to exceed 1,800 flight cycles.

(1) For airplanes on which the terminating modification required by paragraph (m) of this AD has not been done as of the effective date of this AD: Before the accumulation of 20,000 total flight cycles, or within 18 months after the effective date of this AD, whichever occurs later, modify the bulkhead, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009; except that where Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009, specifies to contact Boeing for modification data, the modification data must be approved in accordance with the procedures specified in paragraph (x) of this AD and the modification must be done within the times specified in this paragraph.

(2) For airplanes on which the terminating modification required by paragraph (m) of this AD has been done in accordance with Boeing Service Bulletin 747–53–2473, dated March 24, 2005; or Revision 1, dated February 20, 2007; as of the effective date of this AD: Within 1,000 flight cycles after the effective date of this AD, or within 1,500 flight cycles after doing the modification, whichever occurs later, do a general visual inspection of the applicable areas specified in paragraphs (q)(2)(i) and (q)(2)(ii) of this AD to determine if certain fasteners are installed, and, before further flight, do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009; except where Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009, specifies to contact Boeing for repair or rework data, the data must be approved in accordance with the procedures specified in paragraph (x) of this AD and the repair or rework must be done before further flight.

(i) For airplanes modified in accordance with Boeing Service Bulletin 747–53–2473, dated March 24, 2005: Inspect the upper forward inner chord, frame support fitting, and splice fitting.

(ii) For airplanes modified in accordance with Boeing Service Bulletin 747–53–2473, Revision 1, dated February 20, 2007: Inspect the frame web and upper shear deck aft side; and the upper forward inner chord, frame support fitting, and splice fitting.

Post-Modification Inspection and Repair

(r) For airplanes on which the terminating modification has been done in accordance with paragraph (m) or (q) of this AD: Perform post-modification inspections of the BS 2598 bulkhead for cracking, in accordance with Parts 1, 2, and 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009. Do the inspections at the applicable times specified in Tables 6 through 9 of paragraph 1.E., "Compliance," of Boeing Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009; except where the service bulletin specifies a compliance time after the date of the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD. If any cracking is found during any inspection required by this paragraph, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (x) of this AD. Repeat the inspections thereafter at the applicable times specified in Tables 6 through 9 of paragraph 1.E., "Compliance," of Boeing Service Bulletin 747–53A2473, Revision 2, dated August 28, 2009. Accomplishing the applicable inspections required by this paragraph terminates the requirements of paragraph (n) of this AD.

Open-Hole HFEC Inspection(s) and Terminating Repair

(s) For airplanes on which the terminating modification required by paragraph (m) or (q) of this AD has not been done: Do an initial open-hole HFEC inspection to detect cracks in the bulkhead splice fitting, frame support fitting, and forward and aft inner chords on the left and right sides of the BS 2598 bulkhead, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009. Do the initial inspection at the applicable time specified in Table 1 or 3 of paragraph 1.E., "Compliance," of Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009; except where Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(1) If no crack is detected, repeat the open-hole HFEC inspection thereafter at intervals not to exceed 1,500 flight cycles.

(2) If any crack is detected, before further flight, repair it in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009; except where Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, specifies to contact Boeing for appropriate action, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (x) of this AD. Accomplishing the aft inner chord repair in accordance with the applicable structural repair manual (SRM) specified in the Accomplishment Instructions of Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, ends the repetitive surface and open-hole HFEC inspections required by paragraphs (i) and (s)(1), respectively, of this AD for that side of the bulkhead only.

Interim Modification

(t) For Group 1 airplanes, as identified in Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, on which the SRM repair required by paragraph (j) or (s)(2) of this AD has not been done; and on which the terminating modification required by paragraph (m) or (q) of this AD has not been done: Before the accumulation of 12,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later, install the interim modification for the aft inner chords, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009. Accomplishing the interim modification ends the repetitive surface and open-hole HFEC inspections required by paragraphs (i) and (s)(1), respectively, of this AD.

Post-Interim Modification/Repair Repetitive Surface and Open-Hole HFEC Inspections

(u) For airplanes on which the interim modification required by paragraph (t) of this AD has been done or the SRM repair required by paragraph (j) or (s)(2) of this AD has been done; and on which the terminating modification required by paragraph (m) or (q) of this AD has not been done: At the applicable times specified in Table 1, 2, or 3 of paragraph 1.E., "Compliance," of Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, do a surface HFEC inspection to detect cracks on the forward side (unmodified area) of the bulkhead, and open-hole and surface HFEC inspections to detect cracks in the modified or repaired area, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009. Repeat the open-hole and surface HFEC inspections thereafter at intervals not to exceed 1,500 flight cycles, until the modification required by paragraph (q) of this AD is done, as applicable; except that for airplanes on which the repair of any cracked aft inner chord has been done on only one side of the bulkhead in accordance with the applicable SRM as required by paragraph (j) or (s)(2) of this AD, the repetitive surface and open-hole HFEC inspections required by paragraphs (i) and (s)(1), respectively, of this AD must continue to be done for the other side of the bulkhead.

Repair of Any Cracked Inner Chord, Splice Fitting, or Frame Support Fitting

(v) If any crack is detected during any surface or open-hole HFEC inspection required by paragraph (u) of this AD, before further flight, repair any cracked inner chord, splice fitting, or frame support fitting, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009; except where Boeing Service Bulletin 747–53A2427, Revision 5, dated October 1, 2009, specifies to contact Boeing for appropriate action, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (x) of this AD.

Actions Accomplished According to Previous Issue of Service Bulletin

(w) Inspections, interim modification, and repairs accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin 747–53A2427, Revision 4, dated March 6, 2008, are

considered acceptable for compliance with the corresponding action specified paragraphs (i), (j), (s), (t), (u), and (v) of this AD.

Alternative Methods of Compliance (AMOCs)

(x)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 2006–05–06 are approved as AMOCs for the corresponding provisions of this AD.

Issued in Renton, Washington, on February 11, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–3542 Filed 2–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0054; Airspace Docket No. 10–ASO–11]

Establishment of Class D Airspace, Modification of Class E Airspace; Columbus, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D airspace and modify existing Class E airspace at Columbus Metropolitan Airport, Columbus, GA. A decrease in air traffic volume at the airport has made it necessary to downgrade controlled airspace for the safety and management of Instrument Flight Rules (IFR) and Visual Flight Rules (VFR) operations.

DATES: Comments must be received on or before April 12, 2010.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2010–0054; Airspace Docket No. 10–ASO–11, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Airspace Specialist, Operations Support Group, Eastern Service Center, Air Traffic Organization, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2010–0054; Airspace Docket No. 10–ASO–11) and be submitted in triplicate to the Docket Management System (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0054; Airspace Docket No. 10–ASO–11." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class D airspace and modify existing Class E airspace at Columbus, GA. Due to a decrease in air traffic volume at Columbus Metropolitan Airport a less restrictive Class D airspace would be established with specific dates and times established in advance by a Notice to Airmen. The existing Class E surface area would be modified to be coincident with the newly established Class D airspace. The existing Class E airspace extending upward from 700 feet above the surface would be modified for the safety and management of IFR operations. Lawson Army Airfield, Columbus, GA, would be removed from the Class E2 and E5 airspace description, and would be re-established under separate rulemaking.

Class D airspace designations, Class E2 surface airspace designations and Class E5 designations are published in Paragraphs 5000, 6002 and 6005, respectively, of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR

71.1. The Class D and E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish Class D airspace and modify existing Class E airspace at Columbus Metropolitan Airport, Columbus, GA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO GA D Columbus, GA [NEW]

Columbus Metropolitan Airport, GA
(Lat. 32°30′59″ N., long. 84°56′20″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.4-mile radius of the Columbus Metropolitan Airport and that airspace within 1 mile each side of the 234° bearing from the airport, extending from the 4.4-mile radius to 5 miles southwest of the airport. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ASO GA E2 Columbus, GA [Amended]

Columbus Metropolitan Airport, GA
(Lat. 32°30′59″ N., long. 84°56′20″ W.)

Within a 4.4-mile radius of the Columbus Metropolitan Airport and that airspace within 1 mile each side of the 234° bearing from the airport, extending from the 4.4-mile radius to 5 miles southwest of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO GA E5 Columbus, GA [Amended]

Columbus Metropolitan Airport, GA
(Lat. 32°30′59″ N., long. 84°56′20″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the Columbus Metropolitan Airport and that airspace within 1 mile each side each side of the 234° bearing from the airport, extending from the 6.8-mile radius to 7.3-miles southwest of the airport.

Issued in College Park, Georgia, on February 5, 2010.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2010–3737 Filed 2–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0028; Airspace Docket No. 10–AWP–1]

Proposed Amendment of Area Navigation Route Q–15; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Area Navigation Route Q–15 by modifying a segment of the airway to provide adequate separation from restricted area R–2508 Complex, CA. This action is necessary for the safety and management of instrument flight rules (IFR) operations within the National Airspace System (NAS).

DATES: Comments must be received on or before April 12, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2010–0028 and Airspace Docket No. 10–AWP–1 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2010–0028 and Airspace Docket No. 10–AWP–1) and be submitted in triplicate to the Docket Management Facility (*see* **ADDRESSES** section for address and

phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA–2010–0028 and Airspace Docket No. 10–AWP–1." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, WA 98055.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to replace the DOBNE waypoint with the KENNO waypoint to provide additional lateral separation from the boundary of R–2508 and Q–15. The FAA has determined that this segment of Q–15 does not provide adequate separation from R–2508. The operational benefits of this change will positively impact the day-to-day traffic flow on Q–15 within the NAS.

Area Navigation Routes are published in paragraph 2006 of FAA Order 7400.9T, dated August 27, 2009 and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Area Navigation Route listed in this document would be subsequently published in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies an RNAV route in California.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, dated August 27, 2009 and effective September 15, 2009, is amended as follows:

Paragraph 2006 Area Navigation Routes

* * * * *

Q–15 LOMIA to CHILY

LOMIA WP
(Lat. 39°13′12″ N., long. 119°06′23″ W.)
RUSME WP
(Lat. 37°29′39″ N., long. 117°31′12″ W.)
KENNO WP
(Lat. 37°17′53″ N., long. 117°18′37″ W.)
BIKKR WP
(Lat. 36°34′00″ N., long. 116°45′00″ W.)
DOVEE Fix
(Lat. 35°26′51″ N., long. 114°48′01″ W.)
CHILY Fix
(Lat. 34°42′49″ N., long. 112°45′42″ W.)

Issued in Washington, DC, February 17, 2010.

Paul Gallant,

Acting Manager, Airspace and Rules Group.

[FR Doc. 2010–3747 Filed 2–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–320P]

RIN 1117–AB24

Control of Ergocristine, a Chemical Precursor Used in the Illicit Manufacture of Lysergic Acid Diethylamide, as a List I Chemical

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) is proposing to control the chemical precursor ergocristine as a List I chemical under the Controlled Substances Act (CSA). Clandestine laboratories are using this

chemical as a substitute for the List I chemicals ergotamine and ergonovine to illicitly manufacture the schedule I controlled substance lysergic acid diethylamide (LSD).

If finalized as proposed, handlers of ergocristine would be subject to the chemical regulatory provisions of the CSA and its implementing regulations, including 21 CFR parts 1309, 1310, 1313, and 1316. This rulemaking does not propose the establishment of a threshold for domestic and international transactions of ergocristine. As such, all transactions involving ergocristine, regardless of size, would be regulated. This rulemaking also proposes to specify that chemical mixtures containing ergocristine will not be exempt from regulatory requirements at any concentration. Therefore, all transactions of chemical mixtures containing any quantity of ergocristine would be regulated and subject to control under the CSA if this rule is finalized as proposed.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before April 26, 2010. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference "Docket No. DEA–320P" on all written and electronic correspondence. Written comments sent via regular or express mail should be sent to Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, VA 22152. Comments may be sent to DEA by sending an electronic message to *dea.diversion.policy@usdoj.gov.* Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* Web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

Please note that DEA is requesting that electronic comments be submitted before midnight Eastern Time on the day the comment period closes because *http://www.regulations.gov* terminates the public's ability to submit comments at midnight Eastern time on the day the comment period closes. Commenters in time zones other than Eastern Time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152; telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Drug Enforcement Administration's public docket. Such information includes personal identifying information (such as your name, address, *etc.*) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, *etc.*) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Drug Enforcement Administration's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the "For Further Information" paragraph.

Background

Lysergic acid diethylamide (LSD) is a synthetic schedule I hallucinogen. It is the most potent hallucinogen known and only microgram amounts are required to produce overt hallucinations. LSD has been abused for its hallucinogenic properties since the 1960s. It induces a heightened awareness of sensory input that is accompanied by an enhanced sense of clarity, but reduced ability to control what is experienced. The LSD "trip" is composed of perceptual and psychic effects. A user may experience the following perceptual effects: Visual distortion in the size and shape of objects, movements, color, sound, touch, and the user's own body image. The user may report "hearing colors" or "seeing sounds." The psychic effects experienced by the user may include feelings of obtaining true insight, intensified emotions, sudden and dramatic mood swings, impairment of attention, concentration and motivation, distortion of time, and depersonalization.

High doses of LSD can induce a "bad trip" characterized by intense anxiety or panic, confusion, and combative behaviors. After a LSD trip, a user may also experience fatigue, acute anxiety, or depression for 12 to 24 hours. LSD is commonly abused by teenagers and young adults in connection with "raves," nightclubs, and concert settings.

LSD is most commonly found in the form of small squares of paper, called blotter, that are generally decorated with artwork or designs, perforated, soaked in liquid LSD solution, and dried. Each square represents one dose of LSD. There have been some instances of blotter paper being found impregnated with hallucinogens other than LSD. For example, the hallucinogens 2,5-dimethoxyamphetamine (DMA) and 4-bromo-2,5-dimethoxyamphetamine (DOB) have been found on blotter paper passed off as LSD.

Other forms of LSD include tablets (known as microdots), gelatin squares (known as window pane), and impregnated sugar cubes. LSD has also been available in gel wraps which look like "bubble-wrap" packing material, and are blue in color. LSD is also distributed in liquid form which often is packaged in small bottles typically sold as breath drops. Additionally, LSD has been embedded in candy such as "Gummy Worms," "Sweet Tarts," "Smarties," and "Pez." The most common venues for retail LSD

distribution are "raves," dance clubs, and concerts.

According to the National Forensic Laboratory Information System (NFLIS), Federal, State, and local forensic laboratories analyzed 1,785 and 1,368 exhibits of LSD in 2000 and 2001, respectively. In 2002, the number of LSD exhibits dropped dramatically to 198 due to the seizure of a large clandestine LSD laboratory in Kansas. The number of LSD samples analyzed by Federal, State, and local forensic laboratories remained low for 2003 and 2004 with 362 and 338 LSD exhibits, respectively. However, there appears to be a slight increasing trend seen in 2005, 2006 and 2007, with 521, 590, and 844 exhibits reported, respectively. This trend appears to carry over into 2008 since NFLIS data, entered as of December 29, 2008 already documents 839 LSD exhibits.

Control Status

Lysergic acid diethylamide is in schedule I of the CSA (21 U.S.C. 812). LSD precursors, lysergic acid and lysergic acid amide, are both schedule III controlled substances (21 U.S.C. 812(b)). The LSD precursors ergotamine and ergonovine are regulated as List I chemicals under the CSA.

Illicit Production of LSD

LSD has been manufactured illegally since the 1960s. A limited number of chemists, probably less than a dozen, are believed to be manufacturing nearly all of the LSD available in the United States. Clandestine laboratory operators must adhere to precise and complex production procedures, and production of LSD is relatively difficult.

LSD has historically been produced from lysergic acid, which is made from ergotamine or ergonovine, substances derived from an ergot fungus on rye, or from lysergic acid amide, a chemical found in morning glory seeds. Although theoretically possible, manufacture of LSD from morning glory seeds is not economically feasible and these seeds never have been found to be a successful starting material for LSD production. The List I chemicals ergotamine and ergonovine are not widely available in the United States, and their purchase by other than established pharmaceutical firms is suspect. Therefore, ergotamine and/or ergonovine used in clandestine LSD laboratories are believed to have been acquired from sources located abroad. Only a small amount of ergotamine or ergonovine is required to produce LSD in large batches. For example, 25 kilograms of ergotamine tartrate can produce five or six kilograms of pure LSD crystal that, under ideal circumstances, could be processed into 100 million dosage units. Thus, clandestine LSD manufacturers need import only a small quantity of precursor material.

Movement to Ergocristine as LSD Precursor and Largest LSD Laboratory Ever Seized by DEA

Because of the existing CSA regulatory controls on the LSD precursors lysergic acid, lysergic acid amide, ergotamine, and ergonovine, clandestine laboratory operators have sought uncontrolled sources of precursor material for the production of LSD. This has led to the illicit utilization of the precursor chemical ergocristine as a direct substitute for ergotamine and ergonovine for the illicit production of LSD. In fact, the largest clandestine LSD laboratory ever seized by DEA utilized ergocristine as the LSD precursor. Recipes documenting procedures for utilizing ergocristine in LSD synthesis are easily found on the Internet.

In late 2000, in the largest clandestine LSD laboratory seizure ever made by the DEA, agents seized approximately 41.3 kilograms (90.86 pounds) of LSD, manufactured in a clandestine laboratory set up in a missile silo near Wamego, Kansas. On November 6, 2000, two clandestine laboratory operators were moving the illegal laboratory when they were arrested. The clandestine laboratory operators utilized the chemical ergocristine as the unregulated source of precursor material for the production of the LSD. A total of 19 kilograms of ergocristine was seized. According to court testimony, the two defendants previously clandestinely manufactured LSD in Santa Fe, New Mexico, where every five weeks the clandestine laboratory produced about 2.2 pounds of LSD, approximately 10 million doses that cost less than one cent a dose to produce and would sell for as much as $10 a dose. According to court testimony, the LSD was shipped to California and later to Europe for distribution.

The El Paso Intelligence Center's National Seizure System data show that five clandestine LSD laboratories have been seized since 2001. According to law enforcement reporting, the seized laboratories were operated by a small number of experienced chemists and were of limited capacity: three of which produced less than two ounces, and two of which produced between two and eight ounces per batch.

Availability of the Precursor Chemical

DEA has determined that ergocristine is readily available from commercial chemical suppliers. DEA has identified at least three suppliers of ergocristine, of which one distributor is located domestically; the other two are based in Germany and the Czech Republic. The ergocristine used by the clandestine laboratory operator arrested in conjunction with the November 2000, clandestine LSD laboratory in Wamego, Kansas, was obtained through a chemical supplier in Germany who obtained the ergocristine from a chemical source firm operating out of the Czech Republic.

In the 2005 International Narcotics Control Board (INCB) report titled "Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances," the INCB reported that in response to Czech authorities expression of concern over orders for ergocristine, INCB scrutiny over such shipments led to the one kilogram seizure of ergocristine by Panamanian authorities in early 2005. The INCB further reported that following the seizure, a further order was received from the Netherlands Antilles. The shipment of ergocristine was followed and a clandestine LSD laboratory identified. In that report, the INCB urged governments to exercise vigilance in regard to shipments of ergot alkaloids (such as ergocristine) and related substitutes not under international control.

This rule proposes the addition of both domestic and import/export controls on ergocristine (and its salts). Such controls are deemed necessary for law enforcement to identify domestic and international transactions in ergocristine, due to growing concerns regarding its use for the illicit manufacture of LSD.

Regulation of Ergocristine as a List I Chemical

The CSA, specifically 21 U.S.C. 802(34) and 21 U.S.C. 802(35), and its implementing regulations at 21 CFR 1310.02(c), provide the Attorney General with the authority to specify, by regulation, additional chemicals as "listed chemicals" if they are used in the manufacture of a controlled substance in violation of the CSA, and are important to the manufacture of the controlled substance. Ergocristine is being used in clandestine laboratories as the precursor material for the illicit manufacture of the schedule I controlled substance LSD. This rule proposes the regulation of ergocristine as a List I

chemical because DEA finds that it is used in the illicit manufacture of the controlled substance LSD and is important to the illicit manufacture of the controlled substance LSD.

If finalized as proposed, handlers of ergocristine will become subject to the chemical regulatory provisions of the CSA, including 21 CFR parts 1309, 1310, 1313, and 1316. This rulemaking does not propose the establishment of a threshold for domestic and import transactions of ergocristine pursuant to the provisions of 21 CFR 1310.04(g). Due to the high potency of LSD, even a single gram (*i.e.,* 1/28th of an ounce) of ergocristine can be used illicitly to make thousands of dosage units of LSD. Therefore, DEA is proposing that all ergocristine transactions, regardless of size, shall be regulated transactions as defined in 21 CFR 1300.02(b)(28). As such, if finalized as proposed, all ergocristine transactions will be subject to recordkeeping, annual manufacturer reporting of inventory and use data, import/export controls, and other CSA chemical regulatory requirements.

Chemical Mixtures Containing Ergocristine

This rulemaking also proposes that chemical mixtures containing ergocristine not be exempt from regulatory requirements at any concentration, unless an application for exemption of a chemical mixture is submitted by an ergocristine manufacturer and the application is reviewed and accepted by DEA under 21 CFR 1310.13 (Exemption by Application Process). Since even a small amount of ergocristine is able to make a significant amount of LSD, the control of chemical mixtures containing any amount of ergocristine is necessary to prevent the illicit extraction, isolation, and use of the ergocristine. Therefore, all chemical mixtures containing any quantity of ergocristine will be subject to CSA control, if this rule is finalized as proposed, unless the ergocristine manufacturer is granted an exemption by the application process discussed below. If finalized, this proposed rule will modify the Table of Concentration Limits in 21 CFR 1310.12(c) to reflect the fact that chemical mixtures containing any amount of ergocristine are subject to CSA chemical control provisions.

Exemption by Application Process

DEA has implemented an application process to exempt chemical mixtures from the requirements of the CSA and its implementing regulations (21 CFR 1310.13). Under the application process, manufacturers may submit an application for exemption for those mixtures that do not qualify for automatic exemption. Exemption status can be granted if DEA determines that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical cannot be readily recovered (i.e., it meets the conditions in 21 U.S.C. 802(39)(A)(vi)).

Requirements for Handling List I Chemicals

If finalized as proposed, the designation of ergocristine as a List I chemical will subject ergocristine handlers to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, importing, and exporting of a List I chemical. Upon publication of a final rule, persons potentially handling ergocristine, including regulated chemical mixtures containing ergocristine, will be required to comply with the following List I chemical regulations:

Registration. Any person who manufactures, distributes, imports, or exports a List I chemical, or proposes to engage in the manufacture, distribution, importation, or exportation of a List I chemical, must obtain a registration pursuant to the CSA (21 U.S.C. 822, 957). Regulations describing registration for List I chemical handlers are set forth in 21 CFR part 1309. Consistent with 21 CFR parts 1309 and 1310, separate registrations will be required for manufacturing, distribution, importing, and exporting of ergocristine. Different locations operated by a single entity require separate registration if any location is involved with the manufacture, distribution, importation, or exportation of ergocristine. Further, a separate registration is required for each principal place of business at one general physical location where List I chemicals are manufactured, distributed, imported, or exported by a person (21 CFR 1309.23). Any person manufacturing, distributing, importing, or exporting an ergocristine chemical mixture will be subject to the registration requirement under the CSA as well.

DEA notes that warehouses are exempt from the requirement of registration and may lawfully possess List I chemicals, if the possession of those chemicals is in the usual course of business (21 U.S.C. 822(c)(2), 21 U.S.C. 957(b)(1)(B)). For purposes of this exemption, the warehouse must receive the List I chemical from a DEA registrant and shall only distribute the List I chemical back to the DEA registrant and registered location from which it was received. All other activities conducted by a warehouse do not fall under this exemption; a warehouse that distributes List I chemicals to persons other than the registrant and registered location from which they were obtained is conducting distribution activities and is required to register as such (21 CFR 1309.23(b)(1)).

Upon publication of a final rule, any person manufacturing, distributing, importing, or exporting ergocristine or a chemical mixture containing ergocristine will become subject to the registration requirement under the CSA. DEA recognizes, however, that it is not possible for persons who are subject to the registration requirement to immediately complete and submit an application for registration and for DEA to immediately issue registrations for those activities. Therefore, to allow continued legitimate commerce in ergocristine, DEA is proposing to establish in 21 CFR 1310.09 a temporary exemption from the registration requirement for persons desiring to engage in activities with ergocristine, provided that DEA receives a properly completed application for registration on or before 30 days after publication of a Final Rule implementing regulations regarding ergocristine. The temporary exemption for such persons will remain in effect until DEA takes final action on their application for registration or application for exemption of a chemical mixture.

The temporary exemption applies solely to the registration requirement; all other chemical control requirements, including recordkeeping and reporting, would become effective on the effective date of the Final Rule. Therefore, all transactions of ergocristine and chemical mixtures containing ergocristine will be regulated while an application for registration or exemption is pending. This is necessary because not regulating these transactions could result in increased diversion of chemicals desirable to drug traffickers.

Additionally, the temporary exemption does not suspend applicable federal criminal laws relating to ergocristine, nor does it supersede State or local laws or regulations. All handlers of ergocristine must comply with applicable State and local requirements in addition to the CSA regulatory controls.

Records and Reports. The CSA (21 U.S.C. 830) requires that certain records be kept and reports be made with respect to listed chemicals. Regulations describing recordkeeping and reporting requirements are set forth in 21 CFR part 1310. Pursuant to 21 CFR 1310.04, a record must be made and maintained

for two years after the date of a transaction involving a listed chemical, provided the transaction is a regulated transaction.

Each regulated bulk manufacturer of a listed chemical will be required to submit manufacturing, inventory, and use data on an annual basis (21 CFR 1310.05(d)). Existing standard industry reports containing the required information will be acceptable, provided the information is readily retrievable from the report.

Title 21 CFR 1310.05(a) requires that each regulated person shall report to DEA any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of the CSA and its corresponding regulations. Persons are also required to report any proposed regulated transaction with a person whose description or other identifying characteristics the Administration has previously furnished to the regulated person; any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person; any in-transit loss in which the regulated person is the supplier; and any domestic regulated transaction in a tableting or encapsulating machine.

Import/Export. All imports, exports, and international transactions of a listed chemical shall comply with the CSA import and export provisions including 21 U.S.C. 957 and 971. Regulations for importation and exportation of List I chemicals are described in 21 CFR part 1313.

Security. All applicants and registrants shall provide effective controls against theft and diversion of chemicals as described in 21 CFR 1309.71.

Administrative Inspection. Places, including factories, warehouses, or other establishments and conveyances, where registrants or other regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of a regulated chemical/chemical mixture or where records relating to those activities are kept or required to be kept, are controlled premises as defined in 21 CFR 1316.02(c). The CSA (21 U.S.C. 880) allows for administrative inspections of these controlled premises as provided in 21 CFR 1316 Subpart A.

Regulatory Certifications

Regulatory Flexibility Act and Small Business Concerns

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612). DEA has been able to identify only one U.S. distributor that lists ergocristine among its products. Because most of the firm's product source appears to be located outside the U.S. and because DEA has not been able to identify any U.S. manufacturer that produces a product containing ergocristine, DEA does not consider it likely that this domestic distributor would be subject to the rule, unless they imported ergocristine. The only probable legitimate commerce in this chemical appears to be the use of ergocristine as precursor material for the synthesis of a research compound. If used for this purpose, then there would be a registration and recordkeeping requirement for this distributor to import the ergocristine. Such use would likely be extremely limited. Therefore, the Deputy Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

The Deputy Administrator certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 Section 1(b). It has been determined that this is "a significant regulatory action." Therefore, this action has been reviewed by the Office of Management and Budget. DEA has not conducted an economic analysis of the proposed rule because DEA has been able to identify only one company with a U.S. address that lists ergocristine among its products. DEA was able to identify only two foreign firms that list ergocristine as a product. These firms appear to sell ergocristine as an active pharmaceutical ingredient, but a search of the Food and Drug Administration's database of approved drugs did not identify any drug with ergocristine as an active ingredient. Consequently, DEA does not believe that at this time any firm conducting legitimate business is likely to have to comply with the rule.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rule is not a major rule as defined by Section 804 of the Congressional Review Act/Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 21 CFR Part 1310

Drug traffic control, Exports, Imports, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1310 is proposed to be amended as follows:

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

2. Section 1310.02 is amended by adding a new paragraph (a)(30) to read as follows:

§ 1310.02 Substances covered.

* * * * *

(a) * * *

(30) Ergocristine and its salts 8612

* * * * *

3. Section 1310.04 is amended by redesignating paragraphs (g)(1)(ii) through (g)(1)(vii) as paragraphs (g)(1)(iii) through (g)(1)(viii), and adding

a new paragraph (g)(1)(ii) to read as follows:

§ 1310.04 Maintenance of records.

* * * * *

(g) * * *

(1) * * *

(ii) Ergocristine and its salts

* * * * *

4. Section 1310.09 is amended by adding new paragraph (k) to read as follows:

§ 1310.09 Temporary exemption from registration.

* * * * *

(k)(1) Each person required under Sections 302 and 1007 of the Act (21 U.S.C. 822, 957) to obtain a registration to manufacture, distribute, import, or export regulated ergocristine and its salts, including regulated chemical mixtures pursuant to Section 1310.12 of this part, is temporarily exempted from the registration requirement, provided that DEA receives a properly completed application for registration or application for exemption for a chemical mixture containing ergocristine and its salts pursuant to Section 1310.13 of this part on or before (30 days after publication of a Final Rule implementing regulations regarding ergocristine). The exemption will remain in effect for each person who has made such application until the Administration has approved or denied that application. This exemption applies only to registration; all other chemical control requirements set forth in the Act and parts 1309, 1310, 1313, and 1316 of this chapter remain in full force and effect.

(2) Any person who manufactures, distributes, imports or exports a chemical mixture containing ergocristine and its salts whose application for exemption is subsequently denied by DEA must obtain a registration with DEA. A temporary exemption from the registration requirement will also be provided for those persons whose applications for exemption are denied, provided that DEA receives a properly completed application for registration on or before 30 days following the date of official DEA notification that the application for exemption has been denied. The temporary exemption for such persons will remain in effect until DEA takes final action on their registration application.

5. Section 1310.12(c) is amended by adding in alphabetical order an entry "Ergocristine and its salts" in the table "Table of Concentration Limits" to read as follows:

§ 1310.12 Exempt chemical mixtures.

* * * * *

(c) * * *

TABLE OF CONCENTRATION LIMITS

	DEA chemical code number	Concentration	Special conditions
List I Chemicals			
*	*	*	*
Ergocristine and its salts	8612	Not exempt at any concentration.	Chemical mixtures containing any amount of ergocristine and its salts are not exempt.
*	*	*	*

* * * * *

Dated: February 12, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–3701 Filed 2–23–10; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0009; FRL–9115–8]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Opacity Source Surveillance Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia for the purpose of updating methods for determining compliance with opacity standards for existing, new and modified stationary sources in Virginia. In the Final Rules section of this **Federal Register,** EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by March 26, 2010.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2010–0009 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2010–0009, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2010–0009. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 814–2181, or by e-mail at *pino.maria@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information on this action, which revises the Virginia SIP to update methods for determining compliance with opacity standards for existing, new and modified stationary sources, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: February 1, 2010.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2010–3511 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R9–2009–0075; MO–9221050083–B2]

Endangered and Threatened Wildlife and Plants; Review of Native Species That Are Candidates for Listing as Endangered or Threatened; Annual Notice of Findings on Resubmitted Petitions; Annual Description of Progress on Listing Actions; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review; correction.

SUMMARY: This document corrects language used to describe the candidate status of the Sierra Nevada Distinct Population Segment of *Rana muscosa,* in a notice published in the **Federal Register** on November 9, 2009, regarding the review of species that are candidates for listing under the Endangered Species Act, as amended. The correction is to clarify that the Sierra Nevada Distinct Population Segment of *Rana muscosa,* as defined in the January 16, 2003 **Federal Register**, remains the candidate for listing.

DATES: This correction is effective February 24, 2010.

FOR FURTHER INFORMATION CONTACT: Jim Serfis, Chief, Branch of Candidate Conservation, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203 (telephone 703–358–2171; facsimile 703–358–1735). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

In a notice published in the **Federal Register** on November 9, 2009 (74 FR 57804), regarding the review of species that are candidates for listing under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), we included a discussion of the Sierra Nevada Distinct Population Segment (DPS) of the mountain yellow-legged frog. In that discussion, we included language addressing some recent taxonomic work. That language did not accurately convey our intent that the entity that we consider to be a candidate had not changed despite the recent taxonomic studies. The language we used created confusion rather than clarifying this issue. Thus, we are replacing two sentences from the discussion with new language as described below.

Correction

In the notice of review (74 FR 57804; November 9, 2009), we correct page 57830, under the section entitled Amphibians, in the discussion of "Mountain yellow-legged frog, Sierra Nevada DPS (*Rana muscosa*)," by removing the two sentences, "It is the population of *R. muscosa* found in the southern portion of the Sierra Nevada that is a candidate for listing. *R. sierrae* is not a candidate," and replacing them with the following sentence "At this time, we have not adopted this taxonomic distinction of two species and continue to recognize mountain yellow-legged frogs in the Sierra Nevada Mountains of California as *R. muscosa* and as the candidate entity."

Dated: February 3, 2010.

Daniel W. Ashe,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2010–3691 Filed 2–23–10; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 75, No. 36

Wednesday, February 24, 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

Submission for OMB Review; Comment Request

February 18, 2010.

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

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

Farm Service Agency

Title: Disaster Assistance—General (7 CFR part 1945–A).

OMB Control Number: 0560–0170.

Summary of Collection: The regulation at 7 CFR 1945–A, defines the responsibilities of the Secretary of Agriculture in making disaster area determinations, the types of incidents that can result in a disaster area determination, and the factors used in making disaster area determinations. The determination of a disaster area is prerequisite to authorizing emergency (EM) loans to qualified farmers. EM loan funds may be used to restore or replace essential property, pay all or part of production costs incurred by the farmer or rancher in the year of the disaster, pay for essential family living expenses, pay to reorganize the farming operation or refinance USDA and non-USDA creditors. The information collection occurs when the Secretary receives a letter from the Governor requesting a Secretarial natural disaster determination. Supporting documentation of losses for all counties having disaster is provided by the County Emergency Boards in the form of a report entitled "Loss Assessment Report" (LAR).

Need and Use of the Information: The Farm Service Agency will collect the following information to determine if the county is eligible to qualify for a natural disaster designation: (1) The nature and extent of production losses; (2) the number of farmers who have sustained qualifying production losses; and (3) the number of farmers that have sustained qualifying production losses that other lenders in the county have indicated that they will not be in a position to finance. The information will be used by FSA to process State Governor requests for Secretarial natural disaster designations.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 1,581.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 900.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–3696 Filed 2–23–10; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 18, 2010.

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

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displays a currently valid OMB control number.

Department of Agriculture

Office of the Chief Information Officer

Title: USDA eAuthentication Service Customer Registration.

OMB Control Number: 0503–0014.

Summary of Collection: The USDA Office of the Chief Information Officer (OCIO) developed the eAuthentication system as a management and technical process that addresses user authentication and authorization prerequisites for providing services electronically. The process requires a voluntary one-time electronic self-registration to obtain an eAuthentication account for each USDA Agency customer desiring access to USDA online services and applications protected by eAuthentication. The information collected through the electronic self-registration process is necessary to enable the electronic authentication of users and grant them access to only those resources for which they are authorized.

Need and Use of the Information: The USDA eAuthentication Service provides public and government businesses single sign-on capability for USDA applications, management of user credentials, and verification of identify, authorization, and electronic signatures. USDA eAuthentication obtains customer information through an electronic self-registration process provided through the eAuthentication Web site. The voluntary self-registration process applies to USDA Agency customers, as well as employees who request access to protected USDA Web applications and services via the Internet. Users can register directly from the eAuthentication Web site located at *www.eauth.egov.usda.gov.* The information collected through the online self-registration process will be used to provide an eAuthentication account that will enable the electronic authentication of users.

The users will then have access to authorized resources without needing to reauthenticate within the context of a single Internet session.

Description of Respondents: Farms; Individuals or Households; Business or other for-profit; Not-for-profit institutions; Federal government; State, Local or Tribal Government.

Number of Respondents: 44,088.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 35,951.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–3697 Filed 2–23–10; 8:45 am]

BILLING CODE 3410–KR–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 18, 2010.

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

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Animal Plant and Health Inspection Service

Title: Irradiation Phytosanitary Treatment for Fresh Fruits and Vegetables.

OMB Control Number: 0579–0155.

Summary of Collection: The Plant Protection Act (7 U.S.C. 7701–7772) authorizes the Secretary of Agriculture to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests and noxious weeds. Regulations in 7 CFR part 305 provide for the use of irradiation as a phytosanitary treatment for certain fruits and vegetables imported in the United States. The irradiation treatment provides protection against 11 species of fruit flies and mango seed weevil.

Need and Use of the Information: The Animal and Plant Health Inspection Service (APHIS) will collect information using a compliance agreement, 30-day notification, labeling requirements, dosimetry recordings, requests for dosimetry device approval, recordkeeping, requests for facility approval. Without the collection of this information, APHIS would have no practical way of determining that any given commodity had actually been irradiated.

Description of Respondents: Business or other for profit; individuals or households; farms.

Number of Respondents: 93.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 416.

Animal and Plant Health Inspection Service

Title: Importation of Fruit from Thailand.

OMB Control Number: 0579–0308.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.),* the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control., prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. The Animal and Plant Health Inspection Service (APHIS) amended the fruit and vegetables regulations to allow the importation into the United State of litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand. The fruit would have to be accompanied by a phytosanitary certificate with an additional declaration stating that the fruit had been tested with irradiation in Thailand and in the case of litchi, that the fruit had been inspected and found to be free

of *Peronophythora litchi,* a fungal pest of litchi.

Need and Use of the Information: APHIS will use the information on the certificate to determine the pest condition of the shipment at the time of inspection in the foreign country. This information is used as a guide to the intensity of the inspection APHIS conduct when the shipment arrives. Without this information, all shipments would need to be inspected very thoroughly, thereby requiring considerably more time. This would slow the clearance of international shipments.

Description of Respondents: Federal Government (Foreign).

Number of Respondents: 10.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 78.

Animal and Plant Health Inspection Service

Title: Importation of Mangoes from India.

OMB Control Number: 0579–0312.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.),* the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control., prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. The Animal and Plant Health Inspection Service (APHIS) regulates the importation of fruits and vegetables into the continental United States from certain parts of the world. In accordance with these regulations, mangoes from India may be imported into the United States only under certain conditions to prevent the introduction of plant pests into the United States.

Need and Use of the Information: APHIS amended the fruits and vegetables regulations to allow the importation into the continental United States of mangoes from India under certain conditions. As a condition of entry, the mangoes have to undergo irradiation treatment and be accompanied by a phytosanitary certificate with additional declaration statements providing specific information about treatment and orchards in which they were grown. Additional information collected by APHIS includes a preclearance workplan, trust fund agreement, monitoring and certification of treatments, and recordkeeping. Failure to collect this information would greatly hinder APHIS' ability to ensure that mangoes from India are not carrying plant pests.

Description of Respondents: Business or other for-profit; Federal Government (Foreign).

Number of Respondents: 154.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 2,685.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–3698 Filed 2–23–10; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 18, 2010.

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

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Foreign Agricultural Service

Title: Trade Adjustment Assistance for Farmers (TAA).

OMB Control Number: 0551–0040.

Summary of Collection: The Trade Act of 2002 (HR 3009) (Pub. L. 107–210), established the Trade Adjustment Assistance for Farmers (TAA) program. The primary objective of this program is to provide technical and cash assistance to producers of raw agricultural commodities when the Administrator, Foreign Agricultural Service (FAS), determines that increased imports have contributed importantly to specific price decline over 5 preceding marketing years.

Need and Use of the Information: FAS will collect information to permit producers to petition and apply for program benefits. The information is needed to determine eligibility to obtain benefits under the program providing trade adjustment assistance for farmers and to ascertain the amount of payments an adversely affected producer is entitled to receive. The information collected will provide essential data and economic information for use by FAS, Farm Service Agency, Economic Research Service, Extension Service, and other agencies within the Department.

Description of Respondents: Farms; Not-for-profit institutions; Business or other for-profit.

Number of Respondents: 1,250.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 8,750.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–3699 Filed 2–23–10; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 18, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and

clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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Food Safety and Inspection Service

Title: Electronic Animal Disease Reporting System.

OMB Control Number: 0583–0139.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. In accordance with 9 CFR 320, 381.175, 180, 303.1(b)(3), 352.15, and 354.91, establishments that slaughter meat, poultry, exotic animals, and rabbits are required to maintain certain records regarding their business operations and to report this information to the Agency as required. For the Agency's electronic Animal Disease Reporting System (eADRS), establishments report (by shift) slaughter totals in number of heads and weight by animal category. EADRS is an information system that tracks and reports data on the number of animals slaughtered, animal diseases, and animal welfare information in the United States.

Need and Use of the Information: For eADRS, establishments report orally to FSIS inspection personnel in the plant, slaughter totals (by shift) in number of heads and weight by animal category. FSIS uses this information to plan inspection activities, to develop sampling plans for testing, to target establishments for testing, for Agency budget planning, and in its reports to Congress.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,341.

Frequency of Responses: Reporting: Other (daily).

Total Burden Hours: 48,350.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–3744 Filed 2–23–10; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass National Forest, Thorne Bay Ranger District, Thorne Bay, AK

AGENCY: Forest Service, USDA.

ACTION: Cancellation of Notice of intent to prepare an Environmental Impact Statement published in the **Federal Register** on April 3, 2000 (page 17482).

SUMMARY: The Department of Agriculture, Forest Service is issuing this notice to advise the public that we are canceling the Notice of Intent (NOI) to prepare Kosciusko Island Timber Sale Environmental Impact Statement (EIS) to assess and disclose the environmental effects of timber harvest and road building to provide timber for the Tongass National Forest Timber Sale Program.

FOR FURTHER INFORMATION CONTACT: Frank Roberts, Zone Planner, Thorne Bay Ranger District, Tongass National Forest, P.O. Box 19001, Thorne Bay, AK 99919, telephone: 907–828–3250.

SUPPLEMENTARY INFORMATION: The 47,007-acre Kosciusko Project Area is located approximately 48 air miles northwest of Thome Bay, Alaska. A Draft Environmental Impact Statement for this project was published in 1993.

Dated: February 16, 2010.

Forrest Cole,

Forest Supervisor, Tongass National Forest.

[FR Doc. 2010–3517 Filed 2–23–10; 8:45 am]

BILLING CODE 3410–GM–M

DEPARTMENT OF AGRICULTURE

Forest Service

Huron-Manistee National Forests, Michigan, USA and State South Branch 1–8 Well

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Huron-Manistee National Forests (Forest Service) and the Bureau of Land Management (BLM) as a Cooperating Agency will prepare an environmental impact statement (ETS) to assess the environmental impacts of an industry proposal to drill one exploratory natural gas well (the USA & State South Branch 1–8 (SB 1–8) well) on National Forest System lands. The EIS will also assess the impacts of constructing necessary infrastructure including production facility and flowline, to develop the well should it be capable of producing hydrocarbons in commercial quantities. This analysis will allow the agencies to make their respective decisions on this proposal in accordance with Federal regulations.

DATES: Comments concerning the scope of the analysis must be received by April 12, 2010. The draft environmental impact statement is expected in December, 2010 and the final environmental impact statement is expected by July 2011.

ADDRESSES: Send written comments to Lauri Hogeboom, Interdisciplinary Team Leader, Huron-Manistee National Forests, 1755 S. Mitchell Street, Cadillac, MI, 49601; fax: 231–775–5551. Send electronic comments to: *comments-eastern-huron-manistee@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Ken Arbogast, Huron-Manistee National Forests; telephone: 231–775–2421; fax: 231–775–5551. See address above under Addresses. Copies of documents may be requested at the same address. Another means of obtaining information is to visit the Forest Web page at *http://www.fs.fed.us/r9/hmnf* then click on "Project and Planning," then "Mio District," and then "USA and State South Branch 1–8." Individuals who use telecommunication devices for the deaf (TTY) may call 1–231–775–3183.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose for action is to respond to the proponent, Savoy Energy, LP's (Savoy) proposal to exercise its rights under Federal leases to drill for, extract, remove and dispose of all the oil and gas from leased lands. The Huron-

Manistee National Forests (Forest Service) and the Bureau of Land Management (BLM) received an Application for Permit to Drill (APD) including a Surface Use Plan of Operation (SUPO) from Savoy.

A response to the application is needed because Savoy has lawful oil and gas rights to three State and three Federal leases in a 640 acre drilling unit and the Forest Supervisor (FS) and the Milwaukee Field Office Manager (BLM) are required by regulation to evaluate and decide upon operating plans received from industry for exploration and development of Federal leases. The agencies must ensure Savoy's operating plan is consistent with the terms and stipulations of the Federal mineral leases, applicable laws and regulations, the Huron-Manistee's Land and Resource Management Plan, and identify any additional conditions needed to protect Federal resources.

The BLM ultimately renders a decision on the APD, and the Forest Service must review and decide upon the SUPO before the BLM can make its APD decision.

Proposed Action

The Forest Service proposes to authorize Savoy to conduct surface operations associated with accessing, drilling, testing, and completing the USA and State South Branch 1–8 Well, as described in detail under Alternative 2: The Proposed Action and described in the Surface Use Plan of Operations (SUPO) and Application for Permit to Drill (APD) submitted to the BLM. The Forest Service would approve the Surface Use Plan of Operations for the USA and State South Branch 1–8 Well.

The BLM proposes to authorize Savoy to conduct operations to drill test and complete the proposed exploratory well on the subject leases and approve the APD submitted for this well.

The Forest Service and BLM authorization would include reasonable and necessary mitigation to ensure Savoy's operations would be in compliance with law, regulation, and policy.

Savoy holds six subsurface mineral leases included in a 640 acre drilling unit in South Branch Township (T25N, R1W), Crawford County, Michigan, Section 7 E ½, Section 8 W ½. This 640 acre drilling unit includes three State and three Federal oil and gas leases. Savoy is proposing to drill directionally from National Forest System lands within the boundaries of the Huron-Manistee National Forests to the bottomhole located in Federal mineral lease MIES 50521 approximately 2,200 feet NW of the surface hole and construct associated infrastructure including a production facility and flowline if Savoy determines the well could produce a commercial product.

Savoy's proposal includes: Leveling of the well pad (approximately 3.5 acres) for the drilling rig, equipment, and pit, including some minor cut and fill using a bulldozer to level the surface. It also includes the use, reconstruction and maintenance of existing roads for year-round access, including snow plowing along portions of River Lake Road (aka Hickey Creek Road), FSR 4209 (Mason Chapel Road), and FSR 4208, to access the well site; construction and maintenance of 50 feet of new road, 14 feet wide with three feet of clearing on each side of the new road (approximately 0.05 acre of disturbance) to access the well pad from FSR 4208; and drilling a water well at the well pad site to provide water for drilling and future well maintenance, if needed. Following these activities drilling equipment would be moved in and rigged up.

Drilling and well completion would be expected to take 45 days. Drilling operations would be restricted to a time period of December 1 to April 15. The well pad would be approximately 3.5 acres in size. Standard and accepted drilling techniques and practices would be used and must comply with mininum operating standards approved by Michigan Department of Natural Resouces and Environment and the BLM. This includes a casing program, pressure control equipment, and proposed drilling fluids program. Hazardous materials, including stimulation and completion fluids, would be contained in steel tanks and disposed of by a licensed waste hauler.

Additional actions proposed if the well is productive include: construction of a production facility located in SE, Section 9, T25N, Ri W, (approximately 1.5 miles from the well pad) on approximately 2.0 acres, including intallation of a gas/water separator, oil and brine tanks, dehydrator, compressor, volume bottle, and measurement (monitoring) equipment; installation of flowlines from the well site to the production facility site, buried along side the road bed and a pipeline to the Michigan Consolidated Gas transmission line, totaling approximately 1.7 miles, and reclamation of the well pad, following drilling and completion, leaving ⅓ acre used for well operations.

If the well is not capable of commercial production, the operator plug and abandon the well under applicable State and BLM rules. Reclamation of the site according to the reclamation plan included with the SUPO would occur within six months of completion of well plugging. This would include: Recontouring and stabilizing all excavations, topsoil removed during leveling will be spread evenly over the site except the roads; the site would be seeded with a Forest Service approved mix; the flowline route would be restored and the 50 foot access road would be obliterated.

Michigan Department of Natural Resources and Environment's Water Management Practices on Forest Land will be used to manage the roads. Additionally, prior to reconstructing FSR 4209, approximately 150 feet of silt fence would be placed per FS direction adjacent to the south side of the road for wetland protection.

The operator would maintain a dike around the condensate and brine tanks at the production facility of sufficient size and height so as to contain 150% of the total capacity of the tanks.

The width of the reconstucted roads would not exceed 14 feet. An additional 3 feet of clearing would be done on each side of the road. Clearing width would not exceed 20 feet.

Soil disturbed with the placement of the flowline/pipeline would be seeded with mix specified by the Forest Service.

Roads into the well pad and production facility would be gated and locked.

Road design and construction would take into account visual quality.

Minimization of noise is to be emphasized during drilling, completion, and production operations. Hospital-type engine mufflers would be used on drilling, completion, and work over rigs, mud pumps, and compressors. No pumps or motors would be placed on the surface of the well or at the well site. The total sound level for the production facility would not exceed 36 dBA at 1,320 feet if more than one well is being processed. If the production facility is processing gas from one well, the sound level would not exceed 33 dBA at 1,320 feet. The production facility would be constructed to meet these sound levels.

Off-road equipment would be inspected by a Forest Service representative and washed if needed to prevent introduction of non-native invasive plants that are not already present in the project area.

Protection will be provided for Endangered, Threatened and Sensitive Species in accordance with law, regulation and policy.

The Forest Service, the BLM, and MDNRE will coordinate inspections to ensure compliance with requirements.

Possible Alternatives

No Action alternative: The Forest Service would not approve the SUPO and br the BLM would not approve the APD. Current direction would continue to guide management of the project area. The USA and State South Branch 1–8 well would not be drilled, no flow lines would be installed, and no production facility would be constructed.

Alternative 2: Modification of Savoy's Proposal—The Forest Service would approve the SUPO and the BLM would approve the APD subject to additional conditions of approval necessary for resource protection. Alternative 2 would be the same as the proposed action except with additional conditions of approval to the SUPO and APD based on mitigation developed to respond to the issues raised.

Lead and Cooperating Agencies

The BLM and the Forest Service entered into an Memorandum of Understanding (MOU) in April 2006 "to establish procedures for the coordinated dministration of oil and gas operations on Federal leases within the National Forest System (NFS)." The MOU identifies the responsibilities of the agencies to provide efficient, effective adherence to rules and regulations for each. Specifically, the MOU states,

"111A3. '* * * the Forest Service has the full responsibility and authority to approve and regulate all suface -disturbing activities associated with oil and gas exploration and development through analysis and approval of the SUPO component of an APD.' " VB] Forest Service will: Serve as lead agency for oil and gas * * * environmental analyses required for APD: * * *"

"111A2. The BLM has the authority and responsibility to provide final approval of all APDs, including those for operations on Federals leases on NFS lands * * * The BLM has the authority and responsibility to regulate all down-hole operations and directly related surface activities and use, and provide approval of the drilling plan and final approval of the APD on NFS lands."

This MOU is consistent with the NEPA regulations, 40 CFR 1501.5 Lead Agency and 1501.6 Cooperating Agencies, identifying the Forest Service as the lead agency and the BLM as the cooperating agency.

Responsible Official for Lead Agency

Barry Paulson, Forest Supervisor, Huron-Manistee National Forests, 1755 S. Mitchell Street, Cadillac, MI 49601.

Responsible Official for Cooperating Agency

Mark Storzer, Field Manager, Bureau of Land Management, Milwaukee Field Office, 626 E Wisconsin Ave. Suite 200, Milwaukee, WI 53202–46 17.

Nature of Decision To Be Made

The Forest Supervisor of the Huron-Manistee National Forests will issue a decision on whether to approve, approve subject to specified conditions, or disapprove for stated reasons, the proposed Surface Use Plan of Operations or development of the well and construction and operation of the flowline/pipeline and production facilities. Similarly, the BLM Field Manager in Milwaukee will issue a decision on whether to approve the Application for Permit to Drill as submitted, approve subject to appropriate modifications or conditions, or disapprove for stated reasons.

Preliminary Issues

We expect issues to include possible effects of noise, odor and changes to the visual quality from the project on anglers and visitors to the Semi-Primitive Nonmotorized area and Mason Tract, as well as the possible effects of the project on tourism in the county.

Permits and Licenses Required

Savoy will be required to obtain a State permit for drilling from the Michigan Department of Natural Resources and Environment.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. The Forest Service plans to scope for information by contacting persons and organizations interested or potentially affected by the proposed action by using mailings, public announcements, and personal contacts.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative appeal or judicial review.

We are especially interested in information that might identify a specific undesired result of implementing the proposed action. Comments will be used to help formulate alternatives to the proposed action. Please make your written comments as specific as possible as they relate to the proposed action, and include your name, address, and if possible, telephone number and e-mail address.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decisions under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d), any persons may request the agency to withhold a submission from the public record by showing how the FOIA (Freedom of Information Act) permits such confidentiality. Persons requesting such confidentiality should be aware that under FOIA confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality and, should the request be denied, return the submission and notify the requester that the comments may be resubmitted with or without name and address within 90 days.

Dated: February 16, 2010.

Barry Paulson,

Forest Supervisor.

[FR Doc. 2010–3587 Filed 2–23–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007-0044]

Draft Environmental Impact Statement; Determination of Regulated Status of Alfalfa Genetically Engineered for Tolerance to the Herbicide Glyphosate

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice; extension of comment period and rescheduled public meeting.

SUMMARY: We are extending the comment period for our notice of availability of a draft environmental impact statement in connection with making a determination on the status of the Monsanto Company and Forage Genetics International alfalfa lines designated as events J101 and J163 as regulated articles. This notice also provides notice that a public meeting scheduled for February 9, 2010, has been rescheduled for February 24, 2010.

DATES: We will consider all comments that we receive on or before March 3, 2010. We will also consider comments made at the rescheduled public meeting to be held on February 24, 2010, from 4 p.m. to 7 p.m., local time.

ADDRESSES: The public meeting will be held in the USDA Center at Riverside, 4700 River Road, Riverdale, MD, 20737. You may also submit written comments on the draft environmental impact statement by either of the following methods:

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0044*) to submit or view comments.
- Postal Mail/Commercial Delivery: Please send a copy of your comment to Docket No. APHIS–2007–0044, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0044.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at (*http://www.aphis.usda.gov*).

FOR FURTHER INFORMATION CONTACT: Dr. Andrea Huberty, Branch Chief, Regulatory and Environmental Analysis Branch, BRS, APHIS, 4700 River Road Unit 146, Riverdale, MD 20737; (301) 734-0485.

SUPPLEMENTARY INFORMATION: On January 12, 2010, we published in the **Federal Register** (APHIS-2007-0044, 75 FR 1585-1586) a notice of availability of a draft environmental impact statement (EIS) in connection with making a determination on the status of the Monsanto Company and Forage Genetics International alfalfa lines designated as events J101 and J163 as regulated articles.

Comments on the draft EIS were required to be received on or before February 16, 2010. We are extending the comment period on the draft EIS until March 3, 2010. This action will allow interested persons additional time to prepare and submit comments.

A notice regarding this extension of the comment period was also published by the Environmental Protection Agency in the **Federal Register** on February 5, 2010 (75 FR 6026-6027; Docket No. ER–FRL–8987–9).

Rescheduled Public Meeting

The notice of availability of the draft EIS also provided notice of four public meetings. The last of these meetings was scheduled for Tuesday, February 9, 2010, in the USDA Center at Riverside, 4700 River Road, Riverdale, MD, 20737, from 4 p.m. to 7 p.m., local time. However, this meeting was postponed due to inclement weather, and has been rescheduled for Wednesday, February 24, 2010, from 4 p.m. to 7 p.m., local time. The location of the meeting remains the same, as do the policies and procedures set forth for the meeting in our earlier notice.

Parking and Security Procedures

Please note that a fee of $4 in exact change is required to enter the parking lot at the USDA Center at Riverside. The machine accepts $1 bills or quarters.

Upon entering the building, visitors should inform security personnel that they are attending the public meeting regarding the regulated status of alfalfa genetically engineered for tolerance to the herbicide glyphosate. State issued photo identification is required and all bags will be screened. Security personnel will direct people to the registration tables. Registration upon arrival is required for all participants.

Done in Washington, DC, this 18th day of February 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–3659 Filed 2–23–10: 7:32 am]

BILLING CODE: 3410–34–S

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: BIS Program Evaluation.

OMB Control Number: 0694–0125.

Form Number(s): N/A.

Type of Request: Regular submission.

Burden Hours: 500.

Number of Respondents: 3,000.

Average Hours per Response: 10 minutes.

Needs and Uses: This survey capability is needed by BIS seminar instructors for seminar programs conducted throughout the year. The participants will be asked to evaluate seminar content and to provide input for future programs. Their responses will provide useful and practical information that BIS can use to determine whether or not it is providing a quality program and make recommended improvements.

Affected Public: Business or other for-profit organizations; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Jasmeet Seehra, (202) 395–3123.

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 Jasmeet Seehra, OMB Desk Officer via the Internet at *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–5167.

Dated: February 19, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–3682 Filed 2–23–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Survey of Non-Tariff Trade Barriers to the U.S. Environmental Industry

AGENCY: International Trade Administration.

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 26, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 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 Marc Lemmond, Office of Energy & Environmental Industries, (202) 482–3889, fax: (202) 482–5665, or *marc.lemmond@trade.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration's Office of Energy and Environmental Industries (OEEI) is the principal resource and key contact point within the U.S. Department of Commerce for American energy and environmental technology companies. The goal of OEEI is to facilitate and increase exports of energy and environmental technologies, goods and services by providing support and guidance to U.S. exporters. One aspect of increasing exports is to reduce trade barriers and non-tariff measures. OEEI works closely with the Office of the U.S. Trade Representative on trade negotiations and trade liberalization initiatives. The information collected by this survey will be used to support these projects and enable OEEI to maintain a current, up-to-date list of non-tariff measures that create trade barriers for U.S. exports of environmental goods and services.

II. Method of Collection

Electronic submission via *http://www.export.gov/envirotech*.

III. Data

OMB Control Number: 0625–0241.
Form Number: ITA–4150P.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 200.
Estimated Time Per Response: 10 minutes.
Estimated Total Annual Burden Hours: 33.
Estimated Total Annual Costs: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 19, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–3638 Filed 2–23–10; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–849

Certain Cut–to-Length Carbon Steel Plate From the People's Republic of China: Final Results of the 2007–2008 Administrative Review of the Antidumping Duty Order

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

SUMMARY: On August 10, 2009, the Department of Commerce ("Department") published *Certain Cut–to-Length Carbon Steel Plate From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 39921 (August 10, 2009) ("*Preliminary Results*"). The period of review ("POR") is November 1, 2007, through October 31, 2008. The administrative review covers one respondent, Hunan Valin Xiangtan Iron & Steel Co., Ltd. ("Valin Xiangtan").

We invited interested parties to comment on our *Preliminary Results*. Based on our analysis of the comments received, we made certain changes to our margin calculation for Valin Xiangtan. The final dumping margin for this review is listed in the "Final Results Margins" section below.

EFFECTIVE DATE: February 24, 2010.

FOR FURTHER INFORMATION CONTACT: Demitrios Kalogeropoulos or Trisha Tran, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2623 and (202) 482–4852, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2009, the Department published its *Preliminary Results* in the antidumping duty administrative review of certain cut–to-length carbon steel plate ("CTL plate") from the People's Republic of China ("PRC").

On August 8, 2009, Valin Xiangtan and domestic interested party, Nucor Corporation ("Nucor") submitted surrogate value information. On August 17, 2009 Valin Xiangtan submitted rebuttal comments for the surrogate value information submitted by Nucor. We received additional factual information regarding the implementation of export licenses on August 20, 2009, from Nucor and Valin Xiangtan. On September 2, 2009, we received the second supplemental Section D questionnaire response from Valin Xiangtan. On September 9, 2009, Nucor submitted a request for a formal hearing regarding issues raised in its case and rebuttal brief, and submitted a letter withdrawing the request for a hearing on October 16, 2009. Valin Xiangtan submitted its case brief and rebuttal brief on October 1, and October 13, 2009, respectively. Nucor submitted its case brief and rebuttal brief on October 1, and October 9, 2009, respectively. On October 9, 2009, Valin Xiangtan submitted comments regarding alleged new factual information in Nucor's case brief. On October 15, 2009, Nucor replied to the October 9, 2009, comments from Valin Xiangtan. On November 4, 2009, the Department drafted a Memo to the File stating that allegations of new factual information were unfounded. On November 20, 2009, the Department extended the deadline for the final results of review. *See Certain Cut–to-Length Carbon Steel Plate from the People's Republic of China: Notice of Extension of Time Limit for Final Results of Administrative Review*, 74 FR 60237 (November 20, 2009).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Memorandum from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, regarding, Certain Cut–to-Length Carbon Steel Plate From the

People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2007–2008 Administrative Review, dated concurrently with this notice ("Issues and Decision Memorandum"), which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room 1117, and is also accessible on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Period of Review

The POR is November 1, 2007, through October 31, 2008.

Scope of the Order

The products covered by the order are hot–rolled carbon steel universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain carbon steel flat–rolled products in straight lengths, of rectangular shape, hot–rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness as currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Included in the order are flat–rolled products of non–rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")--for example, products which have been beveled or rounded at the edges. Excluded from the subject merchandise within the scope of this order and these Agreements is grade X–70 plate. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order and the Agreements is dispositive.[1]

Changes Since the Preliminary Results

Based on an analysis of the comments received, the Department has made certain changes to the margin calculation for Valin Xiangtan. For the final results, the Department has made the following changes:

• We have revised the surrogate value for certain gas by–products. *See* Issues and Decisions Memorandum at Comment 5; *see also* Memorandum regarding, Factors Valuations for the Final Results of the 2007–2008 Administrative Review of the Antidumping Duty Order on Certain Cut–to-Length Carbon Steel Plate From the People's Republic of China, dated concurrently with this notice ("Final SV Memo").

• We have revised the surrogate value for dolomite in our margin calculation. *See* Issues and Decisions Memorandum at Comment 6; *see also* Final SV Memo.

• We have granted certain by–product offsets in our margin calculation. *See* Issues and Decisions Memorandum at Comment 10; *see also* Memorandum regarding, 2007–2008 Administrative Review of the Antidumping Duty Order on Certain Cut–to-Length Carbon Steel Plate From the People's Republic of China: Analysis of the Final Results Margin Calculation for Valin Xiangtan, dated concurrently with this notice ("Final Analysis Memorandum").

• We have fixed certain programming errors. *See* Issues and Decisions Memorandum at Comment 11; *see also* Final Analysis Memorandum.

• We have valued electrodes in our normal value calculation. *See* Issues and Decisions Memorandum at Comment 12; *see also* Final Analysis Memorandum.

Final Results Margin

We determine the weighted–average dumping margin for Valin Xiangtan for the period November 1, 2007, through October 31, 2008, to be 0.00 percent.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an ad valorem rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty–assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per–unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty–assessment rates calculated on this basis, we will direct CBP to assess the resulting per–unit rate against the entered quantity of the subject merchandise. Where an importer (or customer)-specific assessment rate is *de minimis (i.e.*, less than 0.50 percent), the Department will instruct CBP to liquidate that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2). We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC–wide entity at the estimated antidumping duty rate in effect at the time of entry. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication

[1] Inadvertently, the scope listed in the *Preliminary Results* included the following language: "{a}lso excluded from the order is certain carbon cut-to-length steel plate with a maximum thickness of 80 mm in steel grades BS 7191, 355 EM, and 355 EMZ, as amended by Sable Offshore Energy Project specification XB MOO Y 15 0001, types 1 and 2." This exclusion is not part of the scope, but was inadvertently included after a changed circumstances review on CTL plate from Finland, Germany, and the UK. *See Certain Cut-To-Length Carbon Steel Plate from Finland, Germany and the United Kingdom: Final Results of Changed Circumstances Antidumping Duty and Countervailing Duty Reviews, and Revocation of Orders in Part*, 64 FR 46343 (August 25, 1999). *See also Continuation of Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China and Continuation of Suspended Antidumping Duty Investigations on Certain Cut-to-Length Carbon Steel Plate from the Russian Federation and Ukraine*, 74 FR 57994 (November 10, 2009). Accordingly, this language is removed from the scope for these final results.

date, as provided for by section 751(a)(2)(C) of the Act: 1) for Valin Xiangtan, the cash deposit rate will be 0.00 percent, as listed above; 2) for previously investigated or reviewed PRC and non–PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter–specific rate published for the most recent period; 3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC–wide rate of 128.59 percent; and 4) for all non–PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non–PRC exporter. The deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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).

We are issuing and publishing the final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 16, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix I

Comment 1: Whether to Deny Valin Xiangtan a Separate Rate
Comment 2: Whether the Department's Separate Rate Test is Flawed
Comment 3: Whether to Collapse Valin Xiangtan with Other Producers
Comment 4: Selection of POR for SVs, ME purchases, and FOP data
Comment 5: Surrogate Value of Certain Gas By–Products
Comment 6: Valuation of Dolomite
Comment 7: Valuation of Ferric Oxide
Comment 8: Selection of Financial Statements

Comment 9: Treatment of Subsidized Countries in Import Statistics
Comment 10: Whether to Grant By–Product Offsets
Comment 11: Programming Errors - Distances

Comment 12: Valuing Electrodes

[FR Doc. 2010–3743 Filed 2–23–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XK26

Marine Mammals; File No. 13430

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that NMFS National Marine Mammal Laboratory, (Responsible Party: Dr. John Bengtson, Director), Seattle, WA, has been issued a permit to conduct research on marine mammals.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Kate Swails, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On September 8, 2008, notice was published in the **Federal Register** (73 FR 52027) that a request for a permit to conduct research on Pacific harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), and northern elephant seals (*Mirounga angustirostris*) within coastal waters and on pinniped rookeries and haul outs of Washington and Oregon had been submitted by the above-named applicant. On September 18, 2009, a notice was published in the **Federal Register** (74 FR 47918) announcing that the applicant had revised their request for a permit to include Eastern Distinct Population Segment Steller sea lions (*Eumetopias jubatus*) and Southern Resident killer whales (*Orcinus orca*). The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The permit is valid through January 31, 2015, for harassment of marine mammals during aerial, vessel, and ground surveys; capture of pinnipeds for collection of tissue samples, attachment of scientific instruments and application of marks (flipper tags, brands, etc.); and harassment of marine mammals during underwater playback experiments. The permit also allows for a limited number of research-related mortality of marine mammals.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment (EA) was prepared analyzing the effects of the permitted activities on the human environment. Based on the analyses in the EA, NMFS determined that issuance of the permit would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. That determination is documented in a Finding of No Significant Impact (FONSI), signed on February 16, 2010.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: February 18, 2010.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–3742 Filed 2–23–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XS88

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops; Correction

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

ACTION: Notice of public workshops; correction.

SUMMARY: Due to an unanticipated temporary closure of the Princess Bayside Hotel in Ocean City, MD, NMFS is changing the location of its March 24, 2010, Protected Species Safe Handling, Release, and Identification Workshop that was announced in the **Federal Register** on December 8, 2009. The locations of the remaining workshops in February and March 2010 remain unchanged. The Protected Species Safe Handling, Release, and Identification Workshops are mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and have also been issued shark or swordfish limited access permits. Additional free workshops will be held in 2010 and announced in the **Federal Register**.

DATES: The dates and times for the remaining Protected Species Safe Handling, Release and Identification Workshops in February and March 2010 have not been changed and will be held February 24, March 10, and March 24, 2010. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The remaining Protected Species Safe Handling, Release, and Identification workshops will be held in Boston, MA; Galveston, TX; and Ocean City, MD. See **SUPPLEMENTARY INFORMATION** for the corrected Ocean City, MD, workshop location.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson by phone:(727) 824–5399, or by fax: (727) 824–5398.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 8, 2009, in FR Doc. E9–29258, on page 64665, in the third column, correct the location of the sixth workshop listed under the heading "Workshop Dates, Times, and Locations" to read:

Workshop Dates, Times, and Locations

6. March 24, 2010, from 9 a.m. - 5 p.m., Princess Royal Hotel, 9100 Coastal Highway, Ocean City, MD 21842.

Atlantic Shark Identification Workshop

Since January 1, 2007, shark limited access and swordfish limited access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Protected Species Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for three years. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited access permits. Additionally, new shark and swordfish limited access permit applicants who intend to fish with longline or gillnet gear must attend a Protected Species Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 78 free Protected Species Safe Handling, Release, and Identification Workshops have been conducted since 2006.

At least one operator on vessels using longline or gillnet gear must be issued, and possess on board, a valid Protected Species Safe Handling, Release, and Identification Workshop certificate issued to that operator, in addition to having on board a valid workshop certificate issued to the vessel owner. Both vessel owner and operator certificates are valid for three years. As such, vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited access permits.

Registration

To register for a scheduled Protected Species Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 852–9137.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following items with them to the workshop:

Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification.

Representatives of a business owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification.

Vessel operators must bring proof of identification. Workshop Objectives

The protected species safe handling, release, and identification workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, and smalltooth sawfish. The proper identification of protected species will also be taught at these workshops in an effort to improve reporting. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species, which may prevent additional regulations on these fisheries in the future.

Dated: February 18, 2010.

Emily Menashes,

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

[FR Doc. 2010–3733 Filed 3–23–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XU53

Notice of Public Scoping Meetings for the Environmental Impact Statement on the Effects of Oil and Gas Activities in the Arctic Ocean

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

ACTION: Notice of public scoping meetings.

SUMMARY: NMFS will hold five public scoping meetings in March 2010 to

receive public comments on NMFS' intent to prepare an environmental impact statement (EIS) on the effects of oil and gas activities (e.g., seismic surveys and exploratory drilling) in the Arctic Ocean (U.S. Chukchi and Beaufort Seas).

DATES: The comment period for the scoping process is from February 8, 2010, through April 9, 2010. See SUPPLEMENTARY INFORMATION under the "Meeting Dates, Times, and Locations" heading for the dates and locations of the public scoping meetings.

ADDRESSES: The public has the opportunity to submit comments and statements regarding NMFS' intent to prepare this EIS using the following methods:

- Mail: P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910;
- Facsimile (fax) to: (301) 713–0376;
- E-mail to: *arcticeis.comments@noaa.gov*; or
- Public hearings: submit oral or written comments at public scoping meetings.

Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size. Information on this project can also be found on the Protected Resources webpage at: *http://www.nmfs.noaa.gov/pr/permits/eis/arctic.htm*.

FOR FURTHER INFORMATION CONTACT: Michael Payne, Office of Protected Resources, NMFS, (301) 713–2289 ext. 110.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 2010 (75 FR 6175), NMFS announced its intent to prepare an EIS on the effects of oil and gas activities in the U.S. Chukchi and Beaufort Seas. In that notice, NMFS announced that it would hold a total of eight public scoping meetings in February and March 2010. However, the February 8, 2010 (75 FR 6175), notice only provided dates, times, and locations for the first three meetings.

NMFS has scheduled additional public scoping meetings to be held in Wainwright, Barrow, Nuiqsut, Kaktovik, and Anchorage. The purposes of these meetings are to provide an opportunity for the public to learn about the proposed action, identify issues to be addressed in the EIS process, and to submit oral or written comments on this proposal.

Meeting Dates, Times, and Locations

The dates, times, and locations of the public scoping meetings are as follows:

(1) March 9, 2010, 7 - 9 p.m., Wainwright Community Center, Wainwright, Alaska;

(2) March 10, 2010, 7:30 - 9:30 p.m., Inupiat Heritage Center, Barrow, Alaska;

(3) March 11, 2010, 7 - 9 p.m., Nuiqsut Community Center, Nuiqsut, Alaska;

(4) March 12, 2010, 6:30 - 8:30 p.m., Kaktovik Community Center, Kaktovik, Alaska; and

(5) March 23, 2010, 7 - 9 p.m., Egan Center, 555 West Fifth Avenue, Anchorage, Alaska 99501.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or auxiliary aids should be directed to Sheyna Wisdom by telephone at (907) 261–6705 or by e-mail at *Sheyna_Wisdom@URSCorp.com* at least 7 days before the scheduled meeting date.

Dated: February 18, 2010.

Wanda L. Cain,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–3750 Filed 2–23–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XU10

Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Proposed Permit

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

ACTION: Notice; request for comments.

SUMMARY: NMFS proposes to issue a permit for a period of three years to authorize the incidental, but not intentional, taking of individuals from the Central North Pacific (CNP) stock of endangered humpback whales (*Megaptera novaeangliae*) by the Hawaii-based longline fisheries (deep-set and shallow-set). In accordance with the Marine Mammal Protection Act (MMPA), NMFS has made a preliminary determination that incidental taking from commercial fishing will have a negligible impact on CNP humpback whales; a recovery plan was completed in 1991; and vessels have been registered, a monitoring plan is in place, and a NMFS has insufficient funds to develop a Take Reduction Plan (TRP) at this time to address taking in these fisheries. Accordingly, NMFS proposes to issue the required permits to the Hawaii-based longline fisheries. NMFS solicits public comments on the negligible impact determination and on the proposal to issue this permit.

DATES: Comments must be received by March 26, 2010.

ADDRESSES: A draft of the negligible impact determination is available on the Internet at the following address: *http://fpir.noaa.gov/*. Written copies of the determination may be requested from, and comments on the determination and proposed permit should be sent to: Lisa Van Atta, Assistant Regional Administrator, Protected Resources Division, NMFS Pacific Islands Region, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814. Comments may also be sent by e-mail to: *MMPA.permit-PIR@noaa.gov* or by fax to (301) 427–2533. Comments received after the 30–day comment period may not be considered or made part of the record.

The recovery plan for humpback whales is available on the Internet at the following address: *http://www.nmfs.noaa.gov/pr/recovery/plans.htm#mammals*.

FOR FURTHER INFORMATION CONTACT: Lisa Van Atta, Assistant Regional Administrator, Protected Resources Division, Pacific Islands Region, (808) 944–2257 or Tom Eagle, Office of Protected Resources, (301) 713–2322, ext. 105.

SUPPLEMENTARY INFORMATION: NMFS is now considering the issuance of a permit under MMPA section 101(a)(5)(E) to vessels registered in the Hawaii-based longline fisheries (deep-set and shallow-set) to incidentally take individuals from the CNP stock of humpback whales (*Megaptera novaeangliae*), which are listed as endangered under the Endangered Species Act (ESA).

The Hawaii-based longline fisheries do not take other species or stocks of threatened or endangered marine mammals; therefore, no other species or stocks are considered for this proposed permit. The information available from the Hawaii-based deep-set longline fishery since 1994 indicates that there has never been incidental mortality or serious injury of CNP humpback whales; therefore, none is anticipated in the 3–year duration of the permit. Since 1994, there has been only one serious injury of a CNP humpback whale in the Hawaii-based shallow-set longline

fishery; that serious injury occurred in 2006. Consequently, the permit would authorize harassment and non-lethal injury of humpback whales incidental to the deep-set longline fishery. Permitted lethal (serious injury or mortality) taking of CNP humpback whales incidental to the Hawaii-based longline fisheries is limited to the shallow-set fishery.

The data for considering such an authorization were reviewed coincident with the publication of the 2010 List of Fisheries (LOF) (74 FR 58859, November 16, 2009), and the draft 2009 marine mammal stock assessment reports (SAR) (Allen and Angliss 2009). The taking of this stock of humpback whales occurs incidental to fisheries in Alaskan, as well as Hawaiian, waters. The current negligible impact determination includes taking in Alaska and Hawaii waters; however, this proposed permit is limited to the Hawaii-based longline fisheries. Alaska-based fisheries will be addressed in a future permit.

Statutory Background

Section 101(a)(5)(E) of the MMPA (16 U.S.C. 1371(a)(5)(E)) requires NMFS to authorize the incidental taking of individuals from marine mammal species or stocks listed as threatened or endangered under the ESA, as amended (16 U.S.C. 1531 *et seq.*) in the course of commercial fishing operations if NMFS determines that: (1) incidental mortality and serious injury will have a negligible impact on the affected species or stock; (2) a recovery plan has been developed or is being developed for such species or stock under the ESA; and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with section 118 of the MMPA, and a TRP has been developed or is being developed for such species or stock.

History of Applying Negligible Impact in Fisheries

Among the requirements of MMPA section 101(a)(5)(E) to issue a permit to take ESA-listed marine mammals incidental to commercial fishing, NMFS must determine whether the incidental taking from commercial fisheries would have a negligible impact on the affected stock or stocks of threatened or endangered marine mammals. A negligible impact determination is required pursuant to MMPA section 101(a)(5) (A) & (D) for authorizing the take of small numbers of any stock of marine mammals incidental to activities other than commercial fishing (termed the "Small Take Program") and under MMPA section 101(a)(5)(E) authorizing the take of threatened or endangered marine mammals incidental to commercial fishing operations.

Under the MMPA's provisions for the Small Take Program, NMFS must determine if the taking (by harassment, injury, and mortality) incidental to specified activities will have a negligible impact on the affected stocks of marine mammals. For permitting the take of threatened or endangered marine mammals incidental to fishing operations under the MMPA, NMFS must determine if mortality and serious injury incidental to commercial fisheries will have a negligible impact on the affected species or stocks of marine mammals.

NMFS has implemented these programs, including a qualitative definition of negligible impact, through regulations and has relied upon qualitative and quantitative approaches to determine the levels of taking that would result in a negligible impact to affected species or stocks of marine mammals. The quantitative approach is more appropriate for serious injury and mortality than for non-lethal takes because mortality and serious injury are considered removals from the population and can be evaluated by well-documented models of population dynamics.

The MMPA does not define "negligible impact." There is, however, a reference to negligible impact in the House of Representatives committee report for the MMPA Amendments of 1981. That report provides that, "'negligible' is intended to mean an impact which is able to be disregarded. In this regard, the committee notes that Webster's Dictionary defines the term "negligible" to mean "so small or unimportant or of so little consequence as to warrant little or no attention" (House of Representatives, Report 97–228, September 16, 1981). NMFS defined negligible impact in regulations for the Small Take Program (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."

This qualitative definition of negligible impact was the standard NMFS used to implement the Small Take Program from its beginning in 1981 through 1994, when additional amendments to the MMPA required a more quantitative approach for assessing what level of removals from a population stock of marine mammals could be considered a negligible impact. It remains the only formal definition of negligible impact for implementing the MMPA, and its use was expanded to include determinations related to incidental taking from commercial fishing (50 CFR 229.2).

The MMPA Amendments of 1994 were enacted primarily to establish a regime to govern the taking of marine mammals incidental to commercial fishing operations, including MMPA section 101(a)(5)(E). These amendments were based in large part on a legislative proposal NMFS submitted to Congress in 1992. This legislative proposal was, in turn, based on recommended guidelines, required by MMPA section 114, from the Marine Mammal Commission (Commission) in early 1990 (Recommended Guidelines to Govern the Incidental Taking of Marine Mammals in the Course of Commercial Fishing Operations after October 1993, transmitted to NMFS on July 12, 1990). In these guidelines, the Commission recommended, among five other characteristics of a mechanism to govern the take of threatened and endangered marine mammals incidental to fishing, " the authorized level of take would have a negligible effect on population size and recovery time..." The Commission provided initial quantitative guidance on negligible effect on population size and recovery time as the following: "an effect that (a) will not cause or contribute to a further decline in distribution or size lasting more than twelve months; and/or (b) will not cause greater than a 10 percent increase in the best available estimate of the time it will take the affected species or population to recover to its maximum net productivity level."

The Commission's two-part recommendation suggests that a take would be negligible if it had an effect lasting no more than 12 months (that is, one that would be so small that it could not be detected from natural variability or would be expected to be alleviated by the next breeding season) or would delay the period of recovery by no more than 10 percent. The first of these quantitative approaches is more appropriate for an activity that would have a relatively short duration relative to the life expectancy of the affected stocks of marine mammals and, in the case of commercial fishing, for the remote likelihood of serious injury or mortality indicated by classification as a Category III fishery. Where incidental mortality or serious injury may occur on a more regular basis, as expected for interactions with Category I or II commercial fisheries, the delay-in-recovery standard would be more appropriate.

NMFS has consistently used the Commission's delay-in-recovery guideline in distinguishing negligible from non-negligible impact. To apply this criterion, however, NMFS had to estimate what annual levels of removal would cause no more than a 10–percent delay in time to recovery. Such an effort was initiated at a NMFS-convened workshop (June 1994) to develop guidelines for preparing marine mammal stock assessment reports. Among the many items considered at that workshop, participants agreed that recovery factors (RF) used in the calculation of Potential Biological Removal (PBR) for each stock of marine mammals should compensate for uncertainty and possible unknown estimation errors. In discussing the recovery factor for stocks of endangered species of marine mammals, participants noted that a RF of 0.1 would preserve 90 percent of net annual production for recovery of the stock, limiting the proportion of net annual production of the stock available for authorization of mortality or serious injury incidental to human-caused mortality. Participants also stated that reserving such a high proportion of net annual production of endangered species was appropriate to " allow stocks to recover at near maximum rates, and to minimize the probability that naturally occurring stochastic mortality would result in extinction of the stock" (Barlow *et al.*, 1995 at 10). Workshop participants also noted, "authorized levels of human-related mortality should increase recovery time of endangered stocks by no more than 10 percent (consistent with the goal stated in NMFS legislative proposal)" (Barlow *et al.* 1995 at 11, 12). Consequently, participants at the workshop recommended, and NMFS accepted, after public review and comment, that mortality and serious injury remaining at or below PBR for an endangered stock (with 0.1 as the RF in the PBR calculation) would have an insignificant or negligible impact on the affected stock.

In applying the negligible impact criterion to determinations made initially under the MMPA Amendments of 1994, NMFS understood that total human-caused mortality and serious injury limited to a level no greater than a PBR calculated with RF of 0.1 would be negligible; however, MMPA section 101(a)(5)(E) required a determination related to the impact of mortality and serious injury incidental to commercial fishing rather than incidental to all human activities. Accordingly, NMFS proposed to use, and subsequently used, 10 percent of any stock's PBR as the upper limit of mortality and serious injury incidental to commercial fishing in making the first negligible impact determinations (60 FR 31666, June 16, 1995 (proposed) and 65 FR 45399, August 31, 1995 (interim)). A rationale supporting this approach was that a negligible (or insignificant) level of fishery-related mortality and serious injury should be only a small portion of the maximum level of mortality and serious injury a stock could sustain. NMFS noted that the threshold value was a starting point; that is, the criterion should not be used rigidly but should produce the first estimate, which, in turn, could be modified on a case-by-case basis according to existing information. Although 10 percent of PBR was used in 1995 in issuing permits to fisheries under MMPA section 101(a)(5)(E), NMFS later became concerned that 10 percent of PBR may result in a much smaller number than the 10–percent-delay criterion would require (Wade and Angliss, 1997).

Later, Wade (1998) summarized the robustness trials conducted in support of the PBR approach for marine mammal conservation, including an aspect that was missing from simulations conducted for the NMFS-convened workshop in 1994: exploring the maximum level of annual removals from a population that would result in no more than a 10 percent delay in the time a population would need for recovery to its Maximum Net Productivity Level (MNPL). Wade (1998) found that an upper limit of annual removals equal to the value of a PBR calculation with a RF of 0.15 would allow 95 percent of simulations to equilibrate at or above MNPL, which was an initial step in quantifying the maximum number of annual removals resulting in a negligible impact. However, in some applications the negligible impact standard must also address a performance criterion for marine mammal stocks that are not necessarily depleted. Wade (1998), therefore, reported that an upper limit of annual mortality limited to a value equal to a PBR calculation with a RF of 0.1 would allow 95 percent of simulations to equilibrate within 95 percent of the carrying capacity of the affected stock of marine mammals.

Wade's (1998) performance testing included removals to the threshold level for a period of 100 years and evaluated the robustness of each case over a range of bias or uncertainty in productivity rates, abundance estimation, and mortality estimation. Thus, the limits are appropriate for use on long-term average removals and do not indicate that a short-term level of removal exceeding the threshold would delay time to recovery by more than 10 percent.

In 1998, NMFS published a notice (63 FR 71894, December 30, 1998) advising the public that the agency was extending the 3–year permit issued to fisheries in 1995 to authorize the taking of threatened or endangered marine mammals. This notice also informed the public that NMFS considered the 6–month extension of the permit an opportunity to review existing criteria for the issuance of permits and to address issues that have arisen since the permits were first issued. NMFS solicited public comments to develop alternatives to 10 percent of PBR as a criterion for determining negligible impact; no comments were received.

Having received no comments upon which to develop alternatives for determining negligible impact, NMFS published a notice proposing to issue permits under MMPA section 101(a)(5)(E) in 1999 (64 FR 28800, May 27, 1999). The notice contained a statement that NMFS, through internal deliberation, had adopted the following criteria for making negligible impact determinations for such permits:

(1) The threshold for initial determination will remain at 0.1 PBR. If total human-related serious injuries and mortalities are less than 0.1 PBR, all fisheries may be permitted.

(2) If total human-related serious injuries and mortalities are greater than PBR, and fisheries-related mortality is less than 0.1 PBR, individual fisheries may be permitted if management measures are being taken to address non-fisheries-related serious injuries and mortalities. When fisheries-related serious injury and mortality is less than 10 percent of the total, the appropriate management action is to address components that account for the major portion of the total.

(3) If total fisheries-related serious injuries and mortalities are greater than 0.1 PBR and less than PBR and the population is stable or increasing, fisheries may be permitted subject to individual review and certainty of data. Although the PBR level has been set up as a conservative standard that will allow recovery of a stock, there are reasons for individually reviewing fisheries if serious injuries and mortalities are above the threshold level. First, increases in permitted serious injuries and mortalities should be carefully considered. Second, as serious injuries and mortalities approach the PBR level, uncertainties in elements such as population size,

reproductive rates, and fisheries-related mortalities become more important.

(4) If the population abundance of a stock is declining, the threshold level of 0.1 PBR will continue to be used. If a population is declining despite limitations on human-related serious injuries and mortalities below the PBR level, a more conservative criterion is warranted.

(5) If total fisheries-related serious injuries and mortalities are greater than PBR, permits may not be issued.

Criterion 1 is the starting point for analyses. If this criterion is satisfied, the analysis would be concluded. The remaining criteria describe alternatives under certain conditions, such as fishery mortality below the negligible threshold but other human-caused mortality above the threshold, or fishery and other human-caused mortality between the negligible threshold and PBR for a stock that is increasing or stable. If criterion 1 is not satisfied, NMFS may use one of the other criteria, as appropriate.

In 2000, NMFS issued a permit to the CA/OR drift gillnet fishery to authorize the taking of threatened and endangered marine mammals incidental to its operation (65 FR 64670, October 30, 2000). For that permit, as for the current permit, NMFS used the criteria adopted in 1999 to distinguish between negligible and non-negligible impact on affected stocks of marine mammals.

Description of the Fishery

The Hawaii-based longline fisheries consist of two separately-managed fisheries: the deep-set (tuna-target) fishery and the shallow-set (swordfish-target) fishery. Both fisheries are limited-access fisheries, with 164 permits that are transferable. The number of active vessels in the combined deep-set and shallow-set longline fishery peaked at 141 vessels in 1991. The number of vessels in the combined longline fisheries has since ranged from 101 to 127. In 2008, there were 127 Hawaii-based longline vessels were active in the deep-set fishery, and 27 vessels were active in the shallow-set fishery. The deep-set fishery operates year-round. Hawaii-based longline vessels vary their fishing grounds depending on their target species. Most effort is to the north and south of the Hawaiian Islands between the equator and 40° N and longitudes 140° and 180° W; however, the vast majority of deep-set fishing occurs south of 20° N.

Under Federal regulations, the fishery is generally restricted to waters outside of 50 nautical miles from the entire Northwestern Hawaiian islands (NWHI) because of protected species (Hawaiian monk seal, *Monachus schauinslandi*) interactions. Several 25–75 mile closed areas also exist around the main Hawaiian islands to prevent gear conflicts with smaller fishing vessels. Current regulations require 100 percent observer coverage for shallow swordfish sets and 20 percent observer coverage for deep tuna sets. There are fleet-wide annual limits on the number of allowable sea turtle interactions in the fisheries.

Current Negligible Impact Determination

NMFS evaluated the best available information in assessing the interactions between ESA-listed CNP humpback whales and the Hawaii-based longline fisheries (including observer data from 1994 to 2007), other fisheries (using primarily stranding and sightings data), and other sources of human-caused serious injury and mortality, in order to determine whether the incidental mortality and serious injury from all commercial fisheries is having a negligible impact on the stock. Allen and Angliss (2009) use an annual rate of increase of 7 percent for this stock and note this rate is considered conservative for the stock. Because the stock is increasing *despite annual human-caused mortality and serious injury exceeding 10 percent of PBR*, criterion 3 is the appropriate criterion for consideration. Thus, fishery-related mortality and serious injury would be considered negligible if such mortality, in combination with other human sources of mortality, does not exceed PBR, subject to individual review and certainty of data.

Commercial fisheries known to incidentally take humpback whales include longline fisheries, pot fisheries, known and unknown net fisheries, and purse seine fisheries in Alaska and Hawaii (Allen and Angliss (2009). The SAR did not include the serious injury of a humpback whale incidental to the Hawaii-based shallow-set longline fishery because the necessary information was not available to SAR authors when the draft was originally prepared in 2008). Since the initiation of the NMFS observer program in 1994, there have been no reported mortalities or serious injuries of CNP humpback whales in the Hawaii-based deep-set longline fishery. However, there was one serious injury of a CNP humpback whale in the Hawaii-based shallow-set longline fishery in 2006.

The SAR also did not include reports of entangled humpback whales observed in Hawaii. The gear entangling these whales did not originate in Hawaii; therefore, some of these entangled whales may have been included in reports from Alaska or may represent recreational, rather than commercial, fishing gear. For this analysis, NMFS has identified 9 entanglements from 2003 through 2007 that may be serious injuries (5–year mean is 1.8 whales).

Mean annual mortality and serious injury rate attributable to commercial fisheries over the 2003 - 2007 period is 5.4 whales per year (3.4 for the Alaska fisheries (Table 7 in the accompanying negligible impact analysis); 0.0 for the Hawaii-based deep-set longline fishery; 0.2 for the Hawaii-based shallow-set longline fishery (Forney, 2009), and 1.8 serious injuries reported in HI-observed entanglements (26.5 percent of the stock's PBR). The recently authorized removal of the set certificate program, which could allow for the expansion of the shallow-set fishery that primarily targets swordfish, may increase serious injury or mortality of humpback whales; however, an exposure analysis indicated that the expanded fishery is not likely to lethally take more than one humpback whale per year.

The total of mortality and serious injury of CNP humpback whales incidental to commercial fishing operations is estimated to be 5.4 whales per year from 2003–2007. This minimum estimate is greater than 10 percent of the calculated PBR for the CNP stock and less than the stock's PBR (20.4). Vessel strikes (1.6 whales per year) and entanglement in recreational fishing gear (0.2 whales per year) have been reported as additional human-caused mortality and serious injury for this stock of humpback whales. Total human-caused mortality and serious injury are less than the stock's PBR and are not expected to delay recovery of the stock by more than 10 percent more than recovery time if these removals did not occur. A more detailed description of this negligible impact determination is available on the Internet; written copies are also available upon request (see **ADDRESSES**).

Current Permit

Based on the above assessment, NMFS concludes that the incidental mortality and serious injury from commercial fishing would have a negligible impact on the CNP stock of humpback whales. The impacts on the human environment of continuing and modifying the shallow-set longline fishery, including the taking of threatened and endangered species of marine mammals, were analyzed in a draft Supplemental Environmental Impact Statement prepared by the Western Pacific Fishery Management Council (WPFMC 2008) pursuant to the

National Environmental Policy Act (NEPA) (42 U.S.C. 4231 *et seq.*) and in a biological opinion prepared pursuant to the ESA in October 2009 on this modification. The proposed permit would have no additional impact to the human environment or effects on threatened or endangered species beyond those analyzed in these documents. NMFS now reviews the remaining requirements to issue a permit to take CNP humpback whales incidental to the Hawaii-based longline fisheries.

Recovery Plan. The recovery plan for humpback whales was completed and in place in 1991. This plan has guided ESA recovery efforts for humpback whales globally since that time. Accordingly, the requirement to have a recovery plan in place or being developed is satisfied.

Vessel Registration. MMPA section 118(c)(5)(A) provides that registration of vessels in fisheries should, after appropriate consultations, be integrated and coordinated to the maximum extent feasible with existing fisher licenses, registrations, and related programs. Participants in the Hawaii-based longline fisheries are required to hold a permit under 50 CFR 665.21. The MMPA registration program has been integrated in this permitting system for the Hawaii-based longline fisheries. Accordingly, vessels in the fisheries are registered in accordance with MMPA section 118.

Monitoring Program. As noted above, the Hawaii-based longline fisheries have been observed since the early 1990s. Current levels of observer coverage in the deep-set fishery (20 percent or higher) are adequate to produce reliable estimates; mandatory observer coverage in the shallow-set fishery is 100%. Accordingly, as required by MMPA section 118, a monitoring program is in place.

Take Reduction Plan (TRP). Subject to available funding, MMPA section 118 requires a TRP in cases where a strategic stock interacts with a Category I or II fishery. The CNP stock of humpback whales is considered a strategic stock under the MMPA because humpback whales are listed under the ESA. This strategic stock interacts with the Category I and II Hawaii-based longline fisheries. Currently, there is no TRP for the CNP stock of humpback whales. The short- and long-term goals of a TRP are to reduce mortality and serious injury of marine mammals incidental to commercial fishing. However, the obligations to develop and implement a TRP are subject to the availability of funding. MMPA section 118(f)(3) (16 U.S.C. 1387(f)(3)) contains specific priorities for developing TRPs.

NMFS has insufficient funding available to simultaneously develop and implement a TRP for all stocks that interact with Category I or Category II fisheries. Most recently in March of 2009, NMFS considered multiple quantitative and qualitative factors to indentify its priorities for establishing take reduction teams (TRTs) and collecting data. As provided in MMPA section 118(f)(6)(A) and (f)(7), NMFS used the most recent stock assessment reports (SARs) and List of Fisheries (LOF) as the basis to determine its priorities for establishing TRTs and developing TRPs. Through this evaluative process, the CNP stock of humpback whale was rated as "low" priority for establishing a TRT. Indeed, observer reports since 1994 indicate that there have been zero serious injuries or mortalities of a CNP humpback whale in the Hawaii-based deep-set longline fishery, and only one serious injury (and no mortalities) of a CNP humpback whale in the Hawaii-based shallow-set longline fishery. Accordingly, given these factors and NMFS' prioritization process, a TRP will be deferred under section 118 as other stocks have a higher priority for any available funding for establishing new TRPs .

As noted in the summary above, all of the requirements to issue a permit to the Hawaii-based longline fisheries have been satisfied. Accordingly, NMFS proposes to issue a permit to the Hawaii-based deep- and shallow-set longline fisheries for the taking CNP humpback whales incidental to the fisheries' operations. Taking of these whales in the deep-set fishery would be limited to non-lethal taking only (harassment and injury). Taking of these whales in the shallow-set fishery would include non-lethal taking and up to one lethal (serious injury or mortality) take per year in the shallow-set fishery. NMFS solicits public comments on the proposed permit and the preliminary determinations supporting the permit.

References

Allen, B.M. and R.P. Angliss, R.P. 2009. Draft Alaska Marine Mammal Stock Assessments, 2009. U.S. Department of Commerce, National Marine Fisheries Service, Alaska Fisheries Science Center.

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Carretta, J.V., K.A. Forney, Lowry, M.S., Barlow, J., Baker, J., Johnston, D., Hanson, B., Brownell Jr., R.L., Robbins, J., Mattila, D.K., Ralls, K., Muto, M.M.,Lynch, D., and L. Carswell. 2009. Draft U.S. Pacific Marine Mammal Stock Assessments: 2009. Department of Commerce, National Marine Fisheries Service, Southwest Fisheries Science Center.

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Wade, P. R. 1998. Calculating limits to the allowable human-caused mortality of cetaceans and pinnipeds. Mar. Mamm. Sci., 14(1): 1–37.

Wade, P.R. and R. P. Angliss. 1997. Guidelines for assessing marine mammal stocks: report of the GAMMS workshop, April 3–5, 1996, Seattle, Washington. NOAA-TM-NMFS-OPR–12.

Western Pacific Regional Fishery Management Council (WPFMC), 2008. Management Modifications for theHawaii-based Shallow-set Longline Swordfish Fishery: Proposal to Remove Effort Limit, Eliminate Set Certificate Program, and Implement New Sea Turtle Interaction Caps. Draft Amendment 18 to the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region Including a Draft Supplemental Environmental Impact Statement. August 12, 2008.

Dated: February 19, 2010.

Helen M. Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–3746 Filed 2–23–10; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, February 24, 2010, 2 p.m.–4 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Weekly/Monthly Report—Commission Briefing

The staff will brief the Commission on various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814. (301) 504–7923.

Dated: February 16, 2010.

Todd A. Stevenson,

Secretary.

[FR Doc. 2010–3515 Filed 2–23–10; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Acquisition University (DAU) Board of Visitors (BoV) Meeting

AGENCY: Defense Acquisition University, DoD.

ACTION: Meeting notice.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at DAU Headquarters at Fort Belvoir, Virginia. The purpose of this meeting is to report back to the BoV on continuing items of interest.

DATES: The meeting will be held on February 24, 2010, from 1100 to 1300.

ADDRESSES: The meeting will be held at 9820 Belvoir Road, Fort Belvoir, Virginia 22060.

FOR FURTHER INFORMATION CONTACT: Ms. Christen Goulding at 703–805–5134.

SUPPLEMENTARY INFORMATION: Due to the inclement weather in Washington, DC, the Government was unable to process the **Federal Register** notice for the Defense Acquisition University Board of Visitors' February 24, 2010, meeting as required by 41 CFR 102–3.150(a). Accordingly, the Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should contact Ms. Christen Goulding (see **FOR FURTHER INFORMATION CONTACT**).

Dated: February 16, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–3378 Filed 2–23–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Transformation Advisory Group; Closed Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of advisory committee closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C. App 2, Section 1), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.150, the Department of Defense announces that the Transformation Advisory Group will hold a closed meeting on March 11, 2010.

DATES: The meeting will be held on March 11, 2010, from 8 a.m. to 3:45 p.m.

ADDRESSES: The meeting will be held at the Admiral Gooding Center, Washington Navy Yard, 1244 Patterson Avenue, SE., Washington, DC 20374.

FOR FURTHER INFORMATION CONTACT: Mr. Steven D. Behel, Designated Federal Officer, (757) 836–5365, 1562 Mitscher Ave., Suite 200, Norfolk, VA 23551–2488, *steven.behel@jfcom.mil* or Mr. Floyd March, Joint Staff, (703) 697–0610.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

The purpose of the meeting is to inform a strategic concept that links ends, ways, and means in a manner that will allow the US military to operate effectively in a future operating environment that is potentially resource constrained.

Agenda

Meeting topics include: Joint Operating Environment, Quadrennial Defense Review, and challenges related to a resourced-constrained future operating environment.

Meeting Accessibility

Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, LTG Keith M. Huber, Deputy Commander, U.S. Joint Forces Command in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, U.S.C.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Transformation Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Transformation Advisory Group's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

Written statements that do not pertain to a scheduled meeting of the Transformation Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than 14 business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

Dated: February 16, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–3668 Filed 2–23–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Military Leadership Diversity Commission (MLDC); Meetings

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Military Leadership Diversity Commission (MLDC) will meet March 16 to 18, 2010. Subject to the availability of space, the March 17 and 18 meetings are open to the public. The March 16 meeting is closed to the public.

DATES: The meetings will be held: March 16, 2010, from 7 p.m. to 9 p.m. (closed Administrative Working Meeting); March 17, 2010, from 8 a.m. to 5:30 p.m. (open); and March 18, 2010, from 8 a.m. to 4:45 p.m. (open).

ADDRESSES: The meetings will be held at the Sheraton Hotel, 173 Jennifer Rd, Annapolis, MD 21401.

FOR FURTHER INFORMATION CONTACT: Master Chief Steven A. Hady, Designated Federal Officer, MLDC, at (703) 602–0838, 1851 South Bell Street, Suite 532, Arlington, VA. E-mail: *steven.hady@wso.whs.mil.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the commissioners of the MLDC to continue their efforts to address congressional concerns as outlined in the commission charter.

Agenda

March 16, 2010 Administrative Working Meeting (closed to the public)

7 p.m.–9 p.m.
- DFO opens meeting
- Discussion led by DFO on commission process management
- DFO adjourns the meeting

March 17, 2010 (open to the public)

8 a.m.–12 p.m.
- DFO opens the meeting
- Commission Chairman opening remarks
- Dr. Martha Farnsworth Riche and Dr. Amanda Kraus, CNA, brief the dimensions of diversity and their operational impacts
- Open discussion on career development: diversity leadership and training
- Open Discussion on career development: branching and assignments

12 p.m.
- DFO recesses the meeting

1:30 p.m.–5:30 p.m.
- DFO opens meeting
- Open discussion on legal implications of diversity management
- General James T. Conway, Commandant of the Marine Corps, addresses the MLDC
- Open discussion on promotion
- Open discussion on retention
- Commission Chairman closing remarks
- DFO adjourns the meeting

March 18, 2010 (open to the public)

8 a.m.–11:30 a.m.
- DFO opens the meeting
- Commission Chairman opening remarks
- Mr. Claiborne D. Haughton, Former Acting Deputy Assistant Secretary of Defense for Equal Opportunity, SES–4, addresses the MLDC
- Briefings from the Office of the Secretary of Defense (OSD) and Service representatives from organizations responsible for implementation and accountability

11:30 a.m.
- DFO recesses the meeting

12:30 p.m.—4:45 p.m.
- DFO opens meeting
- Briefings from OSD and Service representatives from organizations responsible for implementation and accountability (continued)
- Commission Chairman closing remarks
- DFO adjourns the meeting

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, the meetings on March 17 and 18, 2010, will be open to the public.

However, pursuant to 41 CFR 3.160(b), the Administrative Working Meeting on March 16, 2010, shall be closed to the public.

Please note that the availability of seating is on a first-come basis.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the MLDC about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the Commission.

All written statements shall be submitted to the Designated Federal Officer for the MLDC, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) at least five calendar days prior the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the MLDC until its next meeting.

The Designated Federal Officer will review all timely submissions with the MLDC Chairperson and ensure they are provided to all members of the Commission before the meeting that is the subject of this notice.

Dated: February 18, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–3666 Filed 2–23–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0018]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Defense Manpower Data Center, DoD.

ACTION: Notice of a computer matching program.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a) requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The DoD, as the matching agency under the Privacy Act is hereby giving notice to the record subjects of a computer matching program between the Department of Veterans Affairs (VA) and DoD that their records are being matched by computer. The purpose of this agreement is to verify an individual's eligibility for receipt of benefits under programs administered by the Veterans Benefits Administration.

DATES: This proposed action will become effective March 26, 2010 and matching may commence unless changes to the matching program are required due to public comments or by Congressional or by Office of Management and Budget objections. Public comments must be received before March 26, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel P. Jenkins at telephone (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the Defense Manpower Data Center (DMDC) and VA have concluded an agreement to conduct a computer matching program between the agencies. The purpose of this agreement is to verify an individual's eligibility for receipt of benefits under programs administered by the Veterans Benefits Administration.

The parties to this agreement have determined that a computer matching program is the most efficient, expeditious, and effective means of obtaining the information needed by the VA to identify individuals that have not separated from military service and/or confirm elements of military service relevant to the adjudication of VA benefits. If this identification is not accomplished by computer matching, but is done manually, the cost would be prohibitive and it is possible that not all individuals would be identified.

A copy of the computer matching agreement between VA and DMDC is available upon request to the public. Requests should be submitted to the Director, Defense Privacy Office, 1901 South Bell Street, Suite 920, Arlington, VA 22202–4512 or to the Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published in the **Federal Register** at 54 FR 25818 on June 19, 1989.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on February 12, 2010, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records about Individuals," February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: February 18, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Notice of a Computer Matching Program Between the Office of the Inspector General, the Department of Veterans Affairs and the Department of Defense for Verification of Eligibility

A. *Participating Agencies:* Participants in this computer matching program are the Office of the Inspector General of the Department of Veterans Affairs (VA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The VA is the source agency, *i.e.,* the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, *i.e.,* the agency that actually performs the computer matching.

B. *Purpose of the Match:* The purpose of this agreement is to verify an individual's eligibility for receipt of benefits under programs administered by the Veterans Benefits Administration.

VA, as the source agency, will provide DMDC with two electronic files, the C&P and VADS files. The C&P file contains names of veterans, SSNs, and compensation and pension records. The VADS file contains names of veterans, SSNs, and DD214 data. Upon receipt of the electronic files, DMDC will perform a match using the SSNs in the VA C&P file and the VADS file against the DMDC Active Duty Transaction, Reserve Transaction, and Reserve Master files. DMDC will provide VA OIG an electronic listing of VA C&P and VADS records for which there is no matching record from any of the three DMDC files, and an electronic listing of records that contain data that are inconsistent with data contained in the VA C&P or VADS files. VA OIG is responsible for verifying and determining that the data on the DMDC electronic reply file are consistent with the VA source file and for resolving any discrepancies or inconsistencies on an individual basis.

C. *Authority for Conducting the Match:* The authority for VA to conduct this match is 5 U.S.C. App. 3, the Inspector General Act of 1978 (IG Act). The IG Act authorizes the VA OIG to conduct audits and investigations relating to the programs and operations of VA. IG Act, section 2. In addition, section 4 of the IG Act provides that the IG will conduct activities designed to promote economy and efficiency and to prevent and detect fraud and abuse in VA's programs and operations.

D. *Records to be Matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

VA will use personal data from the following Privacy Act record system for the match: Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA, 58VA21/22/28, published at 74 FR 29275 on June 19, 2009.

DoD will use personal data from the following Privacy Act record system for the match: Defense Manpower Data Center Data Base—DMDC 01, published in the **Federal Register** at 74 FR 39666 on August 7, 2009.

E. *Description of Computer Matching Program:* VA, as the source agency, will provide DMDC with two electronic files, the C&P and VADS files. The C&P file contains names of veterans, SSNs, and compensation and pension records. The VADS file contains names of veterans, SSNs, and DD214 data. Upon receipt of the electronic files, DMDC will perform a match using the SSNs in the VA C&P file and the VADS file against the DMDC Active Duty Transaction, Reserve Transaction, and Reserve Master files. DMDC will provide VA OIG an electronic listing of VA C&P and VADS records for which there is no matching record from any of the three DMDC files, and an electronic listing of records that contain data that are inconsistent with data contained in the VA C&P or VADS files. VA OIG is responsible for verifying and determining that the data on the DMDC electronic reply file are consistent with the VA source file and for resolving any discrepancies or inconsistencies on an individual basis.

The VADS file provided by VA contains approximately 308,000 records per year that include data elements showing veteran's name, SSN, VA claim number, Date of Birth, Date of Discharge, and Character of Service.

The C&P file provided by VA contains approximately 3.6 million records per year that includes data elements showing veteran's stub name, SSN, Date of Birth, Date of Discharge, Entitlement Code, File Number, Combined Degree of Disability, Station Number/Regional Office Number, Suspense Segment Indicator, Address Line 1, Branch of Service, Additional Service Indicator, Net Award Amount, and Net Award Date.

The Active Duty Transaction file provided by DMDC contains approximately 2.7 million records per year historically dating from 1971 to the present. This file includes data elements showing service member's name, SSN, Date of Birth, Separation Program

Designator, Interservice Separation code, Date of Separation, and Branch of Service.

The Reserve Transaction file provided by DMDC contains approximately 1.5 million records per year historically dating from 1977 to the present. This file includes data elements showing reserve service member's name, SSN, Date of Birth, Separation Program Designator, Interservice Separation code, Date of Separation, and Branch of Service.

The Reserve Master file provided by DMDC contains approximately 1.3 million records per year historically dating from 1977 to the present. This file does not include character of service. However, a match on this file may indicate that the Reserve service member spent time on active duty while a member of the Reserve Forces.

F. *Inclusive Dates of the Matching Program:* This computer matching program is subject to public comment and review by Congress and the Office of Management and Budget. If the mandatory 30 day period for comment has expired and no comments are received and if no objections are raised by either Congress or the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program becomes effective and the respective agencies may begin the exchange at a mutually agreeable time and thereafter on a quarterly basis. By agreement between VA and DMDC, the matching program will be in effect for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *For Questions, Contact:* Director, Defense Privacy Office, 1901 South Bell Street, Suite 920, Arlington, VA 22202–4512. Telephone (703) 607–2943.

[FR Doc. 2010–3664 Filed 2–23–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. U.S. Patent Application Number 12/606,218 filed on October 27, 2009, Navy Case Number 96899 entitled "Oxygen monitor"; U.S. Patent Application Number 11/482,303 filed on July 11, 2006, Navy Case Number 97495 entitled "Hoisting harness assembly tool"; U.S. Patent Application Number 12/432,019 filed on April 29, 2009, Navy Case Number PAX06 entitled "Method for producing Nanoparticles"; U.S. Patent Application Number 12/471,607 filed on May 26, 2009, Navy Case Number PAX11 entitled "Embedded ground proximity warning system for helicopters"; U.S. Patent Application Number 12/469,197 filed on May 20, 2009, Navy Case Number PAX14 entitled "Fast rope"; U.S. Patent Application Number 12/433,142 filed on April 30, 2009, Navy Case Number PAX21 entitled "Improved aircraft pod store separation characteristics"; U.S. Patent Application Number 12/639,476 filed on December 16, 2009, Navy Case Number PAX42 entitled "Siloxane solvent compositions"; U.S. Patent Number 7,380,467 entitled "Bond integrity tool" issued on June 3, 2008; U.S. Patent Number 7,494,670 entitled "Composition and process for removing and preventing mildew and fungal growth" issued on February 24, 2009; U.S. Patent Number 7,523,876 entitled "Adjustable liquid atomization nozzle" issued on April 28, 2009; U.S. Patent Number 7,524,516 entitled "Corrosion inhibiting mildew remover kit" issued on April 28, 2009; U.S. Patent Number 7,548,801 entitled "Just in time wiring information system" issued on June 16, 2009; U.S. Patent Number 7,564,455 entitled "Global visualization process for personal computer platforms (GVP+)" issued on July 21, 2009; U.S. Patent Number 7,568,418 entitled "Radically compressive rope assembly" issued on August 4, 2009; U.S. Patent Number 7,606,411 entitled "Robotic gesture recognition system" issued on October 20, 2009; U.S. Patent Number 7,606,642 entitled "Just in time wiring information system" issued on October 20, 2009; U.S. Patent Number 7,618,580 entitled "Method for fabrication of a polymeric conductive optical transparency" issued on November 17, 2009; U.S. Patent Number 7,626,398 entitled "Systems for isolating faults between electrical equipment" issued on December 1, 2009; U.S. Patent Number 7,629,004 entitled "Composition and process for removing and preventing mildew and fungal growth" issued on December 8, 2009.

ADDRESSES: Requests for data and inventor interviews should be directed to Mr. Paul Fritz, Naval Air Warfare Center Aircraft Division, Business and Partnership Office, Office of Research and Technology Applications, Building 505, 22473 Millstone Road, Patuxent River, MD 20670, 301–342–5586 or e-mail *Paul.Fritz@navy.mil.*

DATES: Requests for data, samples, and inventor interviews should be made prior to June 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Fritz, Office of Research and Technology Applications, Building 505, Naval Air Warfare Center Aircraft Division, 22473 Millstone Road, Patuxent River, MD 20670, 301–342–5586, *Paul.Fritz@navy.mil.*

SUPPLEMENTAL INFORMATION: The U.S. Navy intends to move expeditiously to license these inventions. All licensing application packages and commercialization plans must be returned to Naval Air Warfare Center Aircraft Division, Business and Partnership Office, Office of Research and Technology Applications, Building 505, 22473 Millstone Road, Patuxent River, MD 20670.

The Navy, in its decisions concerning the granting of licenses, will give special consideration to existing licensees, small business firms, and consortia involving small business firms. The Navy intends to ensure that its licensed inventions are broadly commercialized throughout the United States.

PCT application may be filed for each of the patents as noted above. The Navy intends that licensees interested in a license in territories outside of the United States will assume foreign prosecution and pay the cost of such prosecution.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: February 16, 2010.

A.M. Vallandingam,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2010–3660 Filed 2–23–10; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2010–0005]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Air Force proposes to alter a system of records to its inventory of record

systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on March 26, 2010, unless comments are received that 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: Mr. Ben Swilley at (703) 696–6172.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records 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 proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 1, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: February 16, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F044 AETC A

SYSTEM NAME:

Drug Abuse Control Case Files (June 11, 1997; 62 FR 31793).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Personnel Psychological Assessment (PPA), Building 5725, Room 279, 319th Training Squadron, 1550 Wurtsmith Street, Lackland Air Force Base, TX 78236–5605."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Air Force Active Duty enlisted personnel, Air National Guard and Reserve personnel referred to the drug abuse office."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name and Social Security Number (SSN); and various letters describing drug abuse information, such as notification of disposition, recommendation for disposition, and drug abuse determination of urinalysis cases."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "42 U.S.C. 290dd–2, Confidentiality of Records; Department of Defense Directive 1010.4, Drug and Alcohol Abuse by DoD Personnel; 10 U.S.C. 8013, Secretary of the Air Force; Air Force Instruction 36–3208, Administration Separation of Airman; and E.O. 9397 (SSN), as amended."

PURPOSE(S):

Delete entry and replace with "To enable the discharge authority, Personnel Psychological Assessment (PPA) psychologist and squadron commanders to determine an individual's extent of any prior drug abuse and make determinations of discharge or retention in the Air Force."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, 319th Training Squadron, 1550 Wurtsmith Street, Suite 1, Lackland Air Force Base, TX 78236–5605."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Commander, 319th Training Squadron, 1550 Wurtsmith Street, Suite 1, Lackland Air Force Base, TX 78236–5605.

For verification purposes, individual should provide their full name, Social Security Number (SSN), any details, which may assist in locating records, and their signature. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).

If executed within the United States, its territories, possessions, or commonwealths:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Commander, 319th Training Squadron, 1550 Wurtsmith Street, Suite 1, Lackland Air Force Base, TX 78236–5605.

For verification purposes, individual should provide their full name, Social Security Number (SSN), any details, which may assist in locating records, and their signature. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United State of America that the foregoing is true and correct. Executed on (date). (Signature).

If executed within the United States, its territories, possessions, or commonwealths:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

* * * * *

F044 AETC A

SYSTEM NAME:

Drug Abuse Control Case Files.

SYSTEM LOCATION:

Personnel Psychological Assessment (PPA), Building 5725, Room 279, 319th Training Squadron, 1550 Wurtsmith Street, Lackland Air Force Base, TX 78236–5605.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Active Duty enlisted personnel, Air National Guard and Reserve personnel referred to the drug abuse office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and Social Security Number (SSN); and various letters describing drug abuse information, such as notification of disposition,

recommendation for disposition, and drug abuse determination of urinalysis cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 290dd–2, Confidentiality of Records; Department of Defense Directive 1010.4, Drug and Alcohol Abuse by DoD Personnel; 10 U.S.C. 8013, Secretary of the Air Force; Air Force Instruction 36–3208, Administration Separation of Airman; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To enable the discharge authority, Personnel Psychological Assessment (PPA) psychologist and squadron commanders to determine an individual's extent of prior drug abuse and make determinations of discharge or retention in the Air Force.

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 contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system, except as stipulated in the 'Note' below.

Note: Records in this system which reveal the identity, diagnosis, prognosis, or treatment of any patient or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in 42 U.S.C. 290dd–2, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under 42 U.S.C. 290dd–2, Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse, family advocacy, AIDS, or sickle cell prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by individuals responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Records are retained in office files for one year after annual cutoff, and then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, 319th Training Squadron, 1550 Wurtsmith Street, Suite 1, Lackland Air Force Base, TX 78236–5605.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Commander, 319th Training Squadron, 1550 Wurtsmith Street, Suite 1, Lackland Air Force Base, TX 78236–5605.

For verification purposes, individual should provide their full name, Social Security Number (SSN), any details, which may assist in locating records, and their signature. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).

If executed within the United States, its territories, possessions, or commonwealths:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Commander, 319th Training Squadron, 1550 Wurtsmith Street, Suite 1, Lackland Air Force Base, TX 78236–5605.

For verification purposes, individual should provide their full name, Social Security Number (SSN), any details, which may assist in locating records, and their signature. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).

If executed within the United States, its territories, possessions, or commonwealths:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from squadron commanders, base surgeons, classification interviewers, medical institutions and from source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–3669 Filed 2–23–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request; Correction

AGENCY: Department of Education.

ACTION: Notice; correction.

SUMMARY: On February 18, 2010, the Department of Education published a 30-day comment period notice in the **Federal Register** (Page 7264, Column 3) seeking public comment for an information collection entitled, "Application for Grants under the Predominately Black Institutions Program". This notice is hereby cancelled. Interested persons are invited to submit comments during the 60-day public comment period on or before March 8, 2010. Once the 60-day comment period ends, a 30-day public comment period notice will be published. The Acting Director, Information Collection Clearance Division, Regulatory Information

Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: February 18, 2010.

James Hyler,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

[FR Doc. 2010–3689 Filed 2–23–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information; Erma Byrd Scholarship Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2010

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116E.

Dates:

Applications Available: February 24, 2010.

Deadline for Transmittal of Applications: March 26, 2010.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Erma Byrd Scholarship Program provides scholarships to individuals pursuing a course of study that will lead to a career in industrial health and safety occupations, including mine safety. This program is designed to increase the skilled workforce in these fields at both the fundamental skills level and the advanced skills level. The program has a service obligation component, which requires recipients of the scholarship to begin employment in a career position related to industrial health and safety no later than six months after completion of the degree program, and to continue to work in a career position related to industrial health and safety, including mine safety, for a period of one year.

The scholarships are available to students in the following eligible areas of study related to industrial health and safety: Mining and mineral engineering, industrial engineering, occupational safety and health technology/technician, quality control technology/technician, industrial safety technology/technician, hazardous materials information systems technology/technician, mining technology/technician, and occupational health and industrial hygiene.

Program Authority: For Federal fiscal year 2010, the Erma Byrd Scholarship Program is established by division D, title III of the Consolidated Appropriations Act, 2010, Public Law 111–117.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds for New Awards: $833,750.

Estimated Average Size of Awards: $2,500 (associate's degree student); $5,000 (bachelor's degree student); $10,000 (graduate degree student).

Estimated Number of Awards: 120. The number of scholarships awarded will be allocated between undergraduate students and graduate students in the same proportion as the number of fundable applications received from those groups of students, taking into account the size of the awards to be made to students in those groups.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information and Program Requirements

1. *Eligible Applicants:* Individuals who, at the time of application, are: (1) Enrolled or planning to enroll in an associate's, bachelor's, or graduate degree program at an accredited U.S. institution of higher education; (2) within two years of completing a degree in an eligible field of study under the Erma Byrd Scholarship Program; (3) a citizen, national, or permanent resident of the United States; and (4) eligible to receive Federal grants, loans, or work assistance pursuant to section 484 of the Higher Education Act of 1965, as amended (HEA).

2. *Program Requirements:*

(a) *Satisfactory academic progress.* Scholarship recipients must maintain satisfactory academic progress in accordance with 34 CFR 668.34 throughout the period of funding; additionally, they must submit a Student Activities Report to the Secretary at the end of each year of funding, with a certification from an authorized representative of the institution that the student is maintaining satisfactory academic progress. If an Erma Byrd Scholarship recipient does not maintain satisfactory academic progress throughout the period of funding or does not submit a Student Activities Report to the Secretary at the end of each year of funding, the recipient is not eligible for any additional funding and must repay the scholarship amount as a Direct Unsubsidized Student Loan with all the associated repayment conditions, including interest charges and fees as provided under title IV, part D of the HEA.

(b) *Service obligation.* Scholarship recipients must be employed in a career position related to industrial health and safety, including mine safety, for a period of one year following the completion of their degree program. Scholarship recipients must begin such employment no more than six months after the completion of their degree program. A scholarship recipient must submit a verification of employment report to the Secretary no more than six months immediately after completion of his or her degree program, reporting on post-graduation activities, including changes in their permanent address, e-mail, phone number, and employment status. Additionally, scholarship recipients must submit a final employment report to the Secretary at the end of the one-year service obligation period.

If an Erma Byrd Scholarship recipient does not fulfill the complete service obligation within eighteen months after completion of his or her degree program, the scholarship amount must be repaid as a Direct Unsubsidized Student Loan with all the associated repayment conditions, including interest charges and fees as provided under title IV, part D of the HEA.

3. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

4. *Applicability of Rulemaking Requirements.* Under the Administrative Procedure Act (APA) (5 U.S.C. 553) and section 437 of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1), the Department generally offers interested parties the opportunity to comment on proposed eligibility and other program requirements. Division D, title III of the Consolidated Appropriations Act, 2010, Public Law 111–117 provides, however, that the provisions of section 553 of the APA and section 437 of GEPA do not apply to this program.

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet or from the Department. To obtain a copy via the Internet, use the following address for the Erma Byrd Scholarship Program Web site: *http://www.ed.gov/programs/ermabyrd/index.html.*

To obtain a copy from the Department, write, fax, or call the following: Lauren Kennedy, Erma Byrd Scholarship Program, U.S. Department of Education, Teacher and Student

Development Programs Service, 1990 K Street, NW., room 6133, Washington, DC 20006–8524. Telephone: (202) 502–7630. Fax: (202) 502–7852 or by e-mail: *ermabyrdprogram@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

3. *Submission Dates and Times:*

Applications Available: February 24, 2010.

Deadline for Transmittal of Applications: March 26, 2010.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* All applications must be submitted electronically by e-mailing the application in the form of a Microsoft Word (.DOC or .DOCX) document to *ermabyrdprogram@ed.gov.* Please note that an electronic application in a format other than Microsoft Word will not be accepted.

If you are unable to submit your application by e-mail and wish to submit your application by mail, you must submit a request for permission to submit it by mail, no less than 10 days prior to the application deadline date, to Lauren Kennedy by e-mail to *ermabyrdprogram@ed.gov* or by postal mail to U.S. Department of Education, Teacher and Student Development Programs Service, 1990 K Street, NW., Room 6133, Washington, DC 20006–8524. In your request, you must include the reason why you are unable to submit the application electronically.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

V. Application Review Information

1. *Selection Criteria:*

All applicants are required to complete and submit the Erma Byrd Scholarship Program Applicant Information Form, which will be used to determine the applicant's eligibility for the scholarship.

2. *Review and Selection Process:*

(a) *Undergraduate applicants.* In selecting undergraduate students to receive a scholarship, the Secretary will award scholarships to students in the order that the applications are received. Priority will be given first to students who have demonstrated financial need and are eligible to receive a Federal Pell Grant.

Qualified undergraduate applicants who wish to have their Federal Pell Grant eligibility considered as part of their application must demonstrate financial need by submitting a Free Application for Federal Student Aid (FAFSA), which may be obtained at *http://www.fafsa.ed.gov* or from their institution's financial aid office, and by submitting their Social Security Number via postal mail using the Pell Grant Eligibility Certification Sheet contained in the Erma Byrd Scholarship Program application package. Applicants who have already submitted their FAFSA for the 2010–2011 award year do not need to resubmit the FAFSA.

The Secretary will award scholarships to applicants who are eligible for Federal Pell Grants and who are enrolled in eligible fields of study in the order that the applications are received.

If additional funds are available after awards are made to undergraduate students who are eligible for a Federal Pell Grant, scholarships will be awarded to qualified undergraduate students who are not eligible for a Federal Pell Grant in the order that their applications are received.

(b) *Graduate applicants.* In selecting graduate students to receive a scholarship, the Secretary will award scholarships to qualified students in the order that the applications are received.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify you and your U.S. Representative and U.S. Senators and send a Grant Award Notification (GAN) directly to the institution you will be attending. The institution will disburse funds to scholarship recipients in accordance with its regular payment schedule.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* Scholarship recipients must submit a Student Activities Report to the Secretary at the end of each year of funding, which includes certification from an authorized representative of the institution that the student is maintaining satisfactory academic progress. In addition, a scholarship recipient must submit a verification of employment report to the Secretary no more than six months immediately after completion of his or her degree program, reporting on post-graduation activities, including changes in their permanent address, e-mail, phone number, and employment status. Finally, scholarship recipients must submit a final employment report to the Secretary at the end of the service obligation period.

At the request of the student, an institution of higher education in which a scholarship recipient is enrolled must provide the student with written certification from an authorized representative of the institution that the student is maintaining satisfactory academic progress.

4. *Performance Measures:* The effectiveness of the Erma Byrd Scholarship Program will be measured by graduation completion rates, time-to-degree completion rates, and the percentage of students fulfilling the one-year service obligation within eighteen months of graduation. The Department will use the verification of employment and final employment reports to assess the program's success in assisting scholarship recipients in completing their course of study and receiving their degree, and entering the specified fields.

VII. Agency Contacts

For Further Information Contact: Lauren Kennedy, Erma Byrd Scholarship Program, U.S. Department of Education, Teacher and Student Development Programs Service, 1990 K Street, NW., Room 6133, Washington, DC 20006–8524. Telephone: (202) 502–

7630 or by e-mail: *ermabyrdprogram@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g. braille, large print, audiotape, or computer diskette) on request to the program contact person listed under *For Further Information Contact* in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF, you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzelan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: February 19, 2010.

Daniel T. Madzelan,

Director, Forecasting and Policy Analysis.

[FR Doc. 2010–3717 Filed 2–23–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The EIA has submitted the Petroleum Supply Reporting System to the Office of Management and Budget (OMB) for a revision under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 et seq., at 3507(h)(1)).

DATES: Comments must be filed by March 26, 2010. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX at 202–395–7285 or e-mail to *Christine_Kymn@omb.eop.gov* is recommended. The mailing address is 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–4638. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Grace Sutherland. To ensure receipt of the comments by the due date, submission by FAX (202–586–5271) or e-mail (*grace.sutherland@eia.doe.gov*) is also recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Ms. Sutherland may be contacted by telephone at (202) 586–6264.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor *(i.e.,* the Department of Energy component; (3) the current OMB docket number (if applicable); (4) the type of request (*i.e.,* new, revision, extension, or reinstatement); (5) response obligation (*i.e.,* mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (*i.e.,* the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Forms EIA–800, 801, 802, 803, 804, 805, 809, 810, 812, 813, 814, 815, 816, 817, 819, 820 "Petroleum Supply Reporting System"
2. Energy Information Administration.
3. OMB Number 1905–0165.
4. Revision.
5. Mandatory.
6. EIA's Petroleum Supply Reporting System collects information needed for determining the supply and disposition of crude oil, petroleum products, and natural gas liquids. The data are published by EIA and are used by public and private analysts. Respondents are operators of petroleum refineries, blending plants, bulk terminals, crude oil and product pipelines, natural gas plant facilities, tankers, barges, and oil importers.
7. Business or other for-profit.
8. 209,958 total annual hours; 4,173 total annual respondents; and respondents' frequency is as follows: EIA–800–805, and EIA–809—weekly; EIA–810 and EIA–812–819—monthly; and EIA–820—Annual.

Please refer to the supporting statement as well as the proposed forms and instructions for more information about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses (including possible nonstatistical uses) of the information. For instructions on obtaining materials, see the "For Further Information Contact" section.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Public Law 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC, February 18, 2010.

Stephanie Brown,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 2010–3653 Filed 2–23–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–66–000]

Petrologistics Natural Gas Storage, LLC; Notice of Application

February 17, 2010.

Take notice that on February 12, 2010, Petrologistics Natural Gas Storage, LLC (Petrologistics), 4470 Bluebonnet Blvd., Baton Rouge, LA 70809, filed an application in Docket No. CP10–66–000, pursuant to section 7(c) of the Natural Gas Act (NGA), to amend its Certificate of Public Convenience and Necessity issued by the Commission on March 3, 2008. Specifically, Petrologistics requests authorization to install a single electric submersible pump in Petrologistic's storage cavern and increase the total, working, and base gas capacity of the cavern, all as more fully set forth in the application which is on file with the Commission and open for

public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application should be directed to Allen Kirkley, Petrologistics Natural Gas Storage, LLC, 4470 Bluebonnet Blvd., Baton Rouge, LA 70809, (225) 706–2253 (phone).

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: February 27, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3619 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12714–002]

H2O Providers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

February 17, 2010.

On November 3, 2009, and revised December 17, 2009 and February 2, 2010, H2O Providers, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the South Slope Pumped Storage Project, located on Brush Hollow Creek, near Penrose, in Fremont, Pueblo, and El Paso Counties, Colorado. The project would occupy Federal lands administered by the U.S. Bureau of Land Management. The final transmission line corridor is still under evaluation, but portions may occupy Federal lands administered by the U.S. Department of the Army. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed South Slope Pumped Storage Project would consist of: (1) An upper power reservoir with a storage capacity of approximately 6,000 acre-feet, retained by a 170-foot-high, 6,150-foot-long concrete-faced dam embankment; (2) a lower power reservoir with a storage capacity of approximately 6,400 acre-feet, retained by a 95-foot-high, 4,900-foot-long earth and rockfill embankment; (3) a reserve reservoir that would store approximately 5,000 acre-feet, retained by a 100-foot-high, 1,400-foot-long earth and rockfill embankment and a 7-foot-high, 140-foot-long earth saddle dam; (4) an approximately 28-foot-diameter, 1,400-foot-long steel-lined tunnel; (5) two 20-foot-diameter above-ground penstocks; (6) two 75-foot-diameter, 240-foot-high concrete-lined powerhouse silos, each with an approximately 216–MW reversible turbine unit; (7) an approximately 0.25-mile-long concrete tailrace channel connecting the powerhouse silos and the lower power reservoir; (8) an approximately 30-mile-long, 230-kilovolt transmission line; (9) a 2.5-foot-diameter, 5.3-mile-long pipeline to provide water to the reserve reservoir from the Lester Atterbury Ditch diversion on the north side of the Arkansas River; and (10) appurtenant facilities. The proposed project would have an average annual generation of 946,000 megawatt-hours.

Applicant Contact: Mr. Mark Morley, H2O Providers LLC, 20 Boulder Crescent, Second Floor, Colorado Springs, CO 80903; telephone: (719) 471–1742.

FERC Contact: Jennifer Harper, (202) 502–6136 or via e-mail at *jennifer.harper@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications

(without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *(http://www.ferc.gov/docs-filing/ferconline.asp)* under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–12714) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3624 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13621–000]

Coastal Hydropower LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

February 18, 2010.

On November 5, 2009, Coastal Hydropower LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Green River Lock and Dam No. 6 Hydroelectric Project, located on the Green River near Brownsville, Kentucky. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following:

(1) 2 VLH 4000 low head units; (2) a switchyard; (3) a ½-mile long transmission line; and (4) appurtenant facilities. The proposed Green River Lock and Dam No. 6 Hydroelectric Project would have an average annual generation of 4.4 gigawatt-hours.

Applicant Contact: James Borg, Mead & Hunt, Inc., 6501 Watts Road, Madison, WI 53719.

FERC Contact: Allyson Conner, 202–502–6082.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13621) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3635 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13618–000]

Coastal Hydropower LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

February 18, 2010.

On November 5, 2009, Coastal Hydropower LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Green River Lock and Dam No. 3 Hydroelectric Project, located on the Green River in Skilesville, Kentucky. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following:

(1) 12 VLH 4000 low head units; (2) a switchyard; (3) a ¾-mile-long transmission line; and (4) appurtenant facilities. The proposed Green River Lock and Dam No. 3 Hydroelectric Project would have an average annual generation of 26.3 gigawatt-hours.

Applicant Contact: James Borg, Mead & Hunt, Inc., 6501 Watts Road, Madison, WI 53719.

FERC Contact: Allyson Conner, 202–502–6082.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy

Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Webs ite at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13618) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3633 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Project No. 13619–000

Coastal Hydropower LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications

February 18, 2010.

On November 5, 2009, Coastal Hydropower LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Green River Lock and Dam No. 4 Hydroelectric Project, located on the Green River in Woodbury, Kentucky. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following:

(1) 8 VLH 4000 low head units; (2) a switchyard; (3) a ½-mile-long transmission line; and (4) appurtenant facilities. The proposed Green River Lock and Dam No. 4 Hydroelectric Project would have an average annual generation of 17.5 gigawatt-hours.

Applicant Contact: James Borg, Mead & Hunt, Inc., 6501 Watts Road, Madison, WI 53719.

FERC Contact: Allyson Conner, 202–502–6082.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*; call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.as*p. Enter the docket number (P–13619) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3634 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. CP08–152–002

North Baja Pipeline, LLC; Notice of Abbreviated Application of North Baja Pipeline LLC; To Amend Certificate of Public Convenience and Necessity

February 18, 2010.

Take notice that on February 4, 2010, North Baja Pipeline, LLC (NBP), filed an abbreviated application under section 7(c) of the Natural Gas Act to amend the certificate of public convenience and necessity authorizing the construction and operation of the Yuma Lateral Pipeline Project (Yuma Lateral) issued to NBP, subject to conditions, on September 2, 2008 (Order). Specifically, NBP seeks authorization to revise the initial recourse rates applicable to service on the Yuma Lateral to reflect a representative level of costs attributable to interruptible transportation service on the Yuma Lateral, in compliance with conditions contained in the Commission's Order. In addition, NBP seeks authorization to further revise the initial recourse rates applicable to service on the Yuma Lateral for current estimates of the total cost of the Project.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 23, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3637 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Attendance at Nepool Meetings

February 17, 2010.

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and Commission staff may attend the following upcoming NEPOOL meetings:

NEPOOL Participants Committee

- February 5 (Boston, MA).
- March 5 (Location TBD).
- April 9 (Location TBD).
- May 7 (Location TBD).
- June 4 (Location TBD).
- June 21–23 (Location TBD).
- August 6 (Location TBD).
- September 17 (Location TBD).

NEPOOL Markets Committee Meeting

- February 9–10 (Marlborough, MA).
- March 9–10 (Marlborough, MA).
- April 13–14 (Marlborough, MA).
- May 11–12 (Marlborough, MA).
- June 8–9 (Marlborough, MA).
- July 12–14 (Location TBD).
- August 10–11 (Marlborough, MA).
- September 14–15 (Marlborough, MA).

For additional meeting information, *see http://www.iso-ne.com/committees/comm_wkgrps/index.html.*

The discussions at each of the meetings described above may address matters at issue in the following proceedings:

Docket No. ER07–397, *ISO New England Inc. and the New England Power Pool Participants Committee*

Docket No. ER08–633, *ISO New England Inc.*

Docket No. ER08–830, *ISO New England Inc.*

Docket No. ER08–1209, *ISO New England Inc. and the New England Power Pool Participants Committee*

Docket No. EL09–3, *Ashburnham Municipal Light Plant, et al.* v. *Berkshire Power Company, LLC, and ISO New England Inc.*

Docket No. EL09–47, *Richard Blumenthal, Attorney General for the State of Connecticut* v. *ISO New England Inc., et al.*

Docket No. EL09–48, The Connecticut Department of Public Utility Control and the Connecticut Office of Consumer Counsel v. *ISO New England Inc., et al.*

Docket No. ER09–1051, *ISO New England Inc. and the New England Power Pool Participants*

Docket No. ER09–1144, *ISO New England Inc. and the New England Power Pool Participants Committee*

Docket No. ER09–1424, *ISO New England Inc.*

Docket No. ER09–1546, *ISO New England Inc. and the New England Power Pool Participants Committee*

Docket No. ER10–154, *ISO New England Inc.*

Docket No. ER10–186, *ISO New England Inc.*

Docket No. ER10–438, *ISO New England Inc. and the New England Power Pool Participants Committee*

For more information, contact Michael Isimbabi, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6539 or *Michael.isimbabi@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3623 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–40–000]

EPIC Merchant Energy NJ/PA, LP, SESCO Enterprises, LLC, Coaltrain Energy, LP, Complainants, v. PJM Interconnection, LLC, Respondent; Notice of Complaint

February 17, 2010.

Take notice that on February 1, 2010 pursuant to section 206 of the Federal Power Act and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 (2009), EPIC Merchant Energy NJ/PA, LP, SESCO Enterprises, LLC, and Coaltrain Energy LP (Complainants) filed a formal complaint against PJM Interconnection, LLC (Respondent), alleging that the Respondent is improperly allocating physical transmission line losses to virtual transactions and also distributing over-collected transmission line losses in a manner that discriminates against virtual Market Participants.

Complainants certify that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 1, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3620 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–41–000]

Tatanka Wind Power, LLC, Complainant, v. Montana-Dakota Utilities Company, a Division of MDU Resources Group, Inc., Respondent; Notice of Complaint

February 17, 2010.

Take notice that on February 9, 2010, pursuant to section 206 of the Rules and Practice and Procedure, 18 CFR 385.206 and Order Nos. 2003 and 2003–A,[1] Tatanka Wind Power, LLC (Complainant) filed a formal complaint against Montana-Dakota Utilities Company, a division of MDU Resources Group, Inc. (Respondent), alleging that the Respondent improperly failed to repay Complainant for 100 percent of its costs incurred for network upgrades.

Tatanka certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will

[1] Standardization of Generator Interconnection Agreements and Procedures, 104 FERC ¶ 61,103 (2003) (Order No. 2003); Standardization of Generator Interconnection Agreements and Procedures, 106 FERC ¶ 61,220 (2004) (Order No. 2003–A).

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 1, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3621 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF10–1–000]

National Fuel Gas Supply Corporation; Notice of Intent To Prepare an Environmental Assessment for the Planned Line N Projects, Notice of Public Scoping Meeting, and Request for Comments on Environmental Issues

February 18, 2010.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Line N Relocation and Interconnect Project and the Line N Compressor Installation Expansion Project (the Line N Projects), proposed by National Fuel Gas Supply Corporation (National Fuel), in Greene and Washington Counties, Pennsylvania (PA). The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process we [1] will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on March 22, 2010.

Comments may be submitted in written form or verbally. Further details on how to submit written comments are provided in the Public Participation section of this notice. In lieu of or in addition to sending written comments, we invite you to attend the public scoping meeting scheduled as follows:

FERC Public Scoping Meeting—Line N Projects

March 3, 2010, 6 p.m., Graysville Elementary, 1029 West Roy Furman Highway, Graysville, PA 15337.

This notice is being sent to the Commission's current environmental mailing list for this project, which includes affected landowners; Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with State law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" is available for viewing on the FERC Web site (*http://www.ferc.gov/for-citizens/citizen-guides.asp*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

National Fuel has proposed to construct, operate, and maintain the Line N Projects, which consist of the Line N Relocation and Interconnect Project (Line N R&I Project) and the Line N Compressor Installation Expansion Project (Line N CIE Project), located in Greene and Washington Counties, PA. The Line N Projects consists of the following facilities:

- The Line N R&I Project consists of the construction of approximately 17.5 miles of new 20-inch diameter natural gas pipeline and a new metering and regulating facility in Green County, PA.
- The Line N CIE Project consists of the construction of the new 5,000 horsepower Buffalo Compressor Station, and replacement of two miles of 20-inch diameter natural gas replacement pipeline located in Washington County, PA.

The general location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the planned facilities would disturb about 157.6 acres of land for the aboveground facilities and the pipeline. Following construction, about 119.4 acres would be maintained for permanent operation of the project's facilities; the remaining acreage would be restored and allowed to revert to former uses.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA. To ensure your comments are considered, please carefully follow the instructions in the

[1] "We," "us," and "our" refer to environmental staff of the Office of Energy Projects (OEP).

[2] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

Public Participation section of this notice, beginning on page 4.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- land use, recreation and visual resources;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- hazardous waste;
- public safety; and,
- cumulative impacts.

We will also evaluate reasonable alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

Our independent analysis of the issues will be presented in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to those on our environmental mailing list. A comment period will be allotted for review of the EA if it is published. We will consider all comments on the EA before we make our recommendations to the Commission.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Currently Identified Environmental Issues

Based on a preliminary review of the planned facilities and the environmental information provided by National Fuel, we have identified potential visual and land use impacts that we think deserve attention. National Fuel anticipates that long wall coal mining may proceed beneath the pipeline at some point in the future. Additional issues may be included in our analysis based on your comments.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your written comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before March 22, 2010.

For your convenience, there are three methods which you can use to submit your written comments to the Commission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at 202–502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the Quick Comment feature, which is located at *http://www.ferc.gov* under the link called "*Documents and Filings*". A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the "eFiling" feature that is listed under the "*Documents and Filings*" link. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file to your submission. New eFiling users must first create an account by clicking on the links called "*Sign up*" or "*eRegister*". You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing"; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

If the EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

Once National Fuel files its application with the Commission, you may want to become an "intervenor", which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates the proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the "e-filing" link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application for the project is filed with the Commission.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number, excluding the last three digits, in the Docket Number field (*i.e.,* PF10–1). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3636 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–295–000]

E.ON U.S. LLC; Notice of Filing

February 17, 2010.

Take notice that, on February 16, 2009, E.ON U.S. LLC filed to supplement its filing in the above captioned docket with information required under the Commission's regulations. Such filing served to reset the filing date in this proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 9, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3622 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–730–000]

Wheelabrator Portsmouth, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

February 18, 2010.

This is a supplemental notice in the above-referenced proceeding of Wheelabrator Portsmouth, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 9, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC, 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3632 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–727–000]

AEP Retail Energy Partners, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

February 18, 2010.

This is a supplemental notice in the above-referenced proceeding of AEP Retail Energy Partner, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket

authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 9, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC, 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3631 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–718–000]

February Futures, LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

February 18, 2010.

This is a supplemental notice in the above-referenced proceeding of February Futures, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 9, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3630 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–712–000]

AES ES Westover, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

February 18, 2010.

This is a supplemental notice in the above-referenced proceeding of AES ES Westover, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 9, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC, 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any

FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3629 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–7–000]

Regency Intrastate Gas LP; Notice of Petition for Rate Approval

February 18, 2010.

Take notice that on January 28, 2010, Regency Intrastate Gas LP (Regency) filed a petition for rate approval for NGPA Section 311 maximum transportation rates, pursuant to section 284.123(b)(2) of the Commission's regulations. Regency requests that the Commission approve an amendment to its Operating Statement, a maximum firm reservation charge of $0.3483 per MMBtu per day, a firm commodity charge of $0.0505 per MMBtu, a maximum interruptible transportation charge of $0.3988 per MMBtu, and a fuel retention of 1.25 percent for gas transported under section 311.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern time on Friday, March 5, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3627 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–58–000]

Dominion Transmission, Inc.; Notice of Request Under Blanket Authorization

February 17, 2010.

Take notice that on February 3, 2010, Dominion Transmission, Inc. (Dominion), 701 East Cary Street 701 East Cary Street Richmond, VA 23219, filed in Docket No. CP10–58–000, a prior notice request under its blanket certificate issued in Docket No. CP82–537–000 pursuant to sections 157.205(b), 157.208(c) and 157.213 of the Commission's regulations under the Natural Gas Act (NGA) for authorization to convert one well located in the Greenlick Storage Complex in Potter County, Pennsylvania. Dominion proposes to convert RW–400 into an injection/withdrawal well located in the Greenlick Storage Complex. Dominion states that the certificated physical parameters, including total inventory, reservoir pressure, reservoir and buffer boundaries, and certificated capacity (including injection and withdrawal capacity) of the Greenlick Storage Complex will remain unchanged with the conversion of this well from observation to injection/withdrawal, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this Prior Notice should be directed to Amanda K. Prestage, Regulatory and Certificates Analyst, Dominion Transmission, Inc., 701 East Cary Street, Richmond, VA 23219, telephone no. (804) 771–4416, facsimile no. (804) 771–4804 and E-mail: *Amanda.K.Prestage@dom.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3617 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[CP10–59–000]

Golden Pass Pipeline LLC; Notice of Request Under Blanket Authorization

February 17, 2010.

Take notice that on October 29, 2009, Golden Pass Pipeline, LLC (GPPL), filed in Docket No. CP10–59–000, a prior notice request pursuant to Sections 157.205, 157.208 and 157.211 of the Commission's regulations under the Natural Gas Act (NGA). GPPL seeks authorization to construct and operate facilities to receive natural gas from and deliver natural gas to Golden Triangle Storage, Inc. (GTS), in Jefferson County,

Texas, and proposes to perform these activities under its blanket certificate issued July 6, 2005, in Docket No. CP04–401–000 [112 FERC ¶ 61,041 (2005)].

Specifically, GPPL proposes to construct and operate metering facilities at a new interconnect between its system and the GTS system to provide GPPL with a bidirectional flow capability of 250 MMcf/d and a design minimum flow rate of approximately 20 MMcf/d., and include three 8-inch meter runs, with one of the meters serving as a fully operational reference spare meter, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The interconnection facilities comprise a 16-inch tee and valve on GPPL's 42-inch mainline facilities. GTS will construct the meter station, appurtenant facilities and the 16-inch pipeline connecting the tap and the meter. GPPL will operate these facilities. GPPL will also provide, own and operate telecommunication equipment at a concrete pad at the site. All other interconnection facilities will be owned and operated by GTS.

GPPL estimates the cost of the project to be $710,000. GTS has agreed to reimburse GPPL for its actual direct and indirect costs, including direct and allocated overhead, incurred in designing and installing the proposed facilities.

The filing may be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application may be directed to Irene T. Garcia, Exxon/Mobil Development Company, 17001 Northchase Drive, Houston, Texas, 77060, or call (281) 654–1129.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date 5 p.m. Eastern Standard Time April 19, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3618 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–62–000]

Dominion Transmission, Inc.

February 18, 2010.

Take notice that on February 4, 2010, Dominion Transmission, Inc. (DTI), 701 East Cary Street, Richmond, Virginia 23219, filed in Docket No. CP10–62–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act for authorization to plug and abandon one well located in the Oakford Storage complex in Westmoreland County, Pennsylvania, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, DTI proposes to plug and abandon well JW–481, located in the Murrysville Reservoir of the Oakford Storage Complex. DTI declares that the plugging of the well will help maintain storage field integrity. DTI asserts that the certificated physical parameters, including total inventory, reservoir pressure, reservoir and buffer boundaries, and certificated capacity (including injection and withdrawal capacity) of the Oakford Storage Complex will remain unchanged from the plugging and abandoning of the storage well. DTI states that the proposed abandonment will not result in any diminution of service or any adverse environmental impact, nor will the proposed abandonment have any adverse consequences on existing customers, existing pipelines or landowners and communities, and will not result in any financial subsidization from existing customers.

Any questions regarding the application should be directed to Amanda K. Prestage, Regulatory and Certificates Analyst, Dominion Transmission, Inc., 701 East Cary Street, Richmond, Virginia 23219, telephone number (804) 771–4416, facsimile number (804) 771–4804, or e-mail: *Amanda.K.Prestage@dom.com*.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

Kimberly D. Bose

Secretary.

[FR Doc. 2010–3628 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–51–000]

Eastern Shore Natural Gas Company; Notice of Request Under Blanket Authorization

February 17, 2010.

Take notice that on February 2, 2010, Eastern Shore Natural Gas Company (Eastern Shore), 1110 Forrest Avenue, Dover, Delaware 19904, filed in Docket No. CP10–51–000, a prior notice request under its blanket certificate issued in Docket No. CP96–128–000 pursuant to sections 157.205(b), 157.208(c) and 157.210 of the Commission's regulations under the Natural Gas Act (NGA) for authority to construct, own, operate, and maintain new mainline facilities and install a new pressure control station in Sussex County, Delaware, in order to deliver an additional firm transportation service entitlement of 1,600 dekatherms per day to Chesapeake Utilities Corporation—Maryland Division, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding the application should be directed to Glen DiEleuterio, Project Manager, Eastern Shore Natural Gas Company, 1110 Forrest Avenue, Dover, Delaware 19904, at (302) 734–6710, ext. 6723 or via fax (302) 734–6745 or by e-mail to *GDiElcutcrio@esng.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3626 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM05–1–000]

Regulations Governing the Conduct of Open Seasons for Alaska Natural Gas Transportation Projects; Notice of Rescheduled Alaska Natural Gas Transportation Projects Open Season Pre-Filing Workshop

February 17, 2010.

On February 22, 2010, the Staff of the Federal Energy Regulatory Commission (FERC) will hold a workshop on the procedures and process for holding and commenting on an open season for an Alaska Natural Gas Transportation Project. The Workshop is being held at the Commission's headquarters in Washington and has been rescheduled from the previous date of February 11, 2010 due to the weather emergency closure of the Commission's offices.

In 2005, in the above-referenced docket, FERC enacted regulations under the Alaska Natural Gas Pipeline Act which established the procedures for conducting open seasons for the purpose of making binding commitments for the acquisition of capacity on Alaska natural gas transportation projects. TransCanada Alaska Company LLC (TC Alaska) has recently filed its request for approval of its Open Season plan for its Alaska Pipeline Project in Docket No. PF09–11–001. Denali—The Alaska Gas Pipeline LLC has publicly stated that it intends to hold an open season for its project in 2010.

Under FERC's open season regulations, prior to conducting an open season for an Alaskan natural gas transportation project, each project sponsor is required to submit a detailed open season plan to FERC. After receiving the project sponsor's open season plan, FERC will issue a notice requesting public comments on the open season plan and explain the procedure for submitting such comments. Absent unusual circumstances, FERC will act on the open season plan within 60 days of its submission by the project sponsor.

Both of these project sponsors have initiated FERC's pre-filing process, which is typically focused on FERC's environmental review of a project. However in this instance, the pre-filing process also includes FERC's review, approval, and oversight of the project sponsors' open season. FERC Staff is holding this Open Season Pre-Filing Workshop to provide interested parties an opportunity to learn about and discuss the procedures and process for commenting upon and holding an open season.

The workshop will be held on February 22, 2010, from 1 p.m. to 4 p.m. (EST) at: Federal Energy Regulatory Commission, 888 1st Street, NE.—Room 3M–2 A&B, Washington, DC 20426.

All interested parties may attend. The agenda for the Open Season Pre-Filing Workshop is attached. There will be no discussion of TC Alaska's filing in Docket No. PF09–11–001, or any other aspect of the proposed Alaska pipeline projects. Rather, the Workshop will focus on the requirements of the Commission's regulations and procedures and process for commenting upon and holding an open season. In order to ensure that questions could be appropriately answered, it was previously requested that interested parties provide any questions in advance to Commission Staff and these questions have been added to the Agenda without attribution. Any further new questions or follow-up questions will also be entertained at the Workshop.

The Workshop will not be transcribed by the FERC Staff. Telephone participation will be available; by calling:

Conference number: (888) 566–6129

Participant passcode: 43634

For security reasons, the passcode will be required to join the call. Restrictions may exist when accessing freephone/toll free numbers using a mobile telephone.

For additional information concerning this event, please contact Richard Foley at (202) 502–8955 or Mary O'Driscoll at (202) 502–8680.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3616 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3156–029]

Miller and Miller; Notice of Termination of License by Implied Surrender and Soliciting Comments, Protests, and Motions To Intervene

February 17, 2010.

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. *Type of Proceeding:* Termination of license by implied surrender.

b. *Project No.:* 3156–029.

c. *Date Initiated:* February 3, 2010.

d. *Licensee:* The licensee is Miller and Miller.

e. *Name and Location of Project:* The constructed 280-kilowatt Worthville Dam Project is located on the Deep River in Randolph County, North Carolina.

f. *Filed Pursuant to:* 18 CFR 6.4.

g. *Licensee Contact Information:* Mr. Ernest Miller, Miller and Miller, 122 East Lindsay St., P.O. Box 20561, Greensboro, NC 27401, Mr. Ernest W. Miller, 6001 Pelican Bay Blvd, Naples, FL 34108–8166, Mr. H. Bruce Cox, Cox Hydroelectric, 5666 Hinshaw Town Road, Ramseur, NC 27316, and Mr. Mark K. Seifert, 107 Saint Brides Court, Cary, North Carolina 27518.

h. *FERC Contact:* Robert Bell, (202) 502–6062.

i. *Deadline for Filing Comments, Protests, and Motions To Intervene:* March 19, 2010.

All documents (original and eight copies) should be filed with the, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. Please include the project number (P–3156–029) on any documents or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Existing Facilities:* The constructed project consists of the following existing facilities: (1) An existing dam 230 feet long and 20 feet high, (2) an existing reservoir with a surface area of 305 acres and a storage capacity of 105 acre-feet, (3) a proposed 280 kW generator and turbine installation, and appurtenant facilities. The Worthville Dam Project would be operated as a run-of-the-river facility with an average annual generation of 0.84 GWh. Power generated at the project would be sold to Carolina Power and Light Company via a transmission line less than 200 yards long.

k. *Description of Proceeding:* 18 CFR 6.4 of the Commission's regulations provides, among other things, that it is deemed to be the intent of a licensee to surrender a license, if the licensee abandons a project for a period of three years.

A license for the Worthville Project was issued by Order Issuing License on October 28, 1982 (21 FERC ¶ 62,112) and was transfered to Miller and Miller on June 25, 1986. The project has been non-operational since May 1995. The Commission has requested that the license file the detailed plan and schedule to put the project back into operation numerous times. These requests have been made by letters dated September 29, 1999, September 28, 2001, August 29, 2003, November 20, 2003, January 26, 2006, September 18, 2008, and most recently December 16, 2009. No plan and schedule have been filed.

On January 15, 2010, the licensee requested a 90 day extension of time to provide the requested information. This request was denied on February 4, 2010, stating that the Commission proposes to terminate the license by implied surrender

To date, the licensee has not made the necessary repairs to resume operations at the project and the project is hereby considered abandoned.

l. *Location of the Order:* A copy of the order is available for inspection and reproduction at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the proceeding.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under "e-filing" link. The Commission strongly encourages electronic filing.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", and "RECOMMENDATIONS FOR TERMS AND CONDITIONS", as applicable, and the Project Number of the proceeding. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described proceeding. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–3625 Filed 2–23–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–8812–4]

Access to Confidential Business Information by Eastern Research Group

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized contractor, Eastern Research Group (ERG) of Lexington, MA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur no sooner than March 3, 2010.

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: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; fax number: (202) 564–8251; e-mail address: *sherlock.scott@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. 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**.

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–OPPT–2003–0004. 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), 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 Federal 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 visitors' 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.

II. What Action is the Agency Taking?

Under Contract Number EP–W–09–033, contractor ERG of 14555 Avion Parkway, Suite 200, Chantilly, VA, will assist the Office of Pollution Prevention and Toxics (OPPT) in conducting site-specific inspections and engineering/cost analysis to support EPA's investigation of facilities for compliance with TSCA regulations. These activities may include, but are not limited to, conducting investigations and facilities inspections; reviewing and/or collecting information; and database development and maintenance for enforcement support systems.

In accordance with 40 CFR 2.306(j), EPA has determined that under Contract Number EP–W–09–033, ERG will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. ERG personnel will be given access to information submitted to EPA under all sections of TSCA.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide ERG access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and ERG's site located at 14555 Avion Parkway, Suite 200, Chantilly, VA, in accordance with EPA's TSCA CBI Protection Manual.

Access to TSCA data, including CBI, will continue until September 30, 2014. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

ERG personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential Business Information.

Dated: February 17, 2010.

Matthew Leopard,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2010–3671 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R05–OAR–2009–0928, EPA–R05–OAR–2010–0046; FRL–9116–6]

Adequacy Status of the Cincinnati, Ohio/Indiana Submitted 8-Hour Ozone Redesignation and Maintenance Plans for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that we have found that the motor vehicle emissions budgets (MVEBs) for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) as precursors to ozone in the Ohio and Indiana portions of the Cincinnati-Hamilton, OH/KY/IN ozone nonattainment area are adequate for use in transportation conformity determinations. Ohio submitted a redesignation request and maintenance plan for Cincinnati, Ohio on December 14, 2009. The MVEBs in the submittal include emissions for the Ohio portion and also the Indiana portion of the Cincinnati area. Indiana submitted a redesignation request and maintenance plan for Lawrenceburg Township in Dearborn County, Indiana, which is part of the Cincinnati 8-hour ozone nonattainment area, on January 21, 2010. Indiana and Ohio submitted identical MVEBs for the combined Ohio and Indiana portions of the Cincinnati area.

As a result of our finding, the Cincinnati, Ohio area must use the MVEBs from the submitted ozone maintenance plan for future transportation conformity determinations.

DATES: This finding is effective March 11, 2010.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Criteria Pollutant Section

(AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656, *morris.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we", "us" or "our" is used, we mean EPA.

Background

Today's notice is simply an announcement of a finding that we have already made. On January 14, 2010, EPA Region 5 sent a letter to the Ohio Environmental Protection Agency and also to the Indiana Department of Environmental Management stating that the 2015 and 2020 MVEBs for the both the Ohio portion and the Indiana portion of the Cincinnati, Ohio 8-hour ozone area are adequate. The letters note that Kentucky will submit separate budgets for the Kentucky portion of the Cincinnati area. Receipt of these MVEBs was announced on EPA's transportation conformity website, and no comments were submitted. The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.*

The adequate 2015 and 2020 MVEBs, in tons per day (tpd), for VOCs and NOx for the Ohio and Indiana portions of the Cincinnati, Ohio area are as follows:

OHIO AND INDIANA PORTIONS OF CINCINNATI, OHIO

	VOCs (tpd)	NOx (tpd)
2015	31.73	49.00
2020	28.82	34.39

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do conform. Conformity to a State Implementation Plan (SIP) means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's MVEBs are adequate for transportation conformity purposes are outlined in 40 CFR 93.118(e)(4). We have described our process for determining the adequacy of submitted SIP budgets in our July 1, 2004, preamble starting at 69 FR 40038, and we used the information in these resources while making our adequacy determination. Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

The finding and the response to comments are available at EPA's transportation conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.*

Authority: 42 U.S.C. 7401–7671 q.

Dated: February 3, 2010.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. 2010–3678 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEI–2009–0678; FRL–9117–5; EPA ICR No. 1665.09, OMB Control No. 2020–0003]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Confidentiality Rules (Renewal)

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 26, 2010.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OEI–2009–0678 to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Larry F. Gottesman, National FOIA Officer, Collection Strategies Division, Office of Information Collection, Mail Code 2822T, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202–566–2162; fax number: 202–566–2147; e-mail address: *gottesman.larry@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 1, 2009, (74 FR 45199), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID. No. EPA–HQ–OEI–2009–0678, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 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.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Confidentiality Rules (Renewal).

ICR numbers: EPA ICR No. 1665.09, OMB Control No. 2020–0003.

ICR Status: This ICR is scheduled to expire on 02/28/2010. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not

required to respond to a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, 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 the course of administering environmental protection statutes, EPA collects data from thousands of facilities in many sectors of the U.S. economy. In many cases, industry marks the data it submits to EPA as CBI. In addition, businesses submit information to EPA without the Agency requesting the information. EPA established the procedures described in 40 CFR part 2, subparts A and B, to protect the confidentiality of information as well as the rights of the public to obtain access to information under the Freedom of Information Act (FOIA). In accordance with these regulations, when EPA finds it necessary to make a final confidentiality determination (*e.g.,* in response to a FOIA request or in the course of rulemaking or litigation), or in advance confidentiality determination, it shall notify the affected business and provides an opportunity to comment (*i.e.,* to submit a substantiation of confidentiality claim). This ICR relates to the collection of information that will assist EPA in determining whether previously submitted information is entitled to confidential treatment.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4.0 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.

Respondents/Affected Entities: Businesses and other for-profit companies.

Estimated Number of Respondents: 1,330.

Frequency of Response: One annually.

Estimated Total Annual Hour Burden: 2002 hours.

Estimated Total Annual Cost: $91,071.85, includes $0 annualized capital or O&M costs and $91,071.85 annual labor costs.

Changes in the Estimates: There is reduction of 4,519 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: February 18, 2010.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2010–3700 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0152; FRL–9117–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; Compliance Assurance Monitoring Program; EPA ICR No. 1663.07, OMB Control No. 2060–0376

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 26, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0152, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- E-mail: *a-and-r-docket@epa.gov*
- Fax: (202) 566–9744
- Mail: ICR Renewal (2010)—Compliance Assurance Monitoring Program, Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mailcode: 22821T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: Air and Radiation Docket and Information Center, U.S. EPA, Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0152. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or e-mail. The *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 *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: Peter Westlin, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–05), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–1058; fax number: 919–541–1039; e-mail address: *westlin.peter@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0152, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 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 *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 PRA section 3506(c)(2)(A), 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 fewer 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 all facilities required to have an operating permit under title V of the Clean Air Act. *See* section 502(a) of the Clean Air Act (the Act), which defines the sources required to obtain a title V permit. *See also* 40 CFR 70.2 and 71.2.

Title: Compliance Assurance Monitoring Program (40 CFR Part 64).

ICR numbers: EPA ICR No. 1663.07,

OMB Control No.: 2060–0376.

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: The Act contains several provisions directing us to require source owners to conduct monitoring to support certification as to their status of compliance with applicable requirements. These provisions are set forth in Section 504 and Section 114 of the Act. Under section 504(c), each operating permit must "set forth inspection, entry, monitoring, compliance, certification, and reporting requirements to assure compliance with the permit terms and conditions." See also section 504(a) (each permit shall require reporting of monitoring and such other conditions as are necessary to assure compliance). Section 504(b) allows us to prescribe by rule, methods and procedures for determining compliance recognizing that continuous emissions monitoring systems need not be required if other procedures or methods provide sufficiently reliable and timely information for determining compliance. Section 114(a)(3) requires us to promulgate rules for enhanced monitoring and compliance certifications for major stationary sources, and provides authority for such rules for other sources. Section 114(a)(1) of the Act provides additional authority concerning monitoring, reporting, and record keeping requirements. This section provides the Administrator with the authority to require any owner or operator of a source to install and operate monitoring systems and to record the resulting monitoring data. We promulgated the Compliance Assurance Monitoring (CAM) rule, 40 CFR part 64, on October 22, 1997 (62 FR 54900) pursuant to these provisions.

In accordance with section 114(c) and section 503(e), the monitoring information source owners must submit must also be available to the public, except under circumstances set forth in section 114(c) of the Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

We are soliciting comments 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.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 304 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. Based on the Agency's knowledge of the number of title V permits issued since 1997 and the implementation of part 64 through permit renewals, the expected impact of the CAM program for the 3 years from October 1, 2010 until September 30, 2013 is about 7.4 million hours annually. The CAM rule will incur an average annual cost of about $263.8 million in 2008 dollars. There are no annualized capital and operation and maintenance (O&M) costs. EPA assumes that any such equipment needed by sources to comply with part 64 would be purchased as part of a monitoring equipment purchase. Therefore, O&M costs for operating such capital equipment is not separately estimated.

The CAM program burden for source owners or operators means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide monitoring information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. The CAM program potentially affects about 24,000 pollutant-specific emissions units nationwide. The annual burden for source owners or operators is about 7.4 million hours for these pollutant-specific emissions units.

During the review period, permitting authorities will review CAM rule submittals from source owners or operators whose permits have already been issued and are renewing those permits as the 5-year permit terms expire. Permitting authorities will also be interacting with the source owners or operators in addressing the CAM in semi-annual monitoring reports and reporting CAM data as necessary. We estimate the annual CAM burden to permitting authorities to total about 65,000 hours and about $3.5 million. Burden means the sum of the time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 24,000 pollutant specific emissions units.

Frequency of response: Semi-annual and annual reports, plus every 5 years at permit renewal.

Estimated total annual burden hours: 7.4 million hours.

Estimated average annual costs: $263.8 million. This includes annual labor costs for sources and permitting authorities and no capital or O&M costs.

Are There Changes in the Estimates From the Last Approval?

There is an increase of 4.3 million hours in the total estimated respondent annual burden compared with that identified in the ICR currently approved by OMB. This increase reflects the significant increase in number of respondents resulting from the implementation of the rule through operating permit renewals.

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 29, 2010.

Steve Fruh,

Acting Director, Sector Policies and Programs Division, Office of Air Quality Planning and Standards.

[FR Doc. 2010–3683 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8808–1]

Agency Information Collection Activities; Proposed Renewal of Several Currently Approved Collections; Comment Request

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 requests to renew several currently approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICRs are specifically identified in this document by their corresponding titles, EPA ICR numbers, OMB Control numbers, and related docket identification (ID) numbers. Before submitting these ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection activities.

DATES: Comments must be received on or before April 26, 2010.

ADDRESSES: Submit your comments, identified by the docket ID number for the corresponding ICR as identified in this document, by one of the following methods:

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

Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID number for the corresponding ICR as identified in this document. 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 in *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: For questions regarding EPA Docket ID Number EPA–HQ–OPP–2009–0885: Rame Cromwell, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9068; fax number: (703) 305–5884; e-mail address: *cromwell.rame@epa.gov*.

For questions regarding EPA Docket ID Number EPA–HQ–OPP–2009–0886: Cameo Smoot, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5454; fax number: (703) 305–5884; e-mail address: *smoot.cameo@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it 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 estimates 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.
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 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.

II. 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. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline identified under **DATES**.
8. 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.

III. What Do I Need to Know About PRA?

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information subject to PRA approval unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the preamble of the final rule, are further displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instruments or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in a list at 40 CFR 9.1.

Under PRA, *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.

IV. Which ICRs Are Being Renewed?

EPA is planning to submit a number of currently approved ICRs to OMB for review and approval under PRA. In addition to specifically identifying the ICRs by title and corresponding ICR, OMB and docket ID numbers, this unit provides a brief summary of the information collection activity and the Agency's estimated burden. The Supporting Statement for each ICR, a

copy of which is available in the corresponding docket, provides a more detailed explanation.

A. Docket ID Number EPA–HQ–OPP–2009–0885

Title: Pesticide Registration Fee Waivers.

ICR numbers: EPA ICR No. 2147.04, OMB Control No. 2070–0167.

ICR status: The approval for this ICR is scheduled to expire on October 31, 2010.

Affected entities: Entities potentially affected by this ICR include pesticide registrants seeking a waiver or exemption of fees under the Pesticide Registration Improvement Renewal Act (PRIA). The North American Industrial Classification System (NAICS) codes include 325320 (pesticide and other agricultural chemical manufacturing), 32518 (other basic inorganic chemical manufacturing), and 32519 (other basic organic chemical manufacturing).

Abstract: This information collection will allow EPA to process requests for waivers and exemptions of fees under the Pesticide Registration Improvement Renewal Act of 2007 (PRIA 2) which established section 33 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The ICR covers the collection activities associated with requesting a fee waiver or exemption and involves requesters submitting a waiver or exemption request to provide information to demonstrate eligibility for the waiver or exemption and certification of eligibility. Waivers are available for small businesses and minor uses and exemptions are available for minor uses and actions solely associated with the Inter-Regional Research Project Number 4 (IR–4). State and Federal agencies are exempt from the payment of fees. This ICR provides burden hour and labor cost estimates for both applicants for fee waivers and EPA employees who process and approve or deny waiver requests.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 12 to 37 hours per response depending upon the type (A, B, or C) of respondent. The ICR, a copy of which is available in the docket, provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondent requests: 1,800.

Frequency of response: As needed.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 5,611 hours.

Estimated total annual costs: $335,328.

Changes in the estimates from the last approval: The renewal of this ICR will result in an overall decrease of 2,757 hours in the total estimated respondent burden identified in the currently approved ICR. This decrease reflects a shift in both the number and type of waiver requests submitted. The average estimated burden per response has not changed. However, the total number of responses per year decreased from 389 to 293. In addition, there was a shift in the distribution of responses to the least-burdensome type, resulting in the lower total estimated burden. This change is an adjustment.

B. Docket ID Number EPA–HQ–OPP–2009–0886

Title: Submission of Unreasonable Adverse Effects Information under FIFRA Section 6(a)(2).

ICR numbers: EPA ICR No. 1204.11, OMB Control No. 2070–0039.

ICR status: The approval for this ICR is scheduled to expire on October 31, 2010.

Affected entities: Entities potentially affected by this ICR include anyone who holds or ever held a registration for a pesticide product issued under FIFRA section 3 or section 24(c). The NAICS code is 325320 (pesticide and other agricultural chemical manufacturing).

Abstract: This ICR is a proposed renewal of an existing ICR that is currently approved by OMB and is due to expire October 31, 2010. Section 6(a)(2) of FIFRA requires pesticide registrants to submit information to the Agency which may be relevant to the balancing of the risks and benefits of a pesticide product.

The statute requires the registrant to submit any factual information that it acquires regarding adverse effects associated with its pesticidal products, and it is up to the Agency to determine whether or not that factual information constitutes an unreasonable adverse effect. In order to limit the amount of less meaningful information that might be submitted to the Agency, EPA has limited the scope of factual information that the registrant must submit. The Agency's regulations at 40 CFR 159 provide a detailed description of the reporting obligations of registrants under FIFRA section 6(a)(2).

As expected, implementation of the 1998 final regulations (June 19, 1998; 63 FR 33580) initially resulted in an increase in the number of incident reports submitted annually. That was assumed to be the result of increased awareness and understanding on the part of pesticide registrants of their reporting responsibilities under FIFRA section 6(a)(2). After the first year under the regulations, incident reporting leveled off and has remained generally consistent. Study submissions, on the other hand, have gradually decreased as the pesticide re-registration program data call-in activities wound down. For the purposes of this renewal the estimate for study and incident submissions have been averaged for the three fiscal years 2006–2008.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average a range of 2.1 hours to 3.5 hours per response. The ICR, a copy of which is available in the docket, provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 1,733.

Frequency of response: As needed.

Estimated total average number of responses for each respondent: For submission of studies less than 1. Submission of incidents may range from 1 to 40, however, incidents are usually reported as aggregate statistics.

Estimated total annual burden hours: 203,236 hours.

Estimated total annual costs: $11,793,027.

Changes in the estimates from the last approval: The renewal of this ICR will result in an overall increase of 35,920 hours in the total estimated respondent burden identified in the currently approved ICR. Total burden hour estimates associated with studies are reduced because the estimated number of study submissions is reduced from 240 to 183 studies. Burden estimates associated with the number of incident reports, however, are increased because of the increased volume of incident reporting (31%). In addition, an increase in the number of registrants of active products (1,733 versus 1,720) results in the need for additional employees to be trained. Overall, considering the net effect of the decrease in studies and the increase in incidents as well as the change in employee training, the total respondent burden hours increased from 167,316 to 203,236.

V. What is the Next Step in the Process for These ICRs?

EPA will consider the comments received and amend the individual ICRs as appropriate. The final ICR packages will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of these ICRs to OMB and

the opportunity for the public to submit additional comments for OMB consideration. If you have any questions about any of these ICRs or the approval process in general, please contact the people listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: February 17, 2010.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 2010–3694 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9117–7]

EPA Science Advisory Board Staff Office Notification of a Meeting of the Ecological Effects Subcommittee of the Advisory Council on Clean Air Compliance Analysis (Council)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public meeting of the Ecological Effects Subcommittee (EES) of the Advisory Council on Clean Air Compliance Analysis (Council). The EES, supplemented with additional members from the Science Advisory Board and the Clean Air Scientific Advisory Committee, will review draft documents regarding ecological effects of modeled air quality scenarios developed to support the Second Section 812 Benefit-Cost Analysis of the Clean Air Act. The assessment of ecological effects has been developed in support of the Office of Air and Radiation's Second Section 812 Prospective Analysis of the benefits and costs of the Clean Air Act.

DATES: The EES augmented with additional experts will meet on Tuesday, March 9, 2010 and Wednesday, March 10, 2010, beginning at 8:30 a.m. and ending no later than 5 p.m. (Eastern Time), each day.

ADDRESSES: The public meeting will be held at the SAB Conference Center at 1025 F Street, NW., Suite 3700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information about this meeting may contact Ms. Stephanie Sanzone, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *by telephone/voice mail:* (202) 343–9697 or at *sanzone.stephanie@epa.gov.* General information about the Council may be found on the Council Web site at: *http://www.epa.gov/advisorycouncilcaa.*

SUPPLEMENTARY INFORMATION: *Background:* Pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 (FACA), notice is hereby given that the Ecological Effects Subcommittee (EES) of the Advisory Council on Clean Air Compliance Analysis (Council), augmented with additional experts, will hold a public meeting to evaluate draft documents regarding ecological effects of modeled air quality scenarios developed to support the Second Section 812 Benefit-Cost Analysis of the Clean Air Act. The Council was established in 1991 pursuant to the Clean Air Act (CAA) Amendments of 1990 (42 U.S.C. 7612) to provide advice, information and recommendations on technical and economic aspects of analyses and reports EPA prepares on the impacts of the CAA on the public health, economy, and environment of the United States. The Council is a Federal Advisory Committee chartered under FACA. The EES will provide advice through the Council and will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Pursuant to Section 812 of the 1990 Clean Air Act Amendments (CAAA), EPA conducts periodic studies to assess benefits and costs of the EPA's regulatory actions under the Clean Air Act. The Council has provided advice on an EPA retrospective study published in 1997 and an EPA prospective study completed in 1999. EPA initiated a second prospective study to evaluate the benefits and costs of EPA Clean Air programs for years 1990–2020. The Council has previously provided advice on the analytical blueprint for this study. EPA's Office of Air and Radiation (OAR) is now nearing completion of the analytical work for the second prospective study.

At the March 9 and 10, 2010 meeting, the EES will review draft technical documents pertaining to ecological effects associated with air quality scenarios developed using the Community Multiscale Air Quality (CMAQ) model for seven emissions scenarios: a 1990 baseline simulation; and simulations for 2000, 2010 and 2020 with and without the CAAA. The draft documents compare simulated pollutant exposures with the distribution of sensitive ecosystems in the United States to assess ecosystems at risk from acidic deposition, total nitrogen deposition, and tropospheric ozone concentrations. In addition, the draft documents present case studies on benefits of the CAAA for recreation fishing and the timber industry in the Adirondack Region of New York State. Chapter 4 of the draft *Benefits Analyses to Support the Second Section 812 Benefit-Cost Analysis* describes the estimation of the physical effects of the air quality scenarios for ozone on agriculture and commercial forestry.

OAR is requesting that the EES review the data choices, methodological choices for analyzing the data, and the overall validity and utility of the estimated changes in ecological effects from air pollution between the with-CAAA90 and without-CAAA90 scenarios. The following documents are provided to the EES: (1) *Effects of Air Pollutants on Ecological Resources: Literature Review and Case Studies. Draft Report,* February 2010. Prepared by Industrial Economics, Inc., for James DeMocker, EPA Office of Policy Analysis and Review; and (2) *Benefits Analyses to Support the Second Section 812 Benefit-Cost Analysis of the Clean Air Act, Draft. Chapter 4: Agricultural and Forest Productivity Benefits. Draft Report,* February 2010. Prepared by Industrial Economics, Inc., for the EPA Office of Air and Radiation.

Technical Contacts: The Office of Air and Radiation technical contact for the Second Section 812 Benefit-Cost Analysis of the Clean Air Act is Mr. Jim DeMocker at (202) 564–1673 or *democker.jim@epa.gov.*

Availability of Meeting Materials: EPA draft documents provided to the EES are available at *http://www.epa.gov/oar/sect812/prospective2.html.*

The meeting agenda for March 9 and 10, 2010 and any background materials will be posted on the Council Web site *http://www.epa.gov/advisorycouncilcaa* prior to the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written information on the group conducting the activity or written or oral information for the EES to consider on the topics of this advisory activity. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than one hour for all speakers. Interested parties should contact Ms. Sanzone at the contact information provided above by March 2, 2010, to be placed on the public speaker list for the March 9 and

10, 2010 meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by March 2, 2010, so that the information may be made available to the EES for their consideration prior to the meeting. Written statements should be supplied to Ms. Sanzone in the following formats: one hard copy with original signature and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files). Submitters are asked to provide electronic versions of each document submitted with *and* without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Ms. Sanzone at (202) 343–9697, or via e-mail at *sanzone.stephanie@epa.gov,* preferably at least ten (10) days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 18, 2010.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2010–3723 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0787; FRL–8809–7]

Difenzoquat; Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellation, voluntarily requested by the registrant and accepted by the Agency, of products containing the pesticide difenzoquat, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows a November 25, 2009 **Federal Register** Notice of Receipt of Request from the registrant listed in Table 1 to voluntarily cancel these product registrations. These are the last products containing these pesticides registered for use in the United States. In the November 25, 2009 Notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrant withdrew their request within this period. The Agency did not receive any comments on the Notice. Further, the registrant did not withdraw their request. Accordingly, EPA hereby issues in this Notice a cancellation order granting the requested cancellations. 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 24, 2010.

FOR FURTHER INFORMATION CONTACT: Eric Miederhoff, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8028; fax number: (703) 308–7070; e-mail address: *miederhoff.eric@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–2009–0787. 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 cancellation, as requested by registrants, of products registered under section 3 of FIFRA. These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1. — DIFENZOQUAT PRODUCT CANCELLATIONS

Registration Number	Product Name	Company
5481–536	Avenge Technical Herbicide	AMVAC Chemical Corporation
5481–537	Avenge Wild Oat Herbicide	AMVAC Chemical Corporation
5481–538	Avenge SG Wild Oat Herbicide	AMVAC Chemical Corporation

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 OF CANCELLED PRODUCTS

EPA Company Number	Company Name and Address
5481	AMVAC Chemical Corporation 4695 MacArthur Court, Suite 1250 Newport Beach, California 92660–1706

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 November 25, 2009 **Federal Register** Notice announcing the Agency's receipt of the request for voluntary cancellation of products listed in Table 1.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellation of difenzoquat 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 canceled. 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

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."

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 effective date of this cancellation is February 24, 2010. The cancellation order that is the subject of this Notice includes the following existing stock provisions:

The registrant may sell and distribute existing stocks of products listed in Table 1 of Unit II until December 31, 2010. Persons other than the registrant may sell and distribute existing stocks of products listed in Table 1 until exhausted. Use of the products listed in Table 1 may continue until existing stocks are exhausted, provided that such use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 3, 2010

Peter Caulkins,

Acting Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–3503 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0777; FRL–8813–9]

Maneb; Product Cancellation Order of a Certain Pesticide Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellation, voluntarily requested by the registrant and accepted by the Agency, of a product containing the pesticide maneb, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows a January 6, 2010 **Federal Register** Notice of Receipt of Request from the registrant, Drexel Chemical Company, to voluntarily cancel their product registration. This is not the last product containing this pesticide registered for use in the United States. In the January 6, 2010 notice, EPA indicated that it would issue an order implementing the cancellation, unless the Agency received substantive comments within the 30–day comment period that would merit its further review of these requests, or unless the registrant withdrew their request within this period. The Agency did not receive any comments on the notice. Further, the registrant did not withdraw their request. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellation. Any distribution, sale, or use of the product subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellation is effective February 24, 2010.

FOR FURTHER INFORMATION CONTACT: Barbara Briscoe, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8177; fax number: (703) 308–8090; e-mail address: *Briscoe.Barbara@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–2009–0777. 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 cancellation, as requested by registrant, of a product registered under section 3 of FIFRA. This registration is listed below in Table 1.

TABLE 1.—MANEB PRODUCT CANCELLATION

EPA Registration Number	Product Name
019713–00377	Maneb Technical

Table 2 below includes the name and address of record for the registrant of the product listed in Table 1.

TABLE 2.—REGISTRANT OF CANCELED PRODUCT

EPA Company Number	Company Name and Address
019713	Drexel Chemical Company 1700 Channel Ave. P.O. Box 13327 Memphis, TN 38113

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 January 6, 2010 notice announcing the Agency's receipt of the request for voluntary cancellation of the product listed in Table 1.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellation of the maneb registration identified in Table 1. Accordingly, the Agency orders that the product registration identified in Table 1 is hereby canceled. Any distribution, sale, or use of existing stocks of the product identified in Table 1 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. 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

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. Due to a delay in the publication of the section 6(f)(1) notice, dated January 6, 2010, the date allowed to sell or distribute existing stocks of the maneb technical will be changed from February 10, 2010 (as stated in the section 6(f) receipt notice) to until February 26, 2010. EPA is allowing sale, distribution and use in the cancellation order as described below.

1. The registrant will be allowed to sell or distribute existing stocks of the maneb technical product identified in Table 1, until February 26, 2010.

2. The registrant will be allowed to use existing stocks to formulate end-use products from the maneb technical product identified in Table 1, until March 10, 2010.

3. Persons other than the registrant may use the maneb end use products until 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.

Dated: February 18, 2010.

Richard P. Keigwin, Jr.

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–3677 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0743; FRL–8805–2]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of products containing the pesticides listed in Table 1, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows a December 18, 2009 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 1 to voluntarily cancel these product registrations. These are not the last products containing these pesticides registered for use in the United States. In the December 18, 2009 Notice (74 FR 67211), EPA indicated that it would issue an order implementing the cancellations, 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 cancellations. 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 24, 2010.

FOR FURTHER INFORMATION CONTACT: Barbara Briscoe, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8177; fax number: (703) 308–8090; e-mail address: *briscoe.barbara@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–2009–0743. 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 cancellations, as requested by registrants, of 194 products registered under section 3 of FIFRA. These registrations are listed in sequence by registration number in Table 1.

TABLE 1.—PRODUCT CANCELLATIONS

EPA Registration Number	Product Name
000088–00024	Hyponex Bug Spray For House Plants
000192–00183	Ortho House Plant Insect Killer
000228–00195	Riverdale DP-4 Amine
000228–00243	Riverdale Cattle Spray
000228–00245	Riverdale Insect Killer
000228–00246	Riverdale Home And Garden Insect Spray
000228–00247	Riverdale Pyrethrin Concentrate
000228–00250	Riverdale Patio & Yard Outdoor Fogger
000239–02421	Ortho Outdoor Insect Fogger
000239–02429	Ortho Hi Power Indoor Insect Fogger
000239–02498	Ortho Rose & Flower Insect Killer
000239–02527	Ortho Pet Flea & Tick Spray
000239–02565	Ortho Pet Shampoo
000239–02566	Ortho Pet Flea & Tick Powder

TABLE 1.—PRODUCT CANCELLATIONS—Continued

EPA Registration Number	Product Name
000239–02567	Flea-B-Gon Carpet Dust
000239–02624	Hi Power Indoor Insect Fogger Formula V
000239–02676	Flea-B-Gon Total Fogger
000239–02678	Ortho Ant Killer Spray
000478–00126	Real Kill Automatic Indoor Fogger II
000499–00339	Whitmire Wasp And Hornet Spray
000499–00352	Wasp & Hornet Spray #3
000499–00455	ULD BP-3000-R Resmethrin Concentrate
000538–00177	Scotts Houseplant Insecticide
000538–00243	Yard & Garden Insect Control
000538–00244	Next Generation Crawling Insect Control
000538–00245	Next Generation Yard & Garden Concentrate Insect Control
000572–00316	Rockland Mill-Mist "S"
000769–00317	Superior Oil 70
000769–00682	SMCP SBP- 1382 Insecticide Spray 0.10%
000769–00683	SMCP SBP-1382 ® Insecticide Spray 0.05
000769–00684	SMCP SBP-1382 ® Insecticide Spray 0.25
000769–00701	SMCP SBP-1382 Liquid Spray 0.25%
000769–00702	24.3% SBP-1382-2 E.C.
000769–00703	40% SBP-1382 Mosquito Adulticide ULV Oil Base Concentrate
000769–00704	SMCP SBP-1382 ULV Insecticide
000769–00710	SMCP Household Insect Spray
000769–00805	Superior Point Two Fly Spray
000769–00870	Greenhouse & Plantscape EC2 Resmethrin Insect Spray

TABLE 1.—PRODUCT CANCELLATIONS—Continued

EPA Registration Number	Product Name
000769–00877	Platt Whitefly Spray For Indoor Plants And Outdoor Ornamentals
000769–00882	Resmethrin Mosquito Concentrate 40
000769–00884	Pratt Resmethrin 3 Insect Spray
000769–00885	Pratt Wasp & Yellow Jacket Spray
000769–00893	Pratt Plant Spray
000769–00900	House & Yard Insect Spray
000769–00938	Warner Enterprises Wasp & Hornet III
000769–00939	Warner Enterprises Ornamental Insecticide Concentrate I
000829–00075	SA 50 25% Malathion Wettable Spray Concentrate
001021–00056	Pyrocide Intermediate 54
001021–00230	Pyrocide Intermediate 57
001021–00838	Clearmol Concentrate 6643
001021–00988	Pyrocide Intermediate 6878
001021–01091	Evergreen Emulsifiable 60-6
001021–01095	Pyrocide Intermediate 6982
001021–01126	D-Trans Intermediate 1860
001021–01517	Pyrocide Concentrate 7352
001021–01627	Evercide Intermediate 2531
001021–01646	Piperonyl Butoxide OS
001021–01654	ETOC Concentrate 2634
001021–01679	Multicide Pressurized Roach Spray 27341
001021–01681	Multicide Total Release Aerosol 2782
001021–01685	Multicide Total Release Aerosol 27372

TABLE 1.—PRODUCT CANCELLATIONS—Continued

EPA Registration Number	Product Name
001021–01695	Evercide Concentrate 2654
001021–01696	Evercide Carpet And Surface Spray 2655
001021–01697	Evercide Roach And Ant Spray 2622
001021–01705	Pyrocide Home & Garden Spray
001021–01786	Pyrocide Indoor/Outdoor Insect Killer 73525
001021–01792	Evercide Carpet And Surface Spray 28011
001021–01822	Turbocide Pest Control System With Pyrocide 1-5
002217–00068	Pyrenone Multi-Purpose Knockout Spray
002217–00246	Pyrenone Dairy Cattle And Stock Spray
002217–00476	Horse Spray Ready To Use
002217–00497	Gordon's Institutional Mist Spray
002217–00520	Gordon's Malathion Contains 5 Lbs Malathion Per Gallon
002217–00523	Gordon's Institutional Area Spray
002217–00578	Pyrenone Multi-Purpose Knockout Spray
002217–00582	Gordon's Industrial Emulsifiable Concentrate Stable (1)
002217–00583	Gordon's Industrial Emulsifiable Concentrate Stable(2)
002217–00584	Gordon's Industrial Spray
002596–00137	Hartz One Spot Repellent For Dogs And Puppies
002596–00146	Hartz Ref. 101
002724–00507	Speer Home & Garden Insect Spray With 25% SPB-1382
002724–00509	Speer Insect Killer With .25% SBP-1382
002724–00510	Speer Indoor-Outdoor Insect Spray With 35& SBP-1382

TABLE 1.—PRODUCT CANCELLATIONS—Continued

EPA Registration Number	Product Name
002724–00515	Speer Yard & Patio Fogger
002724–00516	Speer Flea Spray For Dogs & Cats
002724–00520	Speer Food Plant Pressurized Insect Spray
002724–00524	Speer Cedar Scented Moth Proofer
002724–00525	Speer Aqueous Pressurized Spray Professional Strength
002724–00526	Speer House & Garden Insect Spray
002724–00528	Speer Aqueous Pressurized Spray
002724–00534	Speer 2% Transparent Emulsion Concentrate
002724–00535	Speer 0.35% Transparent Emulsion Spray
002724–00546	Speer Wasp & Hornet Killer
002724–00695	SBP/PY/PB Water-Based Ready-To-Use Liquid Spray
002935–00418	Metaldehyde 4 Bait
003468–00009	Supreme Oil Insecticide
004822–00122	Johnson Yardmaster Foam Insect Killer
004822–00136	Raid Formula II Insect Killer
004822–00139	Raid Household Flying Insect Killer I
004822–00140	Raid Formula IV Flying Insect Killer
004822–00141	Raid Flying Insect Killer Formula III
004822–00162	Raid Household Flying Insect Killer Formula 2
004822–00163	Raid House And Garden Bug Killer All Seasons Formula
004822–00165	Raid House And Garden Bug Killer V
004822–00181	Raid House And Garden Bug Killer Formula 8
004822–00183	Raid Formula 5249 Multi-Purpose Bug Killer

TABLE 1.—PRODUCT CANCELLATIONS—Continued

EPA Registration Number	Product Name
004822–00186	Raid Formula D39 Multi-Purpose Bug Killer
004822–00187	Johnson Wax Raid Liquid Flying Insect Killer
004822–00188	Raid Liquid Flying Insect Killer I
004822–00214	Raid Gypsy Moth And Japanese Beetle Killer
004822–00286	Raid Formula 6 Flying Insect Killer
004822–00287	Raid Flying Insect Killer Formula 8
004822–00288	Raid Flying Insect Killer Formula 7
004822–00304	Raid Flying Insect Killer Formula 10
004822–00363	Piperonyl Butoxide Technical For Manufacturing Purposes Only
005178–00009	Fish Mosquito Coils
005481–00035	Pyrenone Fly Spray
005481–00041	DDVP 1 Spray Insecticide Concentrate
005481–00064	Pyrethrin 101 Concentrate
005481–00201	D 80% Fogging Concentrate
005481–00202	DDVP 50% Fogging Concentrate
005481–00203	DDVP 5 TM Fogging Concentrate
005481–00207	DDVP 15 Fogging Insect Control
005481–00208	DDVP 15% Spray Concentrate
005481–00340	Alco Bug Spray Pressurized
005887–00037	Black Leaf Dormant Spray
005887–00101	Black Leaf Yard & Patio Fogger
005887–00113	Roach & Ant Pressurized Spray
005887–00114	Black Leaf House & Garden Pressurized Spray
005887–00115	Black Leaf Fly & Mosquito Pressurized Spray

TABLE 1.—PRODUCT CANCELLATIONS—Continued

EPA Registration Number	Product Name
005887–00117	Black Leaf Cockroach & Ant Killer
005887–00119	Black Leaf Wasp & Hornet Pressurized Spray
005887–00122	Black Leaf White Fly Pressurized Spray
005887–00130	Black Leaf Cockroach & Ant Killer
006218–00021	Summit Mushroom House Fogging Insecticide
006218–00057	Summit 5% DDVP
008329–00011	Malathion E-5
008329–00014	Clarke ULV Mosquitocide 731
008329–00028	Pyrethrins 3610-MO
008329–00029	ULV Mosquitocide 731 Plus
008329–00038	Biomist 4 + 20 Spray
008329–00041	Biomist 12 + 60 ULV
008329–00052	Flak 10-10
008329–00053	Flak 50-50
008329–00054	Oblique
008329–00055	Oblique III
008329–00063	Biomist 2+2 ULV
008378–00059	Shaw's Permethrin 50 Lawn Insect Granules
008660–00054	Fogging Concentrate Pyrenone* - Type
008660–00058	Pyrenone 20 New
008660–00077	Patterson's Greenup Organic Bug Dust
008660–00084	Vertagreen Indoor Plant Spray
008660–00119	Vertagreen Rose & Flower Insect Killer
008845–00057	Hot Shot Improved Fly And Mosquito Insect-Killer Formula II 5
008845–00103	Rid-A-Flea Shampoo
008845–00122	Hot Shot Roach And Ant Killer - Formula PRWB-1

TABLE 1.—PRODUCT CANCELLATIONS—Continued

EPA Registration Number	Product Name
008845–00123	Hot Shot Fogger V
009086–00008	Revenge Farm And Home Fly Bomb Insect Fogger
010900–00063	876 Institutional Insecticide
019713–00302	Green Devil Wettable Powder
019713–00359	Best 4 Servis Brand 25% Malathion Wettable Powder
032970–00006	Pactor-Fume Up And ATEM Water Based Insecticide
034704–00859	Takedown 50 WP Cotton Defoliant
039609–00001	Schultz Houseplants & Gardens Insect Spray
042697–00033	Safer Soap And Pyrethrum Ready-To-Use
046515–00008	Super K-Gro Tomato & Vegetable Insect Spray
046515–00009	Super K-Gro Rose & Floral Insect Killer
046515–00020	Super K-Gro Pet, Flea And Tick Spray
046515–00023	Super K-Gro Whitefly And Mealybug Insect Killer
046515–00027	Super K-Gro House Plant Insect Killer
046515–00029	Super K-Gro Whitefly & Mealbug Killer Spray
046515–00038	K-Rid Roach And Flea Fogger
046515–00039	K-Ant And Roach Killer
046515–00047	Flying Insect Killer 3
046515–00049	House & Garden Bug Killer
046515–00052	Roach & Flea Fogger
047000–00137	Selco Vapona Insecticide Fogging Solution
049585–00011	Super K-Gro Pyrenone Garden Dust

TABLE 1.—PRODUCT CANCELLATIONS—Continued

EPA Registration Number	Product Name
050932–00005	Concern Multi-Purpose Insect Killer Ready To Use
059144–00001	Malathion 50% Insect Spray
070506–00197	Cuprofix MZ Disperss
070627–00042	Johnson Wax Professional Total Release Fogger
070627–00043	Flea Killer IGR And Adulticide
070627–00052	Raid Commercial Insect Killer
072155–00064	Tetraperm (0.15-0.15-0.75) Yard And Patio Fogger
075395–00001	SK-Enspray 99
075395–00002	SK-Enspray N
075402–00002	Hilo Premises Spray
075402–00003	Aloe Care Flea & Tick Shampoo
083399–00005	SVP1
CA 990026	Temik Brand 15G Aldicarb Pesticide
CO–990012	Banvel Herbicide-For Weed Control In Millet
CO–990013	Banvel Herbicide Aerial Applications
CO–990014	Banvel Herbicide, Preharvest Applications In Wheat

TABLE 2.—REGISTRANTS OF CANCELLED PRODUCTS

EPA Company Number	Company Name and Address
000088	Hyponex Corp. 14111 Scottslawn Road Marysville, Oh 43041
000192	Value Gardens Supply, LLC P.O. Box 585 Saint Joseph, MO 64502

TABLE 2.—REGISTRANTS OF CANCELLED PRODUCTS—Continued

EPA Company Number	Company Name and Address
000228	Nufarm Americas, Inc. 150 Harvester Dr., Suite 200 Burr Ridge, Il 60527
000239	The Scotts Group D/B/A/ The Ortho Group P.O. Box 190 Marysville, Oh 43040
000478	Realex P.O. Box 142642 St Louis, MO 63114
000499	BASF Corporation 3568 Tree Ct Industrial Blvd St Louis, MO 63114
000538	The Scotts Company 14111 Scottslawn Road Marysville, OH 43041
000572	Value Garden Supply 9100 W. Bloomington Freeway, Suite 113 Bloomington, MD 55431
000769	Value Garden Supply P.O. Box 585 Saint Joseph, MO 64502
000829	Southern Agricultural Insecticides, Inc. P.O. Box 218 Palmetto, FL 34220
001021	McLaughlin Gormley King Co. 8810 Tenth Avenue North Minneapolis, MN 55427
002217	PBI Gordon Corp 1217 West 12th Street P.O. Box 14090 Kansas City, MO 64101
002596	Hartz Mountain Corp. 400 Plaza Drive Secaucus, NJ 07094
002724	Wellmark Mountain Corp 1501 E. Woodfield Road, Suite 200 West Schaumburg, Il 60173
002935	Wilbur Ellis Co. P.O Box 1286 Fresno, CA 93715

TABLE 2.—REGISTRANTS OF CANCELLED PRODUCTS—Continued

EPA Company Number	Company Name and Address
003468	Schall Chemical Supply, L.L.C. 120 N. Broadway Monte Vista, CO 81144
004822	S.C. Johnson & Son, Inc. 1525 Howe Street Racine, WI 53403
005178	Blood Protection Co., Ltd Paul A. Keane & Associates P.O. Box 65436 Tucson, AZ 85728
005481	Amvac Chemical Corp. 4695 Macarthur Court Suite 1250 Newport Beach, CA 92660
005887	Value Garden Supply 9100 W. Bloomington, Freeway Suite 113 Bloomington, MN 55431
006218	Summit Chem. Co. Summit Responsible Solutions 235 South Kresson St. Baltimore, MD 21224
008329	Clark Mosquito Control Products, Inc. P.O. Box 72197 Roselle, Il 60172
008378	Knox Fertilizer Company P.O. Box 248 Knox, IN 46534
008660	United Industries, Corp. D/B/A Sylorr Plant Corp. P.O. Box 142642 St. Louis, MO 31140
008845	Spectrum Group, Div Of United Industries Corp. P.O. Box 142642 St. Louis, MO 31140
009086	Roxide International, Inc. 5927 Paint Bank Road New Castle, VA 24127
010900	Sherman Williams 101 Prospect Ave. Cleveland, OH 44115

TABLE 2.—REGISTRANTS OF CANCELLED PRODUCTS—Continued

EPA Company Number	Company Name and Address
019713	Drexel Chemical Co. 1700 Channel Ave. P.O. Box 13327 Memphis, TN 38113
032970	American Cleaning Co. 39-30 Review Ave. Long Island City, NY 11101
034704	Loveland Products, Inc. 7251 W. 4th St. P.O. Box 1286 Greeley, CO 80632–1286
039609	Schultz Co. 13260 Corp. Exchange Dr. P.O. Box 4406 Bridgeton, MO 63044
042697	Safer, Inc. 69 North Locust St. P.O. Box 327 Lititz, PA17543
046515	Celex, Div. Of United Industries, Corp. P.O. Box 14642 St. Louis, MO 63114
047000	Chem-Tech, Ltd 4515 Fleur Dr. #303 Des Moines, LA 50321
049585	Alljack, Div. Of United Industries, Corp. P.O. Box 14642 St. Louis, MO 63114
050932	Woodstream Corp. 69 North Locust St. P.O. Box 327 Lititz, PA 17543
59144	RegWest Company 30856 Rocky Road Greeley, CO 80631–9375
070506	United Phosphorus 630 Freedom Business Center, Suite 402 King of Prussia, PA 19402
070627	Johnson Diversey, Inc. 8310 16th St. P.O. Box 902 Sturtevant, WI 53177

TABLE 2.—REGISTRANTS OF CANCELLED PRODUCTS—Continued

EPA Company Number	Company Name and Address
072155	Bayer Advanced A Business Unit of Bayer Cropscience, LP. 2 T.W.Alexander Dr. P.O. Box 12014 Research Triangle Park, NC 27709
075395	SK E&P Co. 1300 Post Oak Blvd, Suite 450 Houston, TX 77056
075402	Boss Pet Products, Inc. 1645 Rockside Rd., Suite 200 Maple Heights, OH 44147
083399	Summit Vetpharm, LLC 301 Route 17 North Rutherford, NJ 07070
CA 990026	California Pecan Growers Association P. O. Box 1142 Visalia, CA 93279
CO–990012	State of Colorado 700 Kipling St., Suite 4000 Lakewood, CO 80215
CO–990013	State of Colorado 700 Kipling St., Suite 4000 Lakewood, CO 80215
CO–990014	State of Colorado 700 Kipling St., Suite 4000 Lakewood, CO 80215

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 December 18, 2009 **Federal Register** notice announcing the Agency's receipt of the requests for voluntary cancellations of products listed in Table 1.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellations of registrations identified in Table 1. Accordingly, the Agency orders that the product registrations identified in Table 1 are hereby canceled. Any distribution, sale, or use of existing stocks of the products identified in Table 1 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

EPA's existing stocks policy published in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4) 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."

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 effective date of this cancellation is February 24, 2010. The cancellation order that is the subject of this notice includes the following existing stock provisions:

The registrant may sell and distribute existing stocks of product(s) listed in Table 1 until February 24, 2010. Persons other than the registrant may sell and distribute existing stocks of product(s) listed in Table 1 until exhausted. Use of the products listed in Table 1 may continue until existing stocks are exhausted, provided that such use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled product(s).

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 8, 2010.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–3537 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9117–1]

Proposed CERCLA Administrative Settlement; Anderson-Calhoun Mine and Mill Site, Leadpoint, WA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for costs associated with a removal action at the Anderson-Calhoun Mine and Mill Site in Leadpoint, Washington, with settling party Blue Tee Corporation. The settlement requires the settling party to pay $1,362,800 to cover the estimated cost of the selected removal action, and to conduct all future post-removal site control including maintenance and repair of the removal action. The settlement includes a covenant not to sue or take administrative action against the settling party pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. 9606 or 9607(a), for recovery of past costs and for the performance of the selected removal action. For thirty (30) days following the date of publication of this notice the Agency will receive written comments relating to the settlement. The Agency will consider all comments received during the thirty day period, and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the U.S. EPA Region 10 offices, located at 1200 Sixth Avenue, Seattle, Washington 98101.

DATES: Comments must be submitted on or before March 26, 2010.

ADDRESSES: The proposed settlement is available for public inspection at the

U.S. EPA Region 10 offices, located at 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed settlement may be obtained from Carol Kennedy, Regional Hearing Clerk, U.S. EPA Region 10, Mail Stop ORC–158, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101; (206) 553–0242. Comments should reference the Anderson-Calhoun Mine and Mill Site in Leadpoint, Washington, EPA Docket No. CERCLA–10–2010–0105 and should be addressed to Alexander Fidis, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC–158, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Alexander Fidis, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC–158, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101; (206) 553–4710.

SUPPLEMENTARY INFORMATION: The Anderson-Calhoun Mine and Mill Site (Site) is located in Leadpoint, Stevens County, Washington. Site operations conducted between 1910 and the early 1980s included the mining and milling of lead-zinc ore, and the milling of barite ore. Waste-rock and mill tailings produced by these operations were disposed of at the Site in a raised tailings impoundment and at areas around the mill building. Waste-rock and tailings at the Site contain hazardous substances including barium, cadmium, copper, lead, selenium and zinc at concentrations that exceed applicable cleanup levels. The Agency has selected a removal action to address potential or actual threats that these substances may present to public health, welfare, or the environment.

The settling party is one of three parties that together spent approximately $660,000 to investigate and study the Site, assess cleanup alternatives, and to develop an Engineering Evaluation and Cost Analysis that formed the basis for the selection of the removal action. The Agency entered into a settlement agreement with the other two parties, Docket Number CERCLA–10–2009–0195, for $357,000, which was deposited in a site-specific account. Under the proposed agreement, the settling party will pay $1,362,800 to the site-specific account to cover the remaining estimated costs of the removal action. The settling party will also conduct all future post-removal site control as described in a finalized maintenance and repair plan. The proposed settlement will provide the settling party with a covenant not to sue or take administrative action, subject to a reservation of certain rights, for recovery past response costs and for the performance of the selected removal action.

Dated: Feburary 16, 2010.

Linda Anderson-Carnahan,

Acting Director, Office of Environmental Cleanup.

[FR Doc. 2010–3681 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL –9117–3]

Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to Mecklenburg County, NC, Land Use and Environmental Services Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section1605(b)(2) [manufactured goods are not produced in the United States of a satisfactory quality] to the Mecklenburg County Land Use and Environmental Services Agency, for the purchase of coconut fiber (coir) woven mats. This is a project-specific waiver and only applies to the use of the specified 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 project-specific circumstances. These coconut fiber woven mats, which are supplied by HD Supply in Charlotte, NC, are manufactured in India and Sri Lanka, and meet Mecklenburg County's performance specifications and requirements. The Acting Regional Administrator is making this determination based on the review and recommendations of EPA Region 4. The County 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 coconut fiber woven mats for the Torrence Creek Stream Restoration Project being implemented by the Mecklenburg County Land Use and Environmental Services Agency that may otherwise be prohibited under Section 1605(a) of the ARRA.

DATES: *Effective Date:* January 28, 2010.

FOR FURTHER INFORMATION CONTACT: Cynthia Y. Edwards, Project Officer, Grants and SRF Section, Water Protection Division (WPD), (404) 562–9340, USEPA Region 4, 61 Forsyth St., SW., Atlanta, GA 30303.

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 Sections 1605(b)(2) of Public Law 111–5, Buy American requirements, to Mecklenburg County Land Use and Environmental Services Agency, Mecklenburg County, North Carolina, for the purchase of coconut fiber woven mats manufactured in India and Sri Lanka.

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, or unless a waiver is provided to the recipient by the head of the appropriate agency, herein 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.

This manufactured good will be used as part of the "Torrence Creek Stream Restoration Project," a stream stabilization project in North Carolina. The County states that only coconut fiber woven mats meet the specific needs of this project, which are durability, mat size and biodegradability. They indicate that the key characteristics that set coconut fiber woven mats apart from other alternatives are a 3+ year in-stream life expectancy followed by 100% biodegradation, and visually unobtrusive properties. The County states that coconut fibers are more durable than straw and other materials used in alternative mat products, and they do not require the incorporation of polypropylene and/or other synthetic products that are not 100% biodegradable.

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 OMB ARRA Buy American Guidance cites the Federal Acquisition Regulation (FAR) as an appropriate reference for availability waiver inquiries. Specifically, the OMB Guidance at section 176.80(a)(1) states (at 77 FR 18452) that "The determinations of nonavailability of the articles listed at 48 CFR 25.104(a) and the procedures at 48 CFR 25.103(b)(1) also apply if any of those articles are manufactured goods needed in the project. The FAR's list of nonavailable articles includes "Fibers of the following types: * * * coir," thereby establishing a presumption of lack of U.S. availability. The FAR procedures at 48 CFR 25.103(b)(1) specified as required in the OMB Guidance state that: (1)(i) A nonavailability determination has been made for the articles listed in 25.104. This determination does not necessarily mean that there is no domestic source for the listed items, but that domestic sources can only meet 50 percent or less of total U.S. government and nongovernment demand. (ii) Before acquisition of an article on the list, the procuring agency is responsible to conduct market research appropriate to the circumstances, including seeking of domestic sources.

The applicant met the procedures specified for the availability inquiry as appropriate to the circumstances by conducting on-line research and contacting suppliers, and all sources indicated that coconut fiber woven mats are only manufactured outside of the U.S. Therefore, based on the information provided to EPA and to the best of our knowledge at this time, coconut fiber woven mats are not manufactured in the United States, and no other U.S. manufactured product can meet Mecklenburg County's performance specifications and requirements for this project.

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 agencies such as Mecklenburg County Land Use and Environmental Services Agency, to revise their standards and specifications. The imposition of ARRA Buy American requirements on such projects otherwise eligible for ARRA State Revolving Fund assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay project implementation is in direct conflict with a fundamental economic purpose of the ARRA, which is to create or retain jobs.

EPA's national contractor prepared a technical assessment report dated December 22, 2009, based on the submitted waiver request. The report determined that the waiver request submittal was complete, that adequate technical information was provided, and that there were no significant weaknesses in the justification provided. The report confirmed the waiver applicant's claim that there are no comparable domestic products that can meet the specific durability, size and biodegradation needs of this project.

The information and supporting documentation provided by Mecklenburg County is sufficient to meet the criteria listed under Section 1605(b) of the ARRA 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) of the ARRA. 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 County's performance specifications and requirements, a waiver from the Buy American requirement is justified.

The March 31, 2009, Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of the 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, Mecklenburg County Land Use and Environmental Services Agency, is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5 for the purchase of coconut fiber woven mats using ARRA funds as specified in the Mecklenburg County Land and Environmental Services Agency request of December 16, 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 28, 2010.

J. Scott Gordon,

Acting Regional Administrator, Region 4.

[FR Doc. 2010–3684 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9117–6]

Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Massachusetts Water Resources Authority (MWRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA 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 Massachusetts Water Resources Authority ("MWRA") for the purchase of a 1.5 megawatt (MW) foreign manufactured wind turbine for the DeLauri Pump Station Renewable Energy Project in Charlestown, Massachusetts. 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. Based upon information submitted by the MWRA, it has been determined that there is currently no domestically manufactured wind turbine available or one that can be supplied to meet its proposed project specifications. The Regional Administrator is making this determination based on the review and recommendations of the Municipal Assistance Unit. 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 foreign manufactured 1.5 MW wind turbine by the MWRA, as specified in its November 19, 2009 request.

DATES: *Effective Date:* February 11, 2010.

FOR FURTHER INFORMATION CONTACT: David Chin, Environmental Engineer, (617) 918–1764, or Katie Connors, Environmental Engineer, (617) 918–1658, Municipal Assistance Unit (CMU), Office of Ecosystem Protection (OEP), U.S. EPA, 5 Post Office Square, Suite 100, Boston, MA 02109–3912.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Sections 1605(c) and 1605(b)(2), the EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(a) of Public Law 111–5, Buy American requirements, to the MWRA for the purchase of a foreign manufactured 1.5 MW wind turbine to meet the MWRA's design and performance specifications as part of its proposed DeLauri Pump Station Renewable Energy Project in Charlestown, MA.

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 a public works project 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 agency, here the 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 MWRA is proposing a renewable energy project consisting of a 1.5 MW wind turbine, secondary unit substation, switchgear, associated conductors and controls to be installed at an existing MWRA wastewater pump station (DeLauri Pump Station) in Charlestown, Massachusetts (MA). The DeLauri Pump Station has an average flow of 31 million gallons a day (mgd) and a peak capacity of 93 mgd and serves Charlestown and portions of the communities of Somerville, Cambridge, and Medford, MA. The pump station functions during dry and wet weather and serves to overcome the hydraulic differential required to continue gravity flow through the MWRA collection system and eventually to the Deer Island Wastewater Treatment Plant.

The site is located on an MWRA owned parcel of land along the north bank of the Mystic River and just west of Alford Street (Route 99) in the Charlestown section of Boston. The property area is comprised of 8.65 acres located in a strictly industrial area and does not have any immediate residential abutters. The DeLauri Pump Station building is located in the middle of the property. The planned location for the wind turbine is near the southwest edge of the Pump Station property adjacent to the Mystic River, and approximately 275 feet west of Route 99, a heavily traveled 4 lane undivided highway. The site is adjacent to the Boston Water and Sewer Commission property and directly across the highway from the 1600 MW U.S. Power Generating Company's Mystic Power Plant.

The MWRA is requesting a waiver for the purchase of a 1.5 MW wind turbine (comprised of all turbine components, including the blades, the nacelle (*i.e.* cover housing that holds the equipment within a wind turbine), the gear box, low and high speed shafts, generator, controller, and brake), which is manufactured by Sinovel in China. The wind turbine is expected to generate electrical power to provide 80% of the simultaneous energy needs of the wastewater pump station itself. Contingent on pump station demand and wind conditions, the wind turbine is also expected to contribute more than 2.65 million kilowatt hours per year of clean renewable electricity back to the power grid, which is not consumed simultaneously with pump station demand. It should be noted that Massachusetts is one of several northeast states that has a climate change action plan which calls for significant CO_2 emission reductions by 2020. Integral to that plan is a wider adoption of non-emitting renewable sources of electricity. Wind power is currently the most practical source of renewable energy to meet that goal. The Massachusetts' Renewable Portfolio Standard (RPS) requires an increasing amount of the electricity sold in the Commonwealth to come from renewable electricity, including wind power. RPS is also one of the major policy tools put in place to meet the CO_2 reduction goals under the climate change plan. This project, while small, would contribute towards achieving those goals.

The MWRA waiver request was submitted just after the project was advertised for bid. The estimated total cost of the proposed design, build, and operate project is $4.7M, with the wind turbine accounting for approximately half of the total cost. MWRA has specified a 1.5 MW wind turbine, with a height of approximately 262 feet to the top of the tower, and 393 feet to the tip of the blade. The maximum blade diameter will be approximately 269 feet. This is the largest (and most efficient) wind turbine that can be installed and still comply with height limitations imposed by the Federal Aviation Administration at this particular site.

The MWRA has researched available domestic and foreign wind turbine manufacturers. One domestic manufacturer produces a larger capacity wind turbine, but the height of that turbine exceeds the Federal Aviation Administration height limitations for the site, and thus could not meet project specifications. Another domestic manufacturer that produces a wind turbine that meets project specifications was identified, but it is not willing to supply a wind turbine for installation at the DeLauri Pump Station due to site limitations. The domestic manufacturer's internal siting considerations recommended that, for safety in the event of icing, a setback distance of 1.5 times the hub height and rotor diameter be maintained. As the existing site did not allow for such a setback distance, the domestic manufacturer declined to make its product available for this project. However, the domestic manufacturer's internal siting considerations also provided for other possible mitigation techniques for properties that do not meet these setback considerations, but the manufacturer did not offer to make its product available based on the potential application of such techniques at this site.

One foreign manufacturer, which has been identified to have a 1.5 MW wind turbine that meets the technical specifications required by the MWRA, currently does not use the same site consideration limitations applied by the domestic manufacturer. The foreign manufacturer has agreed to supply a 1.5 MW wind turbine to the MWRA. There was also another foreign manufacturer that had been identified by the MWRA which had a 1.5 MW wind turbine that could meet the technical specifications, but that foreign manufacturer is now unwilling to provide single wind turbine installations.

There are currently no local, State, Federal, or international requirements regulating setback distances associated with potential icing conditions while operating wind turbines. There have been guidelines that have been suggested by various wind energy industry groups, some of which the identified domestic manufacturer has adopted, as well as model zoning ordinance/bylaws like the one that the

Commonwealth of Massachusetts introduced in 2009. The technical aspect of detecting and controlling icing through instrumentation and equipment also is evolving.

Based on information provided to the EPA, MWRA has taken all of the necessary steps to obtain all necessary local, state, and federal approvals to move forward with the proposed project. The project has been reviewed by the following regulatory agencies: Federal Aviation Administration (*i.e.* received a Determination of No Hazard to Air Navigation); the Boston Conservation Commission (*i.e.* an Order of Conditions); the Boston Redevelopment Authority; the Massachusetts Department of Environmental Protection (*i.e.* Chapter 91 Waterways License); Federal Communications Commission; and the Massachusetts Historical Commission. The MWRA has also completed significant public outreach to abutters (*i.e.* Boston Water and Sewer Commission, the Massachusetts Bay Transportation Authority, and the U.S. Power Generating Company), the Massachusetts Highway Department, local associations (*i.e.* City of Boston's Office of Neighborhood Services Department, the Charlestown Neighborhood Council (CNC), the CNC Development Committee, and the Charlestown Waterfront Coalition), local officials and Congressional staff.

Based on information provided by the MWRA, concerns associated with potential ice throws from the wind turbine were not raised during the permitting and public outreach process. It should be noted that there are a number of existing wind turbine installations in Massachusetts that do not conform to the site setback considerations used by the domestic manufacturer. However, because the site setback and associated safety considerations were the basis for the unavailability of the domestic wind turbine, EPA must address these considerations in its findings and determination on this waiver request.

A July 2008 University of Massachusetts (UMASS) Wind Energy Center research paper (Wind Turbine Siting—An Assessment of Safety Risks in Massachusetts and New England) suggests that the risks in these cases are relatively low. The paper references a study which notes that there have been no reported injuries from ice throws from wind turbines, despite the installation of 6,000 MW of wind energy worldwide. The UMASS study further suggests that while icing can be severe in New England, the incidence of icing events is relatively small. Several papers have noted that the odds of being struck by ice fragments from a wind turbine are similar to those odds of being struck by lightning.

However, while these analyses place the low risks from ice damage or injury in the perspective of the experience available, the experience with these risks is largely anecdotal and has not been systematically assessed in situations where precautionary setback distances to heavily traveled public highways are not met. Several reports recommend that if setback distances cannot be maintained, alternative mitigation methods may be effective at limiting safety risks. As noted above, the use of mitigation measures—which may include monitoring the approach of conditions likely to lead to icing, shutting down the turbine in the event of icing, careful restart procedures, and a range of appropriate operational control strategies and measures—is also considered appropriate under the domestic manufacturer's internal siting considerations where setback distances cannot be met. This approach is consistent with available guidelines and model bylaws.

The MWRA, in discussions with the EPA Regional Office, has indicated that it will implement a mitigation plan to minimize any potential ice throws to ensure public safety. Commercial wind turbines have been designed with vibration sensors to detect any imbalance which might be caused by icing of the blades, resulting in an automatic shutdown (or preventing start up) of the turbine when this imbalance is detected. In situations where conditions indicate a risk of icing of wind turbine components, mitigation measures can be taken automatically or manually. The foreign manufacturer supplying the wind turbine to the MWRA has indicated that the turbine comes equipped with vibration sensors to shut down when ice build up is detected. The contractor who will install the wind turbine has indicated that the control system can be programmed to allow for manual start up as well, which will allow an operator to visually inspect the turbine to confirm that there is no ice remaining before the turbine is re-started. The MWRA will implement manual wind turbine operational control strategies during periods of ice accretion which include, but are not limited to: Curtailment of operation of the turbine, braking the blades in a "Y" to facilitate ice shedding directly underneath the wind turbine, and yawing the nacelle so that the blades are in the safest position for ice shedding. It may also post warning signs alerting personnel of the potential risk in the area. Access to the turbine area site will be restricted during icing conditions, if necessary.

Based on the evaluation of all of the submitted documentation by EPA's technical review team, MWRA's statement that no U.S. manufacturer will provide a 1.5 MW wind turbine generator that meets project specifications is supported by the available evidence. In addition, the evaluation of the supporting documentation indicates that at least one foreign manufacturer, Sinovel, will provide its wind turbine at the proposed site. Accordingly, EPA finds that the Sinovel wind turbine is available on terms that address the basis of the unavailability of the domestic-made wind turbine if the MWRA's mitigation plan as stated above is implemented. EPA further finds that the MWRA's acceptance and use of this waiver represents a commitment by the MWRA to implement the mitigation plan, and that such continuing implementation will constitute the MWRA's basis for compliance with the requirements of ARRA § 1605 with respect to this wind turbine.

The purpose of the ARRA is to stimulate economic recovery by funding current infrastructure construction, not to delay projects that are "shovel ready" by requiring potential SRF eligible recipients, such as the MWRA, to find alternative project sites when appropriate and more timely and feasible measures are available consistent with project design standards and specifications. The imposition of ARRA Buy American requirements in this case would result in unreasonable delay and potentially the cancellation of this project as sited. The delay or cancellation of this construction would directly conflict with a fundamental economic purpose of ARRA, which is to create or retain jobs.

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' " ("Memorandum"), 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 same Memorandum defines "satisfactory quality" as "the quality of steel, iron or manufactured good specified in the project plans and designs."

The Municipal Assistance Unit (CMU) has reviewed this waiver request and has determined that the supporting

documentation provided by the MWRA establishes both a proper basis to specify a particular manufactured good, and that no domestic manufacturer is currently available or willing to supply that particular manufactured good which meets project specifications. The information provided is sufficient to meet the following criteria listed under Section 1605(b) of the ARRA and in the April 28, 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 March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the temporary authority to issue exceptions to Section 1605 of the ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients.

Having established a proper basis to specify the particular good required for this project, that the MWRA has agreed to implement a mitigation plan to minimize the likelihood of any potential ice throws to ensure public safety, and that this manufactured good was not available from a producer in the United States, the MWRA 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 a foreign manufactured wind turbine documented in MWRA's waiver request submittal dated November 19, 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: February 11, 2010.

Ira Leighton,

Acting Regional Administrator, EPA Region 1—New England.

[FR Doc. 2010–3703 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9117–4]

Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Old Town Water District in Old Town, ME

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a waiver of the Buy America requirements of ARRA Section 1605 under the authority of Section 1605(b)(1) [inconsistent with the public interest] to the Old Town Water District ("Town") in Old Town, Maine for the purchase of GreensandPlus pressure filter media, manufactured in Brazil, for two of the 12 foot diameter filters. 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 Town evaluated three different types of pressure filter media during a pilot test in April of 2008 and, well before the enactment of ARRA, selected GreensandPlus filter media. The media was purchased for the first two of four filter beds in October 2008, when the price of the media was determined for all four beds. The media was installed in two of the filter beds in January 2009. The ARRA funded project is for the other two filter beds in the Old Town Water District system. If an alternate domestic filter media were to be installed in the remaining two filter beds, the Maine Drinking Water Program would require replacement of the underdrain and associated piping, which would increase the cost of the project from $40,019 to $86,405. Based upon information submitted by the Town, its consulting engineer, and the Maine Department of Health and Human Services (MEDHHS), EPA has concluded that, under these circumstances, requiring the installation of an alternative domestic filter media would be inconsistent with the public interest, and that a waiver of the Buy American provisions is justified. The Regional Administrator is making this determination based on the review and recommendations of the Municipal Assistance Unit. The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to the requirements of Section 1605(a) of ARRA. This action permits the purchase of GreensandPlus pressure filter media, as specified in its November 7, 2009 request.

DATES: *Effective Date:* February 12, 2010.

FOR FURTHER INFORMATION CONTACT: Katie Connors, Environmental Engineer, (617) 918–1658, or, David Chin, Environmental Engineer, (617) 918–1764, Municipal Assistance Unit (CMU), Office of Ecosystem Protection (OEP), U.S. EPA, 5 Post Office Square, Suite 100, Boston, MA 02109–3912.

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(a) of Public Law 111–5, Buy American requirements, to the Old Town Water District (Town) in Old Town, Maine for the purchase of non-domestic GreensandPlus pressure filter media for two 12 foot diameter filters. EPA has evaluated the Town's basis for procuring the GreensandPlus pressure filter media for these filters. Based on the information provided by the applicant and the State of Maine, EPA has determined that it is inconsistent with the public interest for the Town to pursue the purchase of domestically manufactured filter media.

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 a public works project 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 agency, here the EPA. A waiver may be provided under Section 1605(b) 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 Town is requesting a waiver of the Buy American provision for the GreensandPlus filter media for two 12 foot diameter filters. At the Town's water treatment plant, there are four filter beds. In April of 2008, the Town performed a pilot study of three different pressure filter media. Well before the enactment of ARRA, they selected GreensandPlus media—which is manufactured in Brazil—because it was more appropriate for the configuration of the Old Town Water District system. The GreensandPlus media was purchased for the first two filter beds in October 2008, when the price was locked in for all four filter beds. The media was installed in January 2009 for the first of the filter beds. The ARRA funded project to the Town is for the installation of the GreensandPlus media for iron and

manganese removal in the remaining two filter beds.

Detailed evaluation of all of the submitted documentation by, and extensive discussions among EPA's technical review team, the EPA program office, and EPA's national contractor established that the Maine Drinking Water Program, in the MEDHHS, would require replacement of the existing underdrain and associated piping if either of the other two filter media that were pilot tested—one of which may be domestically-produced—were used in the project. This would result in an increase in the project cost from $40,019 to $86,405 for the two filter beds. Due to the existing backwash piping configuration, a lower backwash rate is needed which could be attained by the GreensandPlus filter media without replacement of the underdrain or piping.

The Maine Drinking Water Program is the primary enforcement authority responsible for ensuring that all Public Water Systems (PWS) in the State regulated under the Safe Drinking Water Act comply with all National Primary Drinking Water Regulations (NPDWR). Implementation of the determination by such an authority that specific facility configurations or operating conditions are required for compliance with NPDWRs is obligatory for a PWS.

Thus, the use of domestic filter media would require replacement of the underdrain and associated piping which would double the cost of the project. In addition, the evaluation of the supporting documentation also demonstrated that the foreign filter media will be able to meet the proposed project design and specifications with no additional cost to the Town.

Furthermore, the purpose of the ARRA is to stimulate economic recovery by funding current infrastructure construction, not to delay or require the substantial redesign of projects that are "shovel ready," such as this project of the Old Town Water District. The imposition of ARRA Buy American requirements in this case would result in unreasonable additional cost for this project and substantial delay in its completion. Such delay would also directly conflict with a fundamental economic purpose of ARRA, which is to create or retain jobs.

The Municipal Assistance Unit (CMU) has reviewed this waiver request and has determined that the supporting documentation provided by the Town established a proper basis to specify that using the domestic manufactured good would be inconsistent with the public interest of the Town. The MEDHHS concluded that using a domestic filter media would require replacement of the underdrain and associated piping and subsequently significantly increase the project cost. The information provided is sufficient to meet the following criteria listed under Section 1605(b)(1) of the ARRA and in the April 28, 2009 Memorandum: Applying these requirements would be inconsistent with the public interest.

The March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the temporary authority to issue exceptions to Section 1605 of the 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 using a domestically available alternative manufactured good would be inconsistent with the public interest of the Town, the Old Town Water 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 GreensandPlus filter media for two 12 foot diameter filters documented in the Town's waiver request submittal dated November 9, 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: February 12, 2010.

Ira Leighton,

Acting Regional Administrator, EPA Region 1—New England.

[FR Doc. 2010–3735 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 139]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

FORM TITLE: Report of Premiums Payable for Financial Institutions Only (EIB 92–30).

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

We have made the following changes to this application:

a. Under "Obligo Types" we have added "Financial Institution" as an option;

b. Under "Obligo Types" we have deleted "Eximbank Sole Risk" as an option;

c. Under "Terms" we have added "CAD or SDDP";

d. Under "Terms" we have deleted "Sight Payments (non-letter of credit)";

e. Under "Terms" we have changed "1–60 Days" to "1–30 Days" as an option;

f. Under "Terms" we have added "31–60 Days" as an option;

g. Under "Terms" we have changed "61–120 Days" to "61–90 Days" as an option; and

h. Under "Terms" we have added "91–120 Days" as an option.

Our customers will be able to submit this form on paper or electronically. The information collected enables the applicant to provide Ex-Im Bank with the information necessary to record custom utilization and management prospective insurance liability relative to risk premiums received.

DATES: Comments should be received on or before (60 days after publication) to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* or by mail to Arnold Chow, Export-Import Bank of the United States, 811 Vermont Ave., NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 92–30. Report of Premiums Payable for Financial Institutions Only.

OMB Number: 3048–0021.

Type of Review: Regular.

Need and Use: The information collected enables the applicant to provide Ex-Im Bank with the information necessary to record custom utilization and management prospective insurance liability relative to risk premiums received.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 150.

Estimated Time per Respondent: 15 minutes.

Government Annual Burden Hours: 450.

Frequency of Reporting or Use: Monthly.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2010–3646 Filed 2–23–10; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 145]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: Application for Long Term Loan or Guarantee (EIB 95–10).

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

We have made the following changes to this application:

a. Added fields for application, exporter, and supplier to indicate if they are Minority Owned or Woman Owned businesses;

b. Added fields for the application to indicate if the export items are considered to be environmentally beneficial and/or if the project will be used to provide renewable energy;

c. Added fields for the exporter and supplier to indicate how many FTEs were supported or created for this deal; and

d. Changed the amount of financeable local costs from 15% to 30%.

Our customers will be able to submit this form on paper or electronically. The information collected will provide information needed to determine compliance and creditworthiness for transaction requests submitted to the Export Import Bank under its long term guarantee and direct loan programs.

DATES: Comments should be received on or before (60 days after publication) to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* or by mail to Barbara OBoyle, Export Import Bank of the United States, 811 Vermont Ave., NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 95–10 Application for Long Term Loan or Guarantee.

OMB Number: 3048–0013.

Type of Review: Regular.

Need and Use: The information collected will provide information needed to determine compliance and creditworthiness for transaction requests submitted to the Export Import Bank under its long term guarantee and direct loan programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 84.

Estimated Time Per Respondent: 1.5 hours.

Government Annual Burden Hours: 2,016.

Frequency of Reporting or Use: On Occasion.

Total Cost to the Government: $145,152.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2010–3647 Filed 2–23–10; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Waiver of Filing Deadline Due to Adverse Weather Conditions

February 16, 2010.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: Due to adverse weather conditions, the Federal Communications Commission closed early on Friday, February 5, and closed for business Monday, February 8 through Thursday, February 11, 2010. In recognition of the numerous closings and disruptions caused by the weather in the Washington, DC area, all paper and electronic filings that were due on February 5 through February 12 are now due on February 16, 2010.

DATES: All paper and electronic filings that were due on February 5th through February 12th are now due on February 16th.

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

FOR FURTHER INFORMATION CONTACT: Geraldine Taylor, (202) 418–0300.

Marlene H. Dortch,

Secretary, Federal Communications Commission.

[FR Doc. 2010–3514 Filed 2–23–10; 8:45 am]

BILLING CODE M

FEDERAL ELECTION COMMISSION

[Notice 2010–02]

Price Index Adjustments for Expenditure Limitations and Lobbyist Bundling Disclosure Threshold

AGENCY: Federal Election Commission.

ACTION: Notice of adjustments to expenditure limitations and lobbyist bundling disclosure threshold.

SUMMARY: As mandated by provisions of the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act"), the Federal Election Commission ("FEC" or "the Commission") is adjusting certain expenditure limitations and the lobbyist bundling disclosure threshold set forth in the Act, to index the amounts for inflation. Additional details appear in the supplemental information that follows.

DATES: *Effective Date:* January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Greg J. Scott or Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; (202) 694–1100 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Under the Federal Election Campaign Act of 1971, 2 U.S.C. 431 *et seq.,* as amended by the Bipartisan Campaign Reform Act of 2002 [1] and the Honest Leadership and Open Government Act of 2007,[2] coordinated party expenditure limits (2 U.S.C. 441a(d)(2) and (3)(A), (B)) and the disclosure threshold for contributions bundled by lobbyists (2 U.S.C. 434(i)(3)(A)) are adjusted periodically to reflect changes in the consumer price index. *See* 2 U.S.C. 434(i)(3) and 441a(c)(1), and 11 CFR 109.32 and 110.17(a), (f). The Commission is publishing this notice to announce the adjusted limits and disclosure threshold.

Coordinated Party Expenditure Limits for 2010

Under 2 U.S.C. 441a(c), the Commission must adjust the expenditure limitations established by 2 U.S.C. 441a(d) (the limits on expenditures by national party committees, state party committees, or their subordinate committees in connection with the general election campaign of candidates for Federal office) annually to account for inflation. This expenditure limitation is increased by 4.35110, which reflects the difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 1974).

1. Expenditure Limitation for House of Representatives in States With More Than One Congressional District

Both the national and state party committees have an expenditure limitation for each general election held to fill a seat in the House of

[1] Public Law 107–155, 116 Stat. 81 (Mar. 27, 2002).

[2] Public Law 110–81, 121 Stat. 735 (Sep. 14, 2007).

Representatives in States with more than one congressional district. This limitation also applies to those States that elect individuals to the office of Delegate or Resident Commissioner.[3] The formula used to calculate the expenditure limitation in such States multiplies the base figure of $10,000 by the difference in the price index (4.35110), rounding to the nearest $100. *See* 2 U.S.C. 441a(c)(1)(B) and 441a(d)(3)(B), and 11 CFR 109.32(b) and 110.17. Based upon this formula, the expenditure limitation for 2010 general elections for House candidates in these States is $43,500.

2. Expenditure Limitation for Senate and for House of Representatives in States With Only One Congressional District

Both the national and state party committees have an expenditure limitation for a general election held to fill a seat in the Senate or in the House of Representatives in States with only one congressional district. The formula used to calculate this expenditure limitation considers not only the price index but also the voting age population ("VAP") of the state. The VAP of each state is published annually in the **Federal Register** by the Department of Commerce. 11 CFR 110.18. The general election expenditure limitation is the greater of: The base figure ($20,000) multiplied by the difference in the price index, 4.35110 (which totals $87,000); or $0.02 multiplied by the VAP of the state, multiplied by 4.35110. Amounts are rounded to the nearest $100. *See* 2 U.S.C. 441a(c)(1)(B) and 441a(d)(3)(A), and 11 CFR 109.32(b) and 110.17. The chart below provides the state-by-state breakdown of the 2010 general election expenditure limitations for Senate elections. The expenditure limit for 2010 House elections in states with only one congressional district[4] is $87,000.

SENATE GENERAL ELECTION EXPENDITURE LIMITATIONS—2010 ELECTIONS

State	VAP (in thousands)	VAP × .02 × the price index (4.35110)	Senate expenditure limit (the greater of the amount in column 3 or $87,000)
Alabama	3,580	$311,500	$311,500
Alaska	515	44,800	87,000
Arizona	4,864	423,300	423,300
Arkansas	2,180	189,700	189,700
California	27,526	2,395,400	2,395,400
Colorado	3,797	330,400	330,400
Connecticut	2,710	235,800	235,800
Delaware	678	59,000	87,000
Florida	14,480	1,260,100	1,260,100
Georgia	7,245	630,500	630,500
Hawaii	1,005	87,500	87,500
Idaho	1,127	98,100	98,100
Illinois	9,733	847,000	847,000
Indiana	4,834	420,700	420,700
Iowa	2,295	199,700	199,700
Kansas	2,114	184,000	184,000
Kentucky	3,300	287,200	287,200
Louisiana	3,369	293,200	293,200
Maine	1,047	91,100	91,100
Maryland	4,348	378,400	378,400
Massachusetts	5,161	449,100	449,100
Michigan	7,620	663,100	663,100
Minnesota	4,005	348,500	348,500
Mississippi	2,184	190,100	190,100
Missouri	4,556	396,500	396,500
Montana	755	65,700	87,000
Nebraska	1,345	117,000	117,000
Nevada	1,962	170,700	170,700
New Hampshire	1,036	90,200	90,200
New Jersey	6,662	579,700	579,700
New Mexico	1,499	130,400	130,400
New York	15,117	1,315,500	1,315,500
North Carolina	7,103	618,100	618,100
North Dakota	503	43,800	87,000
Ohio	8,828	768,200	768,200
Oklahoma	2,769	241,000	241,000
Oregon	2,953	257,000	257,000
Pennsylvania	9,830	855,400	855,400
Rhode Island	826	71,900	87,000
South Carolina	3,481	302,900	302,900
South Dakota	613	53,300	87,000
Tennessee	4,803	418,000	418,000
Texas	17,886	1,556,500	1,556,500
Utah	1,916	166,700	166,700

[3] Currently, these States include the District of Columbia, the Commonwealth of Puerto Rico, and the territories of American Samoa, Guam, the United States Virgin Islands and the Northern Mariana Islands. *See http://www.house.gov/house/MemberWWW_by_State.shtml* and *http://about.dc.gov/statehood.asp.*

[4] Currently, these States are: Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont and Wyoming. *See http://www.house.gov/house/MemberWWW_by_State.shtml.*

SENATE GENERAL ELECTION EXPENDITURE LIMITATIONS—2010 ELECTIONS—Continued

State	VAP (in thousands)	VAP × .02 × the price index (4.35110)	Senate Expenditure Limit (the greater of the amount in column 3 or $87,000)
Vermont	495	43,100	87,000
Virginia	6,035	525,200	525,200
Washington	5,095	443,400	443,400
West Virginia	1,433	124,700	124,700
Wisconsin	4,345	378,100	378,100
Wyoming	412	35,900	87,000

Contribution Limitations for Individuals, Non-Multicandidate Committees and for Certain Political Party Committees Giving to U.S. Senate Candidates for the 2009–2010 Election Cycle

For the convenience of the readers, the Commission is also republishing the contribution limitations for individuals, non-multicandidate committees and for certain political party committees giving to U.S. Senate candidates for the 2009–2010 election cycle:

Statutory provision	Statutory amount	2009–2010 Limitation
2 U.S.C. 441a(a)(1)(A)	$2,000	$2,400
2 U.S.C. 441a(a)(1)(B)	$25,000	$30,400
2 U.S.C. 441a(a)(3)(A)	$37,500	$45,600
2 U.S.C. 441a(a)(3)(B)	$57,500 (of which no more than $37,500 may be attributable to contributions to political committees that are not political committees of national political parties).	$69,900 (of which no more than $45,600 may be attributable to contributions to political committees that are not political committees of national political parties)
2 U.S.C. 441a(h)	$35,000	$42,600

Lobbyist Bundling Disclosure Threshold for 2010

The Act, as amended by HLOGA, requires certain political committees to disclose contributions bundled by lobbyists/registrants and lobbyist/registrant political action committees once the contributions exceed a specified threshold amount. The Commission must adjust this threshold amount annually to account for inflation. The disclosure threshold is increased by multiplying the $15,000 statutory disclosure threshold by 1.06418, the difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 2006). The resulting amount is rounded to the nearest multiple of $100. *See* 2 U.S.C. 434(i)(3)(A) and (B), 441a(c)(1)(B) and 11 CFR 104.22(g). Based upon this formula ($15,000 × 1.06418), the lobbyist bundling disclosure threshold for calendar year 2010 is $16,000, unchanged from 2009.

On behalf of the Commission.

Dated: February 19, 2010.

Matthew S. Petersen,

Chairman, Federal Election Commission.

[FR Doc. 2010–3688 Filed 2–23–10; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY: *Background.* Notice is hereby given of the final approval of the proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Michelle Shore—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final Approval Under OMB Delegated Authority of the Revision, Without Extension of the Following Report

1. *Report title:* Consolidated Financial Statements for Bank Holding Companies, Parent Company Only Financial Statements for Small Bank Holding Companies.

Agency form number: FR Y–9C, FR Y–9SP.

OMB control number: 7100–0128.

Frequency: FR Y–9C, quarterly; FR Y–9SP, semi-annually.

Reporters: Bank holding companies (BHCs).

Annual reporting hours: FR Y–9C, 162,602 hours; FR Y–9SP, 48,254 hours.

Estimated average hours per response: FR Y–9C, 41.65 hours; FR Y–9SP, 5.40 hours.

Number of respondents: FR Y–9C, 976; FR Y–9SP, 4,468.

General description of report: This information collection is mandatory (12 U.S.C. 1844(c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6) and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6) and (b)(8)).

Abstract: The FR Y–9C and FR Y–9SP are standardized financial statements for the consolidated BHC and its parent. The FR Y–9 family of reports historically has been, and continues to be, the primary source of financial information on BHCs between on-site inspections. Financial information from these reports is used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate BHC mergers and acquisitions, and to analyze a BHC's overall financial condition to ensure safe and sound operations.

The FR Y–9C consists of standardized financial statements similar to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No. 7100–0036) filed by commercial banks. The FR Y–9C collects consolidated data from BHCs. The FR Y–9C is filed by top-tier BHCs with total consolidated assets of $500 million or more. (Under certain circumstances defined in the General Instructions, BHCs under $500 million may be required to file the FR Y–9C.)

The FR Y–9SP is a parent company only financial statement filed by smaller BHCs. Respondents include BHCs with total consolidated assets of less than $500 million. This form is a simplified or abbreviated version of the more extensive parent company only financial statement for large BHCs (FR Y–9LP). This report is designed to obtain basic balance sheet and income information for the parent company, information on intangible assets, and information on intercompany transactions.

Current Actions: On November 13, 2008, the Federal Reserve published a notice in the **Federal Register** (73 FR 67159) requesting public comment for 60 days on the revision, without extension, of the FR Y–9C and FR Y–9 SP reports. The comment period for this notice expired on January 12, 2009. The Federal Reserve received two comment letters on this proposal addressing only changes proposed to the FR Y–9C report. In addition, six comment letters were received by the Federal Reserve, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency (the banking agencies) on proposed revisions to the Call Reports that parallel the proposed revisions to the FR Y–9C and are taken into consideration for this proposal. No comments were received on proposed changes to the FR Y–9SP.

The Federal Reserve received two comment letters on proposed revisions to the FR Y–9C: One from a bankers' organization (which also submitted comparable comments on proposed changes to the Call Report) and one from a bank consulting firm. In addition, the banking agencies received comment letters from six organizations: Two banks, one bank holding company, two bankers' organizations, and a bank insurance consultant on proposed changes to the Call Report that parallel proposed changes to the FR Y–9C, and are taken into consideration for this proposal. No comments were received on proposed changes to the FR Y–9SP.

None of the commenters addressed all of the aspects of the proposed changes to the FR Y–9C. Rather, individual comments addressed certain specific proposed changes. In two cases, commenters raised reporting matters that were not addressed in the Federal Reserve's proposal. The following is a summary of the general comments received on the proposed FR Y–9C revisions and on proposed changes to the Call Report that parallel proposed changes to the FR Y–9C.

One bankers' organization stated that it believed that the proposed revisions would provide additional information that would be useful for the assessment of risk. This organization expressed general agreement, on balance, with the proposed revisions, but also offered several suggested changes for consideration.[1] Another bankers' organization indicated its understanding of the need for more information on certain types of loans currently under stress, but noted that the proposed revisions would require many community banking institutions to submit significantly more data in their regulatory reports. This organization hoped that the increased staff time that would be needed to provide the proposed data would be offset by a reduction in on-site examination time through examiners' use of these data to better focus their examination priorities. In this regard, the intent in proposing the revisions to the FR Y–9C was to enhance risk-focused supervision, both from an off-site and an on-site perspective. The third bankers' organization commented on the amount of lead time necessary for institutions to implement systems changes to enable them to provide the requested additional data, recommending a minimum of three months between the publication of final revisions in the **Federal Register** and the effective date of the reporting changes.

Two commenters submitted comments on issues that were not addressed in the FR Y–9C proposal. One bank holding company sent a copy of separate correspondence that it had previously sent to three organizations suggesting a suspension of the accounting rules for other-than-temporary impairments on investment securities. By law, the accounting principles applicable to the FR Y–9C must be consistent with or, if certain conditions are met, no less stringent than generally accepted accounting principles (GAAP).[2] Therefore, the suggested suspension of accounting rules cannot be implemented for FR Y–9C reporting purposes.

One bank consulting firm recommended revising the FR Y–9C to require fee income to be reported separately from interest income, and to add a new data item for the fair value changes to interest revenue. As stated in the FR Y–9C instructions (and noted by the commenter), FASB Statement No. 91, "Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases," generally prescribes that fees associated with lending activities should be deferred and recognized over the life of the related loan as an adjustment of yield (interest income). Thus, GAAP guidance does not require separate disclosure of fee income. Regarding the request for a new data item for fair value changes to interest income, the commenter mistakenly concluded that fair value option revaluations (net change in the

[1] One bank that is a member of this bankers' organization referred to the organization's comment letter and appeared to concur with the organization's comments, but also addressed one aspect of the proposal on which the bankers' organization did not specifically comment.

[2] *See* 12 U.S.C. 1831n(a).

fair values of interest-bearing financial assets) is included with interest and fee income on loans, and thus wanted this amount reported separately from interest and fee income. However, such fair value option revaluations are included in other noninterest income on the income statement, not as part of interest income and fees on loans. Accordingly, the Federal Reserve will not implement either of the commenter's suggested revisions.

After considering the comments received on the proposal, the Federal Reserve will move forward with the majority of the proposed revisions, with limited modifications in response to certain comments, on the phased-in basis as proposed. The Federal Reserve is continuing to evaluate certain other proposed revisions in light of the comments received thereon, and therefore will not implement these revisions until after it has fully reviewed the comments.[3]

The Federal Reserve recognizes institutions' need for lead time to prepare for reporting changes, which was the rationale for proposing the phased-in implementation schedule for 2009. The data items that will be new or revised effective March 31, 2009, are limited in number and most are linked to changes in GAAP or changes in regulation. For the March 31, 2009, report date, bank holding companies may provide reasonable estimates for any new or revised data item initially required to be reported as of that date for which the requested information is not readily available. This same policy on the use of reasonable estimates will apply to the reporting of other new or revised data items when they are first implemented effective June 30 or later.

Sections I and II of this memo identify the changes proposed to take effect March 31 and June 30, respectively; discuss the Federal Reserve's evaluation of the comments received on the proposed changes that the Federal Reserve will implement, as modified; and describe the proposed FR Y–9C revisions that will remain under review.

I. FR Y–9C Report Revisions Proposed for March 2009

The Federal Reserve and the other banking agencies received either supportive comments or no comments on the following revisions that were proposed to take effect as of March 31, 2009, and therefore the Federal Reserve will implement these revisions as proposed:

- New data items and revisions to existing data items on trading assets and liabilities,
- New data items associated with the U.S. Department of the Treasury (Treasury) Capital Purchase Program (CPP),[4]
- New data items and revisions to existing data items on regulatory capital requirements,
- Revisions to several FR Y–9C schedules in response to accounting changes applicable to noncontrolling (minority) interests in consolidated subsidiaries, and
- Instructional guidance on quantifying misstatements.

The Federal Reserve and other banking agencies received one or more substantive comments addressing each of the following proposed March 31, 2009, revisions:

- The addition of new data items in response to a revised accounting standard that will provide information on held-for-investment loans and leases acquired in business combinations,
- Clarifications of the definition of the term loan secured by real estate and of the instructions for reporting unused commitments, and
- Exemptions from reporting certain existing data items for bank holding companies with less than $1 billion in total assets.

The comments and the Federal Reserve's responses related to these proposed revisions are discussed below.

A. Loans and Leases Acquired in Business Combinations

Banking institutions must apply Statement of Financial Accounting Standards No. 141 (Revised), *Business Combinations* (FAS 141(R)), which was issued in December 2007, prospectively to business combinations for which the acquisition date is on or after the beginning of their first annual reporting period beginning on or after December 15, 2008. Thus, for banking institutions with calendar year fiscal years, FAS 141(R) will apply to business combinations with acquisition dates on or after January 1, 2009. Compared to current accounting practice, FAS 141(R) significantly changes the accounting for those loans and leases acquired in business combinations that will be held for investment.[5] In response to this accounting change, the Federal Reserve proposed to add new data items to the FR Y–9C loan and lease schedule (Schedule HC–C) that would mirror the acquisition-date disclosures required by FAS 141(R). These new data items would disclose the following information for four categories of loans (not subject to SOP 03–3) and leases that were acquired in each business combination that occurred during the year-to-date reporting period:

- The fair value of the loans and leases,
- The gross contractual amounts receivable, and
- The best estimate at the acquisition date of the contractual cash flows not expected to be collected.

The four categories of acquired held-for-investment loans (not subject to SOP 03–3) and leases are:

- Loans secured by real estate;
- Commercial and industrial loans;
- Loans to individuals for household, family, and other personal expenditures; and
- All other loans and all leases.

These new data items would be completed by banking institutions that have engaged in business combinations that must be accounted for in accordance with FAS 141(R) for transactions for which the acquisition date is on or after January 1, 2009. A banking institution that has completed one or more business combinations during the current calendar year would report these acquisition date data (as aggregate totals if multiple business combinations have occurred) in each FR Y–9C submission after the acquisition date during that year. The acquisition date data would not be reported in years after the year in which the acquisition occurs.

One bankers' organization stated that it concurred with the proposal to require these additional disclosures for loans (not subject to SOP 03–3) and leases acquired in business combinations that occurred during the reporting period. No other commenter addressed these proposed additional disclosures. Accordingly, the Federal Reserve will implement of these data items in the March 31, 2009, FR Y–9C, as proposed.

In the FR Y–9C proposal, the Federal Reserve stated that it was considering whether banking institutions that have engaged in FAS 141(R) business combinations should provide additional information in the FR Y–9C (beyond the disclosures described above) about acquired held-for-investment loans (not

[3] *See* section I.C of this notice on unused commitments, section II.B on past due and nonaccrual trading assets, and the portion of section II.C addressing the present value of unpaid premiums on sold credit protection.

[4] The Federal Reserve will also implement these new data items as proposed for the FR Y–9SP report, effective as of June 30, 2009.

[5] This change in accounting treatment does not apply to acquired held-for-investment loans within the scope of American Institute of Certified Public Accountants Statement of Position 03–3, *Accounting for Certain Loans or Debt Securities Acquired in a Transfer* (SOP 03–3).

subject to SOP 03–3) and leases and the loss allowances established for them in periods after their acquisition. The proposal stated that the additional data items under consideration included the outstanding balance of these acquired loans and leases, their carrying amount, and the amount of allowances for post-acquisition credit losses on these loans and leases. The Federal Reserve indicated that this information would help the Federal Reserve as well as other report users to track management's judgments regarding the collectability of the acquired loans and leases in periods after the acquisition date and evaluate fluctuations in the level of the overall Allowance for Loan and Lease Losses (ALLL) as a percentage of the held-for-investment loan and lease portfolio in periods after a business combination. The Federal Reserve requested comment on the merits and availability of these post-acquisition loan and lease data and the period of time after a business combination that this information should be reported.

Two bankers' organizations commented on these additional loan and lease disclosures. One organization did not specifically address the merits of this information, stating only that if banking institutions were required to report these additional data, they should report it only through the end of the calendar year of the business combination. The second organization agreed with the first organization concerning the reporting period for these additional data. However, this organization also stated its belief that the post-acquisition data on acquired loans and leases would often not be available because acquired performing loans and leases would tend to be combined with, rather than segregated from, a banking institution's other performing loans and leases.

After considering these comments, the Federal Reserve will not add data items to the FR Y–9C for the outstanding balance of held-for-investment loans (not subject to SOP 03–3) and leases acquired in FAS 141(R) business combinations, their carrying amount, and the amount of allowances for post-acquisition credit losses on these loans and leases. The Federal Reserve will continue to monitor accounting and disclosure practices with respect to these acquired loans and leases and their post-acquisition allowances and assess their data needs in this area. Any future revisions to the FR Y–9C to collect data on acquired loans and leases and post-acquisition allowances will be subject to notice and comment.

B. Clarification of the Definition of Loan Secured by Real Estate

The Federal Reserve has found that the definition of a loan secured by real estate in the Glossary section of the FR Y–9C instructions has been interpreted differently by report preparers and users. This has led to inconsistent reporting of loans collateralized by real estate in the loan schedule (Schedule HC–C) and other schedules of the FR Y–9C that collect loan data. As a result, the Federal Reserve proposed to clarify the definition by explaining that the estimated value of the real estate collateral must be greater than 50 percent of the principal amount of the loan at origination in order for the loan to be considered secured by real estate. Banking institutions would apply this clarified definition prospectively and they need not reevaluate and recategorize loans that they currently report as loans secured by real estate into other loan categories on the FR Y–9C loan schedules.

One bankers' organization stated that it believes that the proposed definition of a loan secured by real estate is workable and provides additional clarity. One bank submitted examples involving loans with real estate as collateral and asked how they would be reported based on the revised definition. The Federal Reserve will implement the clarified definition of loan secured by real estate as proposed but, in response to this latter comment, also add examples to the definition to assist banking institutions in understanding how it should be applied.

C. Clarification of Instructions for Unused Commitments

Banking institutions report unused commitments in Schedule HC–L, data item 1. The instructions for this data item identify various arrangements that should be reported as unused commitments, including but not limited to commitments for which the banking institution has charged a commitment fee or other consideration, commitments that are legally binding, loan proceeds that the banking institution is obligated to advance, commitments to issue a commitment, and revolving underwriting facilities. However, some banking institutions have not reported commitments that they have entered into until they have signed the loan agreement for the financing that they have committed to provide. Although these arrangements are considered to be within the scope of the existing instructions for reporting commitments in Schedule HC–L, the instructions may not be sufficiently clear. Therefore, the Federal Reserve proposed to revise the instructions for Schedule HC–L, data item 1, Unused commitments, to more clearly and completely explain the arrangements that should be reported in this data item.

All three bankers' organizations submitting comments on the proposed FR Y–9C revisions specifically addressed the proposed instructional clarification pertaining to unused commitments. One organization agreed that clarification is needed, but recommended that commitments to issue a commitment in the future, including those entered into even though the related loan agreement has not yet been signed, should be removed from the list of types of arrangements that the instructions would direct banking institutions to report as unused commitments. The other two bankers' organizations also commented on the inclusion of this type of arrangement as an unused commitment. One organization expressed concern about reporting "commitments that contain a relatively high level of uncertainty until a loan agreement has been signed or the loan has been funded with a first advance" and the reliability of data on such commitments. The other organization stated that because some banking institutions do not have systems for tracking such arrangements, the instructions should in effect permit banking institutions to exclude commitment letters with an expiration date of 90 days or less. Finally, the first bankers' organization also recommended that the instructions for reporting unused commitments should state that amounts conveyed or participated to others that the conveying or participating banking institution is not obligated to fund should not be reported as unused commitments by the conveying or participating banking institution.

The Federal Reserve is continuing to evaluate these recommendations. As a consequence, the Federal Reserve will not revise the instructions for Schedule HC–L, data item 1, Unused commitments, effective March 31, 2009, as proposed, leaving the existing instructions for this Schedule HC–L data item to remain in effect. Once deliberations on these recommendations are concluded and a determination is made on whether and how to revise the instructions for reporting Unused commitments in Schedule HC–L, data item 1, these conclusions will be published in a separate **Federal Register** notice. If the instructions to Schedule HC–L, data item 1, are subsequently revised, the clarifications to these

instructions would take effect no earlier than December 31, 2009.

D. Exemptions From Reporting for Certain Existing FR Y–9C

The Federal Reserve has identified certain data items for which the reported data are of lesser usefulness for banking institutions with less than $1 billion in total assets. Accordingly, the Federal Reserve proposed to exempt such banking institutions from completing the following data items effective March 31, 2009:

- Schedule HI, Memorandum item 12, Income from the sale and servicing of mutual funds and annuities (in domestic offices),
- Schedule HC–L, data item 2.a, Amount of financial standby letters of credit conveyed to others, and
- Schedule HC–L, data item 3.a, Amount of performance standby letters of credit conveyed to others.

One commenter, a bank insurance consultant, objected to the proposal to exempt banking institutions with less than $1 billion in total assets from reporting the data item, Income from the sale and servicing of mutual funds and annuities (in domestic offices), stating that this data item should be preserved in the regulatory reports. This commenter also stated that the proposal did not explain how the determination was made that the collection of this data item from banking institutions in this size range is of lesser usefulness. This commenter added that by eliminating the reporting of this income information for these banking institutions, "we will lose our sole window into community banks' mutual fund and annuity activities."

Memorandum item 12 was added to Schedule HI of the FR Y–9C in 1995. At that time, the Federal Reserve collected limited information on banking institutions' noninterest income. However, since 2001, the Federal Reserve has significantly expanded the amount of detailed information collected on noninterest income in recognition of the increasing importance of such income to banking institutions' earnings. As a result, all respondents, regardless of size, currently report the amount of Fees and commissions from securities brokerage and Fees and commissions from annuity sales in Schedule HI, data items 5.d.(1) and 5.d.(3), each quarter. Data item 5.d.(1) specifically includes income from the sale and servicing of mutual funds. Thus, in general, the income that a banking institution reports in Schedule HI, Memorandum item 12, will have been included in these two noninterest income data items in the body of Schedule HI. However, although the bank insurance consultant stated that as of "June 30, 2008, more banks with less than $1 billion in assets reported mutual fund and annuity income" than reported eight other types of noninterest income in the body of the income statement, the consultant did not provide comparative data for the number of such banks reporting "Fees and commissions from securities brokerage" or "Fees and commissions from annuity sales."

In addition, the Federal Reserve will continue to use the FR Y–9C to identify banking institutions that sell private label or third party mutual funds and annuities (Schedule HC–M, data item 15) as well as banking institutions managing assets held in proprietary mutual funds and annuities (Schedule HC–M, data item 16). Furthermore, FR Y–9C users have indicated that Schedule HI, Memorandum item 12, Income from the sale and servicing of mutual funds and annuities is regarded as being of lesser usefulness than the noninterest income data items with which it overlaps (data items 5.d.(1) and 5.d.(3) of Schedule HI). Accordingly, after considering the views expressed by the bank insurance consultant, the Federal Reserve believes that the existing income statement data items for Fees and commissions from securities brokerage and Fees and commissions from annuity sales are sufficient to meet ongoing needs for income data on these types of activities from banking institutions with less than $1 billion in total assets and recommends that such banking institutions should be exempt from separately reporting Income from the sale and servicing of mutual funds and annuities beginning March 31, 2009, as proposed.

The Federal Reserve received no comments specifically addressing the other data items for which banking institutions with less than $1 billion in assets would be exempt from continued reporting and the Federal Reserve will implement these exemptions as of March 31, 2009, as proposed.

II. FR Y–9C Revisions Proposed for June 2009

The Federal Reserve and other banking agencies received either supportive comments or no comments on the following revisions to the FR Y–9C that were proposed to take effect as of June 30, 2009, and therefore the Federal Reserve will implement these revisions as proposed:

- Holdings of collateralized debt obligations and other structured financial products by type of product and underlying collateral,
- Holdings of commercial mortgage-backed securities,
- Unused commitments with an original maturity of one year or less to asset-backed commercial paper conduits,
- Pledged loans and pledged trading assets,
- Collateral held against over-the-counter (OTC) derivative exposures by type of collateral and type of counterparty as well as the current credit exposure on OTC derivatives by type of counterparty (for banking institutions with $10 billion or more in total assets),
- Fair value measurements by level for asset and liability categories reported at fair value on a recurring basis (banking institutions that apply a fair value option, or are required to complete the FR Y–9C trading schedule), and
- Investments in real estate ventures.

The agencies received one or more substantive comments addressing each of the following proposed June 30, 2009, revisions:

- Real estate construction and development loans outstanding with capitalized interest and the amount of such interest included in income for the quarter (for banking institutions with construction and development loan concentrations),
- Past due and nonaccrual trading assets, and
- Credit derivatives by credit quality and remaining maturity and by regulatory capital treatment.

The comments and the Federal Reserve's responses related to these proposed revisions are discussed below.

A. Construction and Development Loans With Interest Reserves

In December 2006, the agencies issued final guidance on commercial real estate (CRE) loans, including construction, land development, and other land (C&D) loans, entitled *Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices* (CRE Guidance).[6] This guidance was developed to reinforce sound risk management practices for institutions with high and increasing concentrations of commercial real estate loans on their balance sheets. It provides a framework for assessing CRE concentrations; risk management, including board and management oversight, portfolio management, management information systems, market analysis and stress testing, underwriting and credit risk review; and supervisory oversight, including CRE concentration

[6] 71 FR 74580, December 12, 2006.

management and an assessment of capital adequacy.

In issuing the CRE Guidance, the agencies noted that CRE concentrations had been rising over the past several years and had reached levels that could create safety and soundness concerns in the event of a significant economic downturn. As a consequence, the CRE Guidance explains that, as part of their ongoing supervisory monitoring processes, the agencies would use certain criteria to identify institutions that are potentially exposed to significant CRE concentration risk. Thus, the CRE Guidance states in part that an institution whose total reported C&D loans is approaching or exceeds 100 percent or more of the institution's total risk-based capital may be identified for further supervisory analysis of the level and nature of its CRE concentration risk. As of March 31, 2008, approximately 51 percent of all FR Y–9C respondents held C&D loans in excess of 100 percent of their total risk-based capital.

A practice that is common in C&D lending is the establishment of an interest reserve as part of the original underwriting of a C&D loan. The interest reserve account allows the lender to periodically advance loan funds to pay interest charges on the outstanding balance of the loan. The interest is capitalized and added to the loan balance. Frequently, C&D loan budgets will include an interest reserve to carry the project from origination to completion and may cover the project's anticipated sell-out or lease-up period. Although potentially beneficial to the lender and the borrower, the use of interest reserves carries certain risks. Of particular concern is the possibility that an interest reserve could disguise problems with a borrower's willingness and ability to repay the debt consistent with the terms and conditions of the loan agreement. For example, a C&D loan for a project on which construction ceases before it has been completed or is not completed in a timely manner may appear to be performing if the continued capitalization of interest through the use of an interest reserve keeps the troubled loan current. This practice can erode collateral protection and mask loans that should otherwise be reported as delinquent or in nonaccrual status.

Since the CRE Guidance was issued, market conditions have weakened, most notably in the C&D sector. As this weakening has occurred, examiners have been encountering C&D loans on projects that are troubled, but where interest has been capitalized inappropriately, resulting in overstated income and understated volumes of past due and nonaccrual C&D loans. Therefore, to assist in the monitoring of C&D lending activities at those banking institutions with a concentration of such loans, i.e., C&D loans (in domestic offices) that exceeded 100 percent of total risk-based capital as of the previous calendar year-end, the Federal Reserve proposed to add two new data items. First, banking institutions with such a concentration would report the amount of C&D loans (in domestic offices) included in the FR Y–9C loan schedule (Schedule HC–C) on which the use of interest reserves is provided for in the loan agreement. Second, these banking institutions would report the amount of capitalized interest included in the interest and fee income on loans during the quarter. These data, together with information that banking institutions currently report on the amount of past due and nonaccrual C&D loans, would assist in identifying respondents with C&D loan concentrations that may be engaging in questionable interest capitalization practices for supervisory follow-up.

One bank expressed agreement with concerns about the disguising of problems with a borrower's willingness and ability to repay the debt consistent with the terms and conditions of the loan agreement through the improper use of interest reserves on C&D loans. The bank also acknowledged that real estate market conditions have weakened in its market area since the agencies issued the CRE Guidance in December 2006. Although the bank stated that it has a concentration of C&D loans, as defined above, it reported that a recent review of its portfolio revealed that only a modest number of its C&D loan agreements included interest reserves. The bank also described its lending policies and controls over the approval of interest reserves in the original underwriting of a C&D loan and in the limited cases when the original loan had matured or was otherwise recast. It then stated that both the bank lender and its supervisory agency should focus their attention—and any regulatory reporting requirements—on situations when interest reserves are added to a loan after a development project is completed or "when a project goes over budget or otherwise has completion issues." With respect to the two proposed data items pertaining to C&D loans with interest reserves, the bank noted that its loan system does not currently capture the required data and adding this capability to the loan system by the proposed June 30, 2009, effective date would likely be difficult, which would mean that the data would have to be compiled manually until system changes are in place.

After further review, the Federal Reserve has decided it will not collect the two proposed items related to the use of interest reserves at this time.

B. Trading Assets That Are Past Due or in Nonaccrual Status

Currently, the FR Y–9C does not distinguish past due and nonaccrual trading assets from other assets on Schedule HC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets. The Federal Reserve proposed to replace Schedule HC–N, data item 9, Debt securities and other assets, that are past due 30 days or more or in nonaccrual status with two separate data items: data item 9.a, Trading assets, and data item 9.b, All other assets (including available-for-sale and held-to-maturity securities). These data items would follow the existing three column breakdown on Schedule HC–N that respondents utilize to report assets past due 30 through 89 days and still accruing, past due 90 days or more and still accruing, and in nonaccrual status. Data item 9.a would include all assets held for trading purposes, including loans held for trading. Collection of this information would allow the Federal Reserve to better assess the quality of assets held for trading purposes, and generally enhance surveillance and examination planning efforts.

The Federal Reserve also proposed to expand the scope of Schedule HC–D, Trading Assets, Memorandum item 3, Loans measured at fair value that are past due 90 days or more, to include loans held for trading and measured at fair value that are in nonaccrual status. This change was intended to provide for more consistent treatment with the information that would be collected on Schedule HC–N and with the disclosure requirements in FASB Statement No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities.*

One bankers' organization stated that it believed that disclosure requirements regarding the delinquency and nonaccrual status of trading securities is not particularly meaningful given that these securities are marked to market through earnings. As a consequence, credit risk is already incorporated into the market price of each trading security. The organization further stated that the nonaccrual concept traditionally has not been applied to trading securities, which makes the proposed reporting of such data costly and difficult to implement. Accordingly, this commenter recommended against

adding the proposed disclosure requirements regarding the delinquency and nonaccrual status of trading securities.

The Federal Reserve is continuing to evaluate this commenter's recommendation. Therefore, the Federal Reserve will not implement the revisions to Schedule HC–N, data item 9, and Schedule HC–D, Memorandum item 3, effective June 30, 2009, as proposed. The Federal Reserve will retain the current data items while it considers the proposed reporting changes in light of this comment. Once deliberations on these proposed disclosure requirements are concluded and a determination is made on whether and how to proceed with them, these conclusions will be published in a separate **Federal Register** notice. If Schedule HC–N, data item 9, and Schedule HC–D, Memorandum item 3, are subsequently revised, these reporting changes would take effect no earlier than December 31, 2009.

C. Enhanced Information on Credit Derivatives

Effective for the March 2006 FR Y–9C, the Federal Reserve revised the information collected on credit derivatives in Schedules HC–L, Derivatives and Off-Balance Sheet Items, and HC–R, Regulatory Capital, to gain a better understanding of the nature and trends of banking institutions' credit derivative activities. Since that time, the volume of credit derivative activity in the banking industry, as measured by the notional amount of these contracts, increased steadily through March 31, 2008, rising to an aggregate notional amount of over $16 trillion as of that date. The aggregate notional amount has since declined slightly. Reported data further indicate that the credit derivative activity in the industry is highly concentrated in banking institutions with total assets in excess of $10 billion. For these banking institutions, credit derivatives function as a risk mitigation tool for credit exposures in their operations as well as a financial product that is sold to third parties for risk management and other purposes.

The Federal Reserve's safety and soundness efforts continue to place emphasis on understanding and assessing the role of credit derivatives in bank risk management practices. In addition, the Federal Reserve's monitoring of credit derivative activities at certain banking institutions has identified differences in interpretation as to how credit derivatives are treated under the Federal Reserve's risk-based capital standards. To further the Federal Reserve's safety and soundness efforts concerning credit derivatives and to improve transparency in the treatment of credit derivatives for regulatory capital purposes, the Federal Reserve proposed to revise the information pertaining to credit derivatives that is collected on Schedules HC–L, HC–N (Past Due and Nonaccrual Loans, Leases, and Other Assets), and HC–R.

In Schedule HC–L, data item 7, Credit derivatives, the Federal Reserve proposed to change the column A caption, Guarantor, to Sold Protection and the column B caption, Beneficiary, to Purchased Protection to eliminate confusion surrounding the meaning of Guarantor and Beneficiary that commonly occurs between the users and preparers of these data. The Federal Reserve also proposed to add a new data item 7.c to Schedule HC–L to collect information on the notional amount of credit derivatives by regulatory capital treatment. For credit derivatives that are subject to the Federal Reserve's market risk capital standards, the Federal Reserve proposed to collect the notional amount of sold protection and the amount of purchased protection. For all other credit derivatives, the Federal Reserve proposed to collect the notional amount of sold protection, the notional amount of purchased protection that is recognized as a guarantee under the risk-based capital guidelines, and the notional amount of purchased protection that is not recognized as a guarantee under the risk-based capital standards.

The Federal Reserve also proposed to add a new data item 7.d to Schedule HC–L to collect information on the notional amount of credit derivatives by credit rating and remaining maturity. The data item would collect the notional amount of sold protection broken down by credit ratings of investment grade and subinvestment grade for the underlying reference asset and by remaining maturities of one year or less, over one year through five years, and over five years. The same information would be collected for purchased protection.

In Schedule HC–N, the Federal Reserve proposed to change the scope of Memorandum item 6, Past due interest rate, foreign exchange rate, and other commodity and equity contracts, to include credit derivatives. The fair value of credit derivatives where the banking institution has purchased protection increased significantly to over $500 billion at March 31, 2008, as compared to below negative $10 billion at March 31, 2007. Thus, the performance of credit derivative counterparties has increased in importance. The expanded scope of Memorandum item 6 on Schedule HC–N would include the fair value of credit derivatives carried as assets that are past due 30 through 89 days and past due 90 days or more.

In Schedule HC–R the Federal Reserve proposed to change the scope of the information collected in Memorandum items 2.g.(1) and (2) on the notional principal amounts of Credit derivative contracts that are subject to risk-based capital requirements to include only (a) the notional principal amount of purchased protection that is defined as a covered position under the market risk capital guidelines and (b) the notional principal amount of purchased protection that is not a covered position under the market risk capital guidelines and is not recognized as a guarantee for risk-based capital purposes. The scope of Memorandum item 1, Current credit exposure across all derivative contracts covered by the risk-based capital standards, would be similarly revised to include the current credit exposure arising from credit derivative contracts that represent (a) purchased protection that is defined as a covered position under the market risk capital guidelines and (b) purchased protection that is not a covered position under the market risk capital guidelines and is not recognized as a guarantee for risk-based capital purposes. The Federal Reserve also proposed to add new Memorandum items 3.a and 3.b to Schedule HC–R to collect the present value of unpaid premiums on sold credit protection that is defined as a covered position under the market risk capital guidelines. Consistent with the information currently reported in Memorandum item 2.g, the Federal Reserve proposed to collect this present value information with a breakdown between investment grade and subinvestment grade for the rating of the underlying reference asset and with the same three remaining maturity breakouts.

No comments were received on any of the proposed reporting revisions pertaining to credit derivatives described above, except for a comment from a bankers' organization on the proposal to collect data on Schedule HC–R relating to the present value of unpaid premiums on sold credit protection that is defined as a covered position under the market risk capital guidelines. Accordingly, the Federal Reserve will implement all of the proposed credit derivative reporting changes—other than the proposed new Schedule HC–R data items for present value data—as of June 30, 2009, as proposed. With respect to the present

value data, the bankers' organization requested clarification of the impact of this proposed reporting requirement on a banking institution's risk-based capital calculations. The Federal Reserve is continuing to consider this comment and the proposed collection of present value data for certain credit derivatives. Therefore, the Federal Reserve will not add Memorandum items 3.a and 3.b to Schedule HC–R to collect this present value information effective June 30, 2009, as proposed. Once deliberations on the comment and the proposed present value data items has been concluded, conclusions will be published in a separate **Federal Register** notice. If Memorandum items 3.a and 3.b are subsequently added to Schedule HC–R, this new reporting requirement would take effect no earlier than December 31, 2009.

Board of Governors of the Federal Reserve System, March 11, 2009.

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Jennifer J. Johnson,

Secretary of the Board.

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FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 10, 2010.

A. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Richard T. Alger; the Richard T. Alger Revocable Trust; Richard T. Alger, trustee; and the Mason W. Alger and Dorothy Turner Alger Irrevocable Trust for Thomas M. Alger; Richard T. Alger, trustee; John Alger and Carla Alger, all of Homestead, Florida; to acquire voting shares of Hometown of Homestead Banking Company, and thereby indirectly acquire voting shares of 1st National Bank of South Florida, both of Homestead, Florida.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. David Tychman, Seattle, Washington; individually and as trustee of eight Tychman/Sanders family trusts', to retain voting shares of The Tysan Corporation, Minneapolis, Minnesota. The trustees of one or more of nine Tychman/Sanders family trusts (James Sanders, Plymouth, Minnesota, Deera Tychman, Edina, Minnesota, Judith Shapiro, Saint Louis Park, Minnesota, and David Tychman, Seattle, Washington), for retroactive permission for the nine trusts to join the Tychman/Sanders group which controls 25 percent or more of The Tysan Corporation, Minneapolis, Minnesota, and includes 17 other Tychman/Sanders family trusts. The Tysan Corporation controls Lake Community Bank, Long Lake, Minnesota, Pine Country Bank, Little Falls, Minnesota, and Blaine State Bank, Blaine, Minnesota.

Board of Governors of the Federal Reserve System, February 18, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–3540 Filed 2–23–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 19, 2010.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Aslin Group, Inc, Mission Hills, Kansas; Aslin Opportunity Fund BK, LP, Cape Haze, Florida; and Aslin Capital I, LLC, Cape Haze, Florida; all to become bank holding companies through the acquisition of 100 percent of the voting shares of 1st Financial Bank, Overland Park, Kansas.

Board of Governors of the Federal Reserve System, February 19, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–3652 Filed 2–23–10; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0096]

Federal Acquisition Regulation; Submission for OMB Review; Patents

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning patents. A request for public

comments was published in the **Federal Register** at 74 FR 65535, on December 10, 2009. No public comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before March 26, 2010.

ADDRESSES: Submit comments including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ernest Woodson, Contract Policy Division, GSA (202) 501–3775 or e-mail *ernest.woodson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The patent coverage in FAR subpart 27.2 requires the contractor to report each notice of a claim of patent or copyright infringement that came to the contractor's attention in connection with performing a Government contract (sections 27.202–1 and 52.227–2). The contractor is also required to report all royalties anticipated or paid in excess of $250 for the use of patented inventions by furnishing the name and address of licensor; date of license agreement; patent application serial number, or other basis on which the royalty is payable; brief description of item or component, percentage or dollar rate of royalty per unit, unit price of contract item, and number of units (sections 27.204–1, 52.227–6, and 52.227–9). The information collected is to protect the rights of the patent holder and the interest of the Government.

B. Annual Reporting Burden

Number of Respondents: 30.
Responses per Respondent: 1.
Total Responses: 30.
Average Burden Hours per Response: .5.
Total Burden Hours: 15.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0096, Patents, in all correspondence.

Dated: February 18, 2010.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 2010–3686 Filed 2–23–10; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Biodefense Science Board

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the National Biodefense Science Board (NBSB) will be holding a public meeting. The meeting is open to the public.

DATES: The NBSB will hold a public meeting on March 26, 2010 from 8 a.m. to 5 p.m. ET. The agenda is subject to change as priorities dictate.

ADDRESSES: Washington, DC Metro Area. The venue details will be posted on the NBSB Web page at *http://www.hhs.gov/aspr/omsph/nbsb/index.html* as they become available.

FOR FURTHER INFORMATION CONTACT: *E-mail: NBSB@HHS.GOV.*

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act (42 U.S.C. 247d–7f) and section 222 of the Public Health Service Act (42 U.S.C. 217a), the Department of Health and Human Services established the National Biodefense Science Board. The Board shall provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The Board may also provide advice and guidance to the Secretary on other matters related to public health emergency preparedness and response.

Background: The Board will discuss and consider recommendations from the National Biodefense Science Board's Medical Countermeasure Enterprise Working Group report regarding the issues and challenges facing the Public Health Emergency Medical Countermeasure Enterprise (PHEMCE).

Availability of Materials: The meeting agenda and other materials will be posted on the NBSB Web site at *http://www.hhs.gov/aspr/omsph/nbsb/index.html* prior to the meeting.

Procedures for Providing Public Input: Any member of the public providing oral comments at the meeting must sign-in at the registration desk and provide his/her name, address, and affiliation. All written comments must be received prior to March 25, 2010, and should be sent by e-mail to *NBSB@HHS.GOV* with "NBSB Public Comment" as the subject line. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should e-mail *NBSB@HHS.GOV.*

Dated: February 18, 2010.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2010–3670 Filed 2–23–10; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office for Civil Rights; Workshop on the HIPAA Privacy Rule's De-Identification Standard; Notice of Meeting

AGENCY: Office for Civil Rights, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming workshop organized by the Office for Civil Rights (OCR). The meeting will be open to the public.

General Purpose of the Meeting: Section 13424 (c) of the Health Information Technology for Clinical and Economic Health (HITECH) Act, part of the American Recovery and Reinvestment Act of 2009 (ARRA),[1] requires HHS to issue guidance on methods for de-identification of protected health information as designated in the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. In response to this mandate, OCR is soliciting stakeholder input from experts with practical technical and policy experience to inform the creation of guidance materials. OCR is collecting views regarding de-identification approaches, best practices for

[1] Public Law 111–5.

implementation and management of the current de-identification standard and potential changes to address policy concerns.

To facilitate timely collection of information, OCR is organizing an in-person two (2)-day workshop that will consist of multiple panels. Each panel will address a specific topic related to the Privacy Rule's de-identification methodologies and policies. The workshop will be open to the public and each panel presentation will be followed by a question-answer period. At the present time, this is the only workshop planned.

DATE AND TIME: The meeting will be held on March 8, 2010, from 8 a.m. to 5:15 p.m./Eastern Time and March 9, 2010 from 8:30 a.m. to 11:30 a.m.

LOCATION: Washington Marriott at Metro Center, 775 12th Street NW., Washington, District of Columbia 20005. The hotel telephone number is 202–737–2200.

CONTACT PERSON: Andra Wicks, Office for Civil Rights, HHS, 200 Independence Ave, SW., Washington, DC 20201, 202–205–2292, Fax: 202–205–4786, e-mail: *andra.wicks@hhs.gov.* Please call the contact person for information on this meeting, view workshop updates on our Web site at *http://www.hhs.gov/ocr/privacy*, or register for the workshop at *https://www.fedmeetings.net/common/registration.cfm?mid=2852.*

Agenda: The two (2)-day workshop will explore the following topics related to the de-identification of protected health information standard [2]:

—Methodological Issues Associated with HIPAA Privacy Rule De-Identification.
—Statistical Disclosure Control and HIPAA Privacy Rule Protections.
—Anonymization and the HIPAA Privacy Rule.
—Policy Interpretations of HIPAA Privacy Rule De-Identification Requirements.
—De-Identification and Legal Contracts.

Each ninety (90) minute panel will include presentations by industry experts followed by a discussion period. The discussion will include questions posed by workshop participants and the general public attending the meeting in-person and via Web cast.

OCR intends to make background material available to the public no later than two (2) business days prior to the meeting. If OCR 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 workshop, and the background material will be posted on OCR's Web site after the meeting, at *http://www.hhs.gov/ocr/privacy.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workshop. Written submissions may be made to *OCRPrivacy@hhs.gov*, with the workshop title "Workshop on the HIPAA Privacy Rule's De-Identification Standard" in the subject line on or before Friday, March 5, 2010.

Oral comments from the public will be permitted after each panel. 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, OCR will take written comments after the meeting until Friday, March 12, 2010.

After the workshop, OCR will synthesize the input from workshop panelists and general comments to incorporate into guidance. The guidance will be posted on the OCR Web site for public comment. OCR may provide revised guidance incorporating the public comment.

OCR welcomes the attendance of the public at this workshop. Seating is limited at the location, and OCR will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Andra Wicks at least seven (7) days in advance of the meeting.

Dated: February 17, 2010.

Zinethia L. Clemmons,

Health Information Privacy Specialist, Office for Civil Rights, Health Information Privacy Division.

[FR Doc. 2010–3663 Filed 2–23–10; 8:45 am]

BILLING CODE 4153–01–P

[2] 45 CFR 164.514(b).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-10–0215]

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 or 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

National Death Index (NDI), (OMB No. 0920–0215)—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States.

The National Death Index (NDI) is a national data base containing identifying death record information submitted annually to NCHS by all the State vital statistics offices, beginning with deaths in 1979. Searches against the NDI file provide the states and dates of death, and the death certificate numbers of deceased study subjects.

Using the NDI Plus service, researchers have the option of also receiving cause of death information for deceased subjects, thus reducing the need to request copies of death certificates from the States. The NDI Plus option currently provides the ICD codes for the underlying and multiple causes of death for the years 1979–2007. Health researchers must complete five administrative forms in order to apply for NDI services, and submit records of study subjects for computer matching against the NDI file. A three-year clearance is requested. There is no cost to respondents except for their time.

ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)	Total burden (in hrs)
Government researcher	48	1	2	96
University researcher	60	1	2	120
Private industry researcher	12	1	2	24
Total				240

Dated: February 18, 2010.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–3755 Filed 2–23–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–10–0479]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Automated Management Information System (MIS) for Diabetes Prevention and Control Programs (OMB No. 0920–0479, expiration date 5/31/2010)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Diabetes is the seventh leading cause of death in the United States. To reduce the burden of this disease, the Centers for Disease Control and Prevention (CDC) established the national Diabetes Control Program, which is administered through CDC's Division of Diabetes Translation (DDT). The national program provides support for health departments in states and Territories to design, implement and evaluate diabetes prevention and control strategies through State-based Diabetes Prevention and Control Programs (DPCPs).

CDC currently collects information from DCPCs through a Web-based Management Information System (MIS). The information collected supports DDT's broader mission of reducing the burden of diabetes by enabling DDT staff to more effectively identify the strengths and weaknesses of individual DPCPs, and to disseminate information related to successful public health interventions. The information is used to monitor compliance with cooperative agreement requirements, evaluate progress in achieving program-specific goals, and identify needs for training and technical assistance.

CDC plans to implement a number of changes. Some MIS data elements will be modified to reflect changes in the reporting requirements for DCPCs, and to harmonize the progress and performance indicators for DCPCs with indicators being implemented for other CDC-funded programs. In addition, the electronic MIS is being restructured to improve usability and to reduce burden to respondents through improved organization and increased use of existing data resources. CDC also requests OMB approval to incorporate the term "Prevention" into the title of the clearance, in recognition of the increased emphasis on diabetes prevention in the work plans of state-based DCPCs.

Respondents will be 53 DCPCs in States, the District of Columbia, the Virgin Islands, and Puerto Rico. The information collection will no longer include the Pacific Islands jurisdictions, which in the future will be funded through a separate mechanism with different reporting requirements.

Once per year, each DCPC will submit an Annual Report to CDC that includes information about its Program, Resources, Partners, Budget, and Planning activities. In addition, each DCPC will submit a Semi-Annual Report twice per year that includes information about the Objectives described in its Action Plan, and related Activities.

Approval to collect information for three additional years is requested. There are no costs to respondents other than their time. The total estimated burden hours are 4,452.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Diabetes Prevention and Control Programs	Annual Report	53	1	51
	Semi-Annual Report	53	2	16.5

Dated: February 17, 2010.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–3756 Filed 2–23–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[60 Day–10–0639]

Centers for Disease Control and Prevention 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 or send comments to Maryam 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 must be received within 60 days of this notice.

Project Proposal

EEOICPA Special Exposure Cohort Petitions (OMB No. 0920–0639 exp. 7/31/2010)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

On October 30, 2000, the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384–7385 [1994, supp. 2001] was enacted. It established a compensation program to provide a lump sum payment of $150,000 and medical benefits as compensation to covered employees suffering from designated illnesses incurred as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for the Department of Energy and certain of its vendors, contractors and subcontractors. This legislation also provided for payment of compensation for certain survivors of these covered employees. This program has been mandated to be in effect until Congress ends the funding.

Among other duties, HHS was directed to establish and implement procedures for considering petitions by classes of nuclear weapons workers to be added to the "Special Exposure Cohort" (the "Cohort"). In brief, EEOICPA authorizes HHS to designate such classes of employees for addition to the Cohort when NIOSH lacks sufficient information to estimate with sufficient accuracy the radiation doses of the employees, if HHS also finds that the health of members of the class may have been endangered by the radiation dose the class potentially incurred. HHS must also obtain the advice of the Advisory Board on Radiation and Worker Health (the "Board") in establishing such findings. On May 28, 2004, HHS issued a rule that established procedures for adding such classes to the Cohort (42 CFR part 83). The rule was amended on July 10, 2007.

The HHS rule authorizes a variety of respondents to submit petitions. Petitioners are required to provide the information specified in the rule to qualify their petitions for a complete evaluation by HHS and the Board. HHS has developed two forms to assist the petitioners in providing this required information efficiently and completely. Form A is a one-page form to be used by EEOICPA claimants for whom NIOSH has attempted to conduct dose reconstructions and has determined that available information is not sufficient to complete the dose reconstruction. Form B, accompanied by separate instructions, is intended for all other petitioners. Forms A and B can be submitted electronically as well as in hard copy. Respondent/petitioners should be aware that HHS is not *requiring* respondents to use the forms. Respondents can choose to submit petitions as letters or in other formats, but petitions must meet the informational requirements referenced above. NIOSH expects, however, that all petitioners for whom Form A would be appropriate will actually use the form, since NIOSH will provide it to them upon determining that their dose reconstruction cannot be completed and encourage them to submit the petition. NIOSH expects the large majority of petitioners for whom Form B would be appropriate will also use the form, since it provides a simple, organized format for addressing the informational requirements of a petition.

NIOSH will use the information obtained through the petition for the following purposes: (a) Identify the petitioner(s), obtain their contact information, and establish that the petitioner(s) is qualified and intends to petition HHS; (b) establish an initial definition of the class of employees being proposed to be considered for addition to the Cohort; (c) determine whether there is justification to require HHS to evaluate whether or not to designate the proposed class as an addition to the Cohort (such an evaluation involves potentially extensive data collection, analysis, and related deliberations by NIOSH, the Board, and HHS); and, (d) target an evaluation by HHS to examine relevant potential limitations of radiation monitoring and/or dosimetry-relevant records and to examine the potential for related radiation exposures that might have endangered the health of members of the class.

Finally, under the rule, petitioners may contest the proposed decision of the Secretary to add or deny adding classes of employees to the cohort by submitting evidence that the proposed decision relies on a record of either factual or procedural errors in the implementation of these procedures. NIOSH estimates that the time to prepare and submit such a challenge is 45 minutes. Because of the uniqueness of this submission, NIOSH is not providing a form. The submission will typically be in the form of a letter to the Secretary.

There are no costs to petitioners unless a petitioner chooses to purchase the services of an expert in dose reconstruction, an option provided for under the rule.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Form name	Type of respondent	No. of respondents	No. of responses per respondent	Average burden per respondent (in hours)	Total response burden hours
Form A 83.9	Petitioner using Form A	30	1	3/60	2
Form B 83.9	Petitioner using Form B	40	1	5	200
Form B 83.9	Petitioner submission format other than Form B (as permitted by rule).	5	1	6	30
83.18	Petitioner Appealing final HHS decision (no specific form is required).	5	1	45/60	4
	Claimant authorizing a party to submit petition on his/her behalf.	20	1	3/60	1
Total		100			237

Dated: February 18, 2010.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–3702 Filed 2–23–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; REDS—II—Does Pre-Donation Behavioral Deferral Increase the Safety of the Blood Supply?

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: REDS–II Does Pre-Donation Behavioral Deferral Increase the Safety of the Blood Supply?

Type of Information Collection Request: NEW. *Need and Use of Information Collection:* While it is well-accepted that deferrals, as part of the "layers of safety" concept, increase the safety of the blood supply, studies with sufficiently large sample size to quantify HIV infection and other infectious marker rates in deferred donors are lacking. Evidence in support of increased safety is frequently inferred from studies conducted in other health care settings. For example, a small hospital-based case control study conducted in Brazil examined the association between infectious markers and body tattoos. Even though tattoos are not used as a criteria to determine blood donor eligibility in Brazil, having a tattoo was associated with HCV and also with having at least one positive infectious marker. (1) Significant associations were not independently observed for HIV, HBV, syphilis or Chagas. The authors reported an overall sensitivity of 11% and specificity of 97% for the presence of a tattoo as indicator of having HIV, HCV, HBV, or syphilis infection. The researchers then estimated the impact on blood donor selection and disease marker testing using the results from their hospital-based case control study. However, the assumptions such as disease marker prevalence of as much as 15% in donors who are deferred for tattoos and a prevalence of 4% of the potential donor base having a tattoo (2) do not represent current temporary deferrals in Brazil and do not address the most common behavior-related deferrals. A more detailed and targeted assessment of the value of relevant deferrals could be used to help inform blood donation policies in Brazil.

In Brazilian blood collection centers, donor deferral is initiated either by the blood center staff, based on information disclosed by prospective donors, or by the donor through self-deferral. Either type of deferral occurs because of the belief that a donor's behavior, exposures, or history represents an increased risk to the safety of the blood supply

Although the general eligibility criteria are mandated by the Brazilian Ministry of Health, the specific criteria for screening potential donors and the procedures for implementing them may vary across the regional blood collection centers. This study will focus on sexual behavior deferrals and their impact on blood safety. The two main study aims are: (1) To assess infectious disease marker prevalence in donors who are deferred for higher risk sexual and non-injection drug use behavior; and (2) To determine if the different deferral classification procedures used by different blood centers in Brazil lead to a measurable difference in disease marker prevalence in deferred donors. To do this, deferred donors who agree to participate in this study will be asked to complete an audio computer assisted self interview (ACASI) questionnaire that measures two content areas (1) motivations for attempting to donate, (2) additional information on the deferral and other potentially undisclosed deferrable behaviors. A blood sample will be collected from the deferred donors and tested for the panel of infections currently screened for in Brazil (HIV, Hepatitis C, Hepatitis B, Human T-lymphotropic virus, syphilis, and *Trypanosoma cruzi*) using the same high-throughput laboratory reagents and procedures that are used to screen donations. These deferred donor marker rates will be compared to the marker rates among accepted donors with the same demographic characteristics. Marker rates in deferred donors will also be compared between the blood centers.

Frequency of Response: Once. *Affected Public:* Individuals. *Type of Respondents:* Adult Blood Donors. The annual reporting burden is as follows: *Estimated Number of Respondents:* 4,860; *Estimated Number of Responses per Respondent:* 1; *Average Burden of Hours per Response:* 0.33 (including administration of the informed consent form and questionnaire completion instructions); and *Estimated Total Annual Burden Hours Requested:* 1,620. The annualized cost to respondents is estimated at: $10,530 (based on $6.50 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
4,860	1	0.33	1,620

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. George Nemo, Project Officer, NHLBI, Two Rockledge Center, Suite 10042, 6701 Rockledge Drive, Bethesda, MD 20892–7950, or call 301–435–0075, or E-mail your request to *nemog@nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: February 17, 2010.

Dr. George Nemo,

NHLBI Project Officer, NHLBI, National Institutes of Health.

[FR Doc. 2010–3754 Filed 2–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0067]

Advisory Committee for Pharmaceutical Science and Clinical Pharmacology; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee for Pharmaceutical Science and Clinical Pharmacology.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 17, 2010, from 7:30 a.m. to 3 p.m.

Location: Atlanta Marriott Marquis, 265 Peachtree Center Ave., Atlanta, GA 30303. The hotel phone number is 404–521–0000.

Addresses: Submit electronic comments on this document to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments should be identified with the docket number found in brackets in the heading of this document. Comments received on or before March 8, 2010, will be provided to the committee before the meeting. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Contact Person: Yvette Waples, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *yvette.waples@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512539. Please call the Information Line 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. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On March 17, 2010, the committee will discuss and provide comments on the following topics: (1) General scientific issues related to the application of pharmacogenomics in the early stages of drug development. Pharmacogenomics examines the genetic differences that influence a person's responses, both beneficial and harmful, to certain drugs; (2) a new patient-centric clinical pharmacology approach to drug safety; (3) the design and analysis of clinical pharmacology studies focusing on how the renal function changes in the way the body absorbs, distributes, metabolizes, and excretes a drug in patients with kidney impairment; and (4) scientific considerations and recent developments in transporter-mediated drug interactions. These interactions are between two or more drugs that either inhibit or enhance the roles of specialized proteins known as "transporters" and, in turn, the interactions can affect a drug's safety and/or efficacy.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

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 March 8, 2010. Oral presentations from the public will be scheduled between approximately 9:25 a.m. and 10 a.m., and 1:15 p.m. and 1:45 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed

participants, and an indication of the approximate time requested to make their presentation on or before March 1, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 2, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Yvette Waples at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 18, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–3594 Filed 2–23–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

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: Recombinant DNA Advisory Committee.

Date: March 10–11, 2010.

Time: March 10, 2010, 8 a.m. to 5:30 p.m.

Agenda: The Recombinant DNA Advisory Committee will review and discuss selected human gene transfer protocols as well as related data management activities. Additionally there will be a discussion of a proposal to exempt the mating of certain biosafety level 1 transgenic rodents from the requirements of Section III–E–3 of the *NIH Guidelines for Research with Recombinant DNA Molecules.* Please check the meeting agenda at *http://oba.od.nih.gov/rdna_rac/rac_meetings.html* for more information.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Time: March 11, 2010, 8 a.m. to 1:30 p.m.

Agenda: The Recombinant DNA Advisory Committee will review and discuss selected human gene transfer protocols as well as related data management activities. There will also be a discussion of the University of Wisconsin's application requesting a determination of the appropriate biocontainment for the cloning of Ebola and Marburg cDNAs into E. coli. Please check the meeting agenda at *http://oba.od.nih.gov/rdna_rac/rac_meetings.html* for more information.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Laurie Lewallen, Advisory Committee Coordinator, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Room 750, Bethesda, MD 20892–7985, 301–496–9838, *lewallenl@od.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://oba.od.nih.gov/rdna/rdna.html,* where an agenda and any additional information for the meeting will be posted when available. OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: *February 17, 2010.*

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3585 Filed 2–23–10; 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: Center for Scientific Review Special Emphasis Panel; Member Conflicts in Memory, Cognition and Motor Control.

Date: March 2, 2010.

Time: 2 p.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: Dana Jeffrey Plude, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bone, Muscle and Cartilage Biology.

Date: March 8–9, 2010.

Time: 8:30 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: Rajiv Kumar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Mechanisms of Neurodegeneration.
Date: March 8–9, 2010.
Time: 9 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Toby Behar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Quick Trials on Imaging and Image-guided Intervention.
Date: March 8, 2010.
Time: 2 p.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: John Firrell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Drug Discovery.
Date: March 9–10, 2010.
Time: 8 a.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Geoffrey G. Schofield, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular Biology.
Date: March 10–11, 2010.
Time: 11 a.m. to 8 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Anshumali Chaudhari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–09–007: Pilot-Scale Libraries for High Throughput Screening.
Date: March 15, 2010.
Time: 8 a.m. to 7 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Monticello, 1075 Thomas Jefferson Street, NW., Washington, DC 20007.
Contact Person: William A. Greenberg, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biological Chemistry and Biophysics.
Date: March 15–16, 2010.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Sergei Ruvinov, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1180, *ruvinser@csr.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: February 16, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3581 Filed 2–23–10; 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: Center for Scientific Review Special Emphasis Panel, Member Conflict: Integrative Neuroscience.
Date: March 2–3, 2010.
Time: 8 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: Brian Hoshaw, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7844, Bethesda, MD 20892. 301–435–1033. *hoshawb@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Program Project: Systems Genetics.
Date: March 3–4, 2010.
Time: 8 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: Amy L. Rubinstein, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 5152, MSC 7844, Bethesda, MD 20892. 301–435–1159. *rubinsteinal@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–09–264: Competitive Revisions: Pain.
Date: March 4, 2010.
Time: 11 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)
Contact Person: John Bishop, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892. (301) 408–9664. *bishopj@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Language, Emotion and Psychopathology.
Date: March 5, 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. (Virtual Meeting.)
Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892. 301–435–2309. *pluded@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: AIDS and Related Research Integrated Review Group, HIV/AIDS Vaccines Study Section.
Date: March 11, 2010.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Mary Clare Walker, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892. (301) 435–1165. *walkermc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business Grant Applications: Microbial Vaccine Development.

Date: March 11–12, 2010.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Stephen M. Nigida, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892. 301–435–1222. *nigidas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business Hematology.

Date: March 12, 2010.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Delia Tang, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892. 301–435–2506. *tangd@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Immunology and Pathogenesis Study Section.

Date: March 12, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Mary Clare Walker, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892. (301) 435–1165. *walkermc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Microbial Vaccine Development.

Date: March 12, 2010.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Stephen M. Nigida, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892. 301–435–1222. *nigidas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Nephrology Business and Clinical Applications.

Date: March 15–16, 2010.

Time: 8 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: Ryan G. Morris, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892. 301–435–1501. *morrisr@csr.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: February 17, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3580 Filed 2–23–10; 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: Center for Scientific Review Special Emphasis Panel; Special Topics in Basic Science.

Date: February 26, 2010.

Time: 9 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: John L. Bowers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1725, *bowersj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Developmental Brain Disorders.

Date: February 26, 2010.

Time: 2 p.m to 5 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: Jay Joshi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408–9135, *joshij@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 17, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3579 Filed 2–23–10; 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: Center for Scientific Review Special Emphasis Panel, RFA–OD–09–006: BIRCWH K12s.

Date: March 17, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1111 30th Street, NW., Washington, DC 20007.

Contact Person: Suzanne Ryan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, NeuroAIDS and Other End-Organ Diseases Study Section.

Date: March 19, 2010.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Rossana Berti, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7846, Bethesda, MD 20892, 301–402–6411, *bertiros@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Urology Clinical and Small Business.
Date: March 22–23, 2010.
Time: 8 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: Ryan G. Morris, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–09–056, PAR–09–057: Intervention Strategies for Communication Disorders.
Date: March 22–23, 2010.
Time: 8 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: Eugene Carstea, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 408–9756, *carsteae@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA–OD–09–10: ARRA RC4 Sustainable Community-Linked Infrastructure Panel 2.
Date: March 22–23, 2010.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Palomar, 2121 P Street, NW., Washington, DC 20037.
Contact Person: Kathlyn Robbins, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 435–0913, *robbinsk@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: AIDS/HIV Small Business Innovative Research Applications.
Date: March 23–25, 2010.
Time: 8 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)
Contact Person: Kenneth A. Roebuck, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Cancer Treatment and Diagnosis.
Date: March 24–25, 2010.
Time: 10 a.m. to 7 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)
Contact Person: Delia Tang, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, 301–379–9827, *tangd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship: Genes, Genomes, and Genetics.
Date: March 25–26, 2010.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Michael A. Marino, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2216, MSC 7890, Bethesda, MD 20892, (301) 435–0601, *marinomi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Ontology and Database Sharing.
Date: March 29–31, 2010.
Time: 8 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)
Contact Person: Ping Fan, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–408–9971, *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pilot and Feasibility Clinical Studies in Digestive Diseases and Nutrition.
Date: March 30, 2010.
Time: 1 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: Peter J. Perrin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.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: February 17, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3574 Filed 2–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, HIV AIDS Training.
Date: March 1, 2010.
Time: 10 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call.)
Contact Person: Enid Light, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6132, MSC 9608, Bethesda, MD 20852–9608, 301–443–0322, *elight@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 16, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3571 Filed 2–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Board of Scientific Advisors, March 8, 2010, 8 a.m. to March 9, 2010, 12 p.m., National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on January 20, 2010, 75FR3243.

This **Federal Register** Notice is amended to change the meeting to a one day meeting to be held on March 8, 2010, 8 a.m. to 6 p.m. The meeting is open to the public.

Dated: February 18, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3748 Filed 2–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed 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 Mental Health Special Emphasis Panel, Child Trials Network Member Conflict.

Date: March 3, 2010.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Enid Light, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6132, MSC 9608, Bethesda, MD 20852–9608, 301–443–0322, *elight@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Biobehavioral Research Awards for Innovative New Scientists (BRAINS).

Date: March 9, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar Arlington, 1121 North 19th Street, Arlington, VA 22209.

Contact Person: Megan Libbey, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9609, Rockville, MD 20852–9609, 301–402–6807, *libbeym@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Addressing MH Needs of Service Members.

Date: March 9, 2010.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Serena P. Chu, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892–9609, 301–443–0004, *sechu@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Biosignature Discovery for Personalized Treatment in Depression.

Date: March 15, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Francois Boller, MD, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *bollerf@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Leveraging Healthcare Networks.

Date: March 24, 2010.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Marina Broitman, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 18, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3745 Filed 2–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; 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 Human Genome Research Institute Special Emphasis Panel, GWAS Comparing Design Approaches for Sequencing Disease.

Date: March 11, 2010.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NHGRI Twinbrook Library, 5635 Fishers Lane, Bethesda, MD 20892–9306.

Contact Person: Keith McKenney, PhD, Scientific Review Officer, NHGRI, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20814, 301–594–4280, *mckenneyk@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 17, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3739 Filed 2–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; 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 Human Genome Research Institute Special Emphasis Panel, Revolutionary Sequencing Technology.

Date: April 2, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Marriott at Regan National Airport, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Ken D. Nakamura, PhD, Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, 301–402–0838, *nakamurk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 17, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3736 Filed 2–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed 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, New Invertebrate Models for the Biology of Aging.

Date: March 18, 2010.

Time: 8:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, Chevy Chase Pavilion, 4300 Military Road, NW., Bethesda, MD 20892.

Contact Person: Elaine Lewis, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301–402–7707. *elainelewis@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, ADNI2.

Date: March 30, 2010.

Time: 1 p.m. to 5:30 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: Elaine Lewis, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301–402–7707. *elainelewis@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Behavioral Economics, Health and Aging.

Date: March 31, 2010.

Time: 9 a.m. to 1 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: Rebecca J. Ferrell, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301–402–7703. *ferrellrj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 17, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–3695 Filed 2–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1566–CN]

Medicare Program; Meeting of the Practicing Physicians Advisory Council, March 8, 2010; Correction

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

ACTION: Correction of notice.

SUMMARY: This document corrects technical errors that appeared in the meeting notice published in the **Federal Register** on Friday, January 22, 2010 entitled "Medicare Program; Meeting of the Practicing Physicians Advisory Council, March 8, 2010."

FOR FURTHER INFORMATION CONTACT: Kelly Buchanan, DFO, (410) 786–6132, or e-mail *PPAC_hhs@cms.hhs.gov.* News media representatives must contact the CMS Press Office, (202) 690–6145. Please refer to the CMS Advisory Committees' Information Line (1–877–449–5659 toll free), (410) 786–9379 local) or the Internet at *http://www.cms.hhs.gov/home/regsguidance.asp* for additional information and updates on committee activities.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2010–1333 of January 22, 2010 (75 FR 3743), there were a number of technical errors that are identified and corrected in the "Correction of Errors" section below.

II. Summary of Errors

In section III. of the notice, "Meeting Registration and Security Information", we inadvertently included security information for the Hubert H. Humphrey building instead of the CMS central office. Therefore, we are removing section III. in its entirety and replacing the language as noted in section III. of this notice.

III. Correction of Errors

In FR Doc. 2010–1333 of January 22, 2010 (75 FR 3743), replace section III. in its entirety with the following language:

III. Meeting Registration and Security Information

The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at the number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date specified in the **DATES** section of this notice.

Individuals requiring sign language interpretation or other special accommodations must contact the DFO via the contact information specified in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date listed in the **DATES** section of this notice.

This meeting will be held in a Federal government building; therefore, Federal security measures are applicable. We recommend that confirmed registrants arrive reasonably early, but no earlier than 45 minutes prior to the start of the meeting, to allow additional time to clear security. Security measures include the following:

- Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel.
- Inspection of vehicle's interior and exterior (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.
- Inspection, via metal detector or other applicable means of all persons brought entering the building. We note that all items brought into CMS, whether personal or for the purpose of presentation or to support a presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for presentation or to support a presentation.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 45 minutes prior to the convening of the meeting.

All visitors must be escorted in areas other than the lower and first floor levels in the Central Building.

Authority: (Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, section 10(a)).)

Dated: February 18, 2010.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2010–3693 Filed 2–19–10; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0080]

Device Improvements to Reduce Unnecessary Radiation Exposure From Medical Imaging; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

The Food and Drug Administration (FDA) is announcing a public meeting entitled: "Device Improvements to Reduce Unnecessary Radiation Exposure From Medical Imaging." The purpose of this meeting is to discuss steps that could be taken by manufacturers of devices used in computed tomography (CT) and in fluoroscopy that would help reduce unnecessary patient exposure to ionizing radiation during CT and fluoroscopic procedures. FDA is seeking input on this topic and requests comments on a number of related questions.

Dates and Time: The public meeting will be held on March 30 and 31, 2010, from 8 a.m. to 5 p.m. Persons interested in attending and/or participating in the meeting must register by 5 p.m. on March 15, 2010. Submit written or electronic comments by April 15, 2010.

Location: The public meeting will be held at the Holiday Inn Gaithersburg, 2 Montgomery Village Ave., Gaithersburg, MD 20879. The meeting will not be videotaped or webcast.

Contact Person: Simon Choi, Food and Drug Administration, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5400, Silver Spring, MD 20993–0002, 301–796–5426, e-mail: *simon.choi@fda.hhs.gov*.

Registration: If you wish to attend the public meeting, you must register by e-mailing *CDRHimaging initiative@fda.hhs.gov*. Provide complete contact information for each attendee, including name, title, company or organization, address, e-mail, and telephone number. Registration requests must be received by March 15, 2010.

If you wish to make an oral presentation during any of the sessions at the meeting (see section II of this document, Public Meeting), you must indicate this at the time of registration. FDA has included specific questions for comment in section III of this document, Questions for Comment. You should also identify the session(s) during which you would like to present, as well as the question(s) you would like to address in each session. In order to keep each session focused on the topic at hand, presentations given during each session should address only the topic specified for that session. FDA will do its best to accommodate requests to speak. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and to request time for a joint presentation. FDA will determine the amount of time allotted to each presenter and the approximate time that each oral presentation is scheduled to begin.

If you would like to participate in any of the four planned roundtable discussions (see section II of this document, Public Meeting), you must indicate this interest at the time of registration, and also submit a brief statement that describes your experience with CT or fluoroscopic devices. FDA is seeking participants interested in engaging in one of four wrap-up roundtable discussions related to the presentations given during each of the earlier sessions of the meeting. Each roundtable discussion will include no more than 10 nonFDA participants. Only one participant from an organization or company will be assigned to each discussion group. FDA will attempt to have a range of constituencies represented in each discussion group. Others in attendance at the public meeting will have an opportunity to listen to each roundtable discussion.

Registration is free and will be on a first-come, first-served basis. Early registration is recommended because seating is limited. FDA may limit the number of participants from each organization based on space limitations. Registrants will receive confirmation once they have been accepted. Onsite registration on the day of the public meeting will be provided on a space-available basis beginning at 7 a.m.

If you need special accommodations due to a disability, please contact Simon Choi at 301–796–5426, *simon.choi@fda.hhs.gov* at least 7 days in advance of the meeting.

Comments: FDA is holding this public meeting to obtain information on a number of questions regarding steps manufacturers of CT and fluoroscopic devices could take to help reduce unnecessary patient exposure to ionizing radiation from these medical imaging modalities. The deadline for submitting comments related to this public meeting is April 15, 2010.

Regardless of attendance at the public meeting, interested persons may submit written or electronic comments. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. In addition, when

responding to specific questions as outlined in section III of this document, please identify the question you are addressing. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background

Like all medical procedures, medical imaging that uses ionizing radiation presents both benefits and risks. Medical imaging has led to improvements in the diagnosis and treatment of numerous medical conditions. At the same time, exposure to ionizing radiation may elevate patients' lifetime risk of developing cancer. Overexposure to ionizing radiation can also cause injuries in the short-term such as skin burns and hair loss. In an effort to reduce these risks, FDA's Center for Devices and Radiological Health (CDRH) recently announced the Initiative to Reduce Unnecessary Radiation Exposure from Medical Imaging (see *http://www.fda.gov/Radiation-Emitting Products/RadiationSafety/Radiation DoseReduction/UCM199904* for more information).

FDA is currently exploring steps that manufacturers of CT and fluoroscopic devices could take to reduce unnecessary radiation exposure through improved product design, enhanced labeling, or improved instructions and training for equipment use and quality assurance at medical imaging facilities.

II. Public Meeting

The objective of this public meeting is to receive public input on steps manufacturers of CT and fluoroscopic devices should take to help reduce unnecessary patient exposure to ionizing radiation from these medical imaging modalities.

The meeting will be held over the course of 2 days. Each day will be divided into two sessions. Day 1 will focus on equipment features that manufacturers should incorporate into CT scanners (morning session) and fluoroscopes (afternoon session). Day 2 will focus on steps manufacturers should take to improve training of individuals who use these devices (morning session) and steps to improve quality assurance at medical imaging facilities with respect to these two modalities (afternoon session).

During each session, members of the public may present oral comments related to the topic of that session. Specific questions for comment are listed in section III of this document, Questions for Comment. Individuals who are interested in giving an oral presentation during any of the sessions must indicate this interest at the time of registration and must also identify the session(s) at which they would like to present (see *Registration*). In order to keep each session focused on the topic at hand, each oral presentation should address only the topic specified for that session. Commentators are free to submit written comments on any topic(s) to the open docket (see *Comments*). FDA will schedule speakers for each session as time permits.

To close each of the four sessions, FDA will hold a roundtable discussion between FDA staff and selected participants representing a range of constituencies (for more information about participating in the roundtable discussion, see *Registration*). The participants in each roundtable discussion will remark on the presentations given during the session, engage in a dialogue with each other and FDA staff, and provide closing thoughts on the session. Roundtable participants will not be asked to develop consensus opinions during the discussion, but rather to provide their individual perspectives. Others in attendance at the meeting will have an opportunity to listen to each roundtable discussion.

In advance of the meeting, additional information, including a meeting agenda with a speakers' schedule for each session, will be made available on the Internet. This information will be placed on file in the public docket (docket number found in brackets in the heading of this document), which is available at *http://www.regulations.gov*. This information will also be available at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm* (select the appropriate meeting from the list).

III. Questions for Comment

A. Device-Specific Elements: Equipment Features, Labeling, and Premarket Submission Requirements

Note: The questions in the following paragraphs are relevant to both CT and fluoroscopic devices. Please clearly indicate in your response which modality you are discussing. Additionally, while the questions are worded broadly, please feel free to include elements in your response that are specific to particular types of procedures (e.g., multi-phase contrast-enhanced CT examinations, perfusion studies, etc.) or devices (e.g., multidetector CT devices that allow very thin slices, etc.).

1. What hardware and software features should manufacturers build into CT and fluoroscopic devices in order to reduce unnecessary exposure to ionizing radiation during each imaging exam, and in order to reduce what may be inappropriate prescription of imaging exams? Should manufacturers incorporate special provisions for pediatric and female patients?

2. Should manufacturers incorporate access controls and audit capabilities into CT and fluoroscopic equipment in order to identify the user(s) of the device during any particular exam, and to identify those responsible for creating and changing imaging protocols and exposure settings? If so, why, and what access controls and audit capabilities should be incorporated? If not, why not?

3. Should manufacturers incorporate warnings, alerts, lockouts, or overrides into CT and fluoroscopic equipment that would inform users and require confirmation or possibly procedure modification during an imaging session in which the patient could be exposed to high levels of radiation? If so, why, and what warnings, alerts, lockouts, or overrides should be incorporated? If not, why not?

4. Should manufacturers set default imaging protocols for CT and fluoroscopic procedures so that they incorporate the ALARA concept (maintaining dose As Low As Reasonably Achievable) and utilize or provide for incorporation of diagnostic reference levels into CT and fluoroscopic devices? If so, why and how? If not, why not?

5. Should manufacturers incorporate exam referral criteria into CT and fluoroscopy equipment to allow users to check the appropriateness of an imaging exam before it is initiated or flag an exam after it is done? If so, why and how? If not, why not?

6. Should manufacturers incorporate into CT and fluoroscopic equipment features to ensure that exposure settings, imaging protocols, and metrics of body dose and peak skin dose are displayed to the operator(s) of the equipment and recorded for physician review? If so, why and how? If not, why not?

7. Should manufacturers incorporate features into CT and fluoroscopic equipment to facilitate transmission of technique parameters, imaging protocols, and dose metrics to a patient's imaging record, an electronic health record, or other database? If so, why and how? If not, why not?

8. Should manufacturers take steps to improve the labeling of CT and fluoroscopic devices, such as including more information about radiation exposure, including more information

about the clinical applications of the device that have been shown to be safe and effective, improving instructions for use for each distinct clinical application, and including a comprehensive quality control manual? If so, why and how? If not, why not?

9. Should manufacturers submit more data to FDA as part of their premarket submissions for approval or clearance of CT and fluoroscopic devices, related to the safety and effectiveness of these devices (e.g., data demonstrating the safety and effectiveness of the device specific to each distinct clinical indication, or clinical data demonstrating the benefit of relatively high-dose procedures, for example, those with peak skin doses exceeding 1 Gy)? If so, why, and what data should be submitted? If not, why not?

10. Should manufacturers submit technical data to FDA as part of their premarket submissions for approval or clearance of CT and fluoroscopic devices, demonstrating dose reduction and image quality claims? If so, why, and what data should be submitted? If not, why not?

11. In addition to the already-required indications for use statement, should manufacturers of CT and fluoroscopic devices submit to FDA as part of their premarket submissions a list of common clinical applications for which the device could be used (such as those requiring special software supported by the device) and the appropriate demographics of the likely patient populations for those exams? If so, why, and what level of information should be submitted? If not, why not?

12. What changes should manufacturers make to CT and fluoroscopic devices currently on the market in order to reduce unnecessary patient exposure to ionizing radiation?

B. User Training

1. Should manufacturers provide training to medical imaging equipment users to ensure adequate understanding of equipment capabilities, operating principles for the technology, general information about optimizing patient dose and image quality, and specific dose-reduction equipment features? If so, why, and what training should be provided? If not, why not?

2. If manufacturers provide such training, which personnel should receive it to ensure proper use of medical imaging equipment and dose reduction features? In your response, please consider radiologic technologists or technologists in other specialties as well as physicians in all medical specialties who operate fluoroscopic equipment.

3. If manufacturers provide such training, how, when, and how often should it be delivered so that it is easily and effectively implemented at imaging facilities? For example, for software upgrades that affect dose, should training be performed at each site as well as training at the time of equipment installation?

C. Quality Assurance Measures

1. Should manufacturers provide quality assurance (QA) instructions and standard operating procedures to medical imaging facilities and users of CT and fluoroscopic devices? If so, why, and what instructions should be provided? If not, why not?

2. Should manufacturers provide training on quality assurance practices? If so, why, what type of training should be provided, and to which personnel? If not, why not?

D. Evaluation

1. What tools and metrics should FDA, in collaboration with others in the Federal Government and the healthcare professional community, use to evaluate the impact of efforts to reduce unnecessary radiation exposure from medical imaging?

IV. Transcripts

Transcripts of the public meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 6–30, Rockville, MD 20857, approximately 15 working days after the public meeting at a cost of 10 cents per page. A transcript of the public meeting will be available on the Internet at *http://www.regulations.gov*.

Dated: February 18, 2010.

Jeffrey Shuren,

Director, Center for Devices and Radiological Health.

[FR Doc. 2010–3674 Filed 2–23–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Pulmonary-Allergy Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of a meeting of the Pulmonary-Allergy Drugs Advisory Committee. This meeting was announced in the **Federal Register** of February 2, 2010 (75 FR 5334). The amendment is being made to reflect a change in the *Name of Committee* portion of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Kristine T. Khuc, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *Kristine.Khuc@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington DC area), code 3014512545. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 2, 2010, FDA announced that a meeting of the Pulmonary-Allergy Drugs Advisory Committee would be held on March 10 and 11, 2010. On page 5334, in the second column, the *Name of Committee* portion of the document is changed to read as follows:

Name of Committees: Joint Meeting of the Pulmonary-Allergy Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: February 18, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–3595 Filed 2–23–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2010–0007]

Privacy Act of 1974; Department of Homeland Security Immigration and Customs Enforcement-007 Alien Criminal Response Information Management System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of modification to existing Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 the Department of Homeland Security U.S. Immigration and Customs Enforcement is updating an existing system of records titled, Department of Homeland Security/

Immigration and Customs Enforcement-007 Law Enforcement Support Center Alien Criminal Response Information Management System of Records (73 FR 74739, December 9, 2008). The information in this system of records includes data gathered and maintained both in paper form and electronically by U.S. Immigration and Customs Enforcement to carry out its mission to receive and respond to immigration status inquiries from criminal justice agencies regarding individuals arrested, under investigation, or otherwise encountered by those agencies. This system of records supports the Immigration and Customs Enforcement Secure Communities Program, the management of records in the Federal Bureau of Investigation's National Crime Information Center about persons who are the subject of Immigration and Customs Enforcement-issued criminal warrants and immigration lookouts, and the Department of Homeland Security/Immigration and Customs Enforcement Tip-line operation for receiving reports from the public as well as governmental and non-governmental organizations concerning customs and immigration violations, suspicious activity, or other law enforcement matters. This system also supports Immigration and Customs Enforcement efforts to conduct immigration status checks on foreign born individuals applying to purchase/obtain a firearm in the United States, individuals supporting special security events, and individuals who are Federal or contract employees and applicants undergoing a U.S. Office of Personnel Management background investigation. Categories of individuals, categories of records, and the purpose statement and routine uses of this system of records notice have been updated to better reflect the current status of these records. The exemptions for the existing system of records notice will continue to be applicable for this system of records notice. Additionally, this system will continue to be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before March 26, 2010. This new system will be effective March 26, 2010.

ADDRESSES: You may submit comments, identified by docket number DHS–2010–0007 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 to *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: Lyn Rahilly (202–732–3300), Privacy Officer, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., Washington, DC 20536; Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) is updating and reissuing DHS/Immigration and Customs Enforcement (ICE)–09007 Law Enforcement Support Center (LESC) Alien Criminal Response Information Management (ACRIMe) System (73 FR 74739, December 9, 2008) to add or modify the categories of records and individuals, purpose statement, and routine uses for the system of records in order to clarify the nature of the customs and immigration law enforcement records maintained by ICE. The system of records is being renamed DHS/ICE–007 Alien Criminal Response Information Management (ACRIMe) System of Records.

DHS is expanding and clarifying the categories of individuals in this system of records notice. As amended, this system of records pertains to the following category of individuals: (1) Individuals who are the subject of an immigration status inquiry directed to ICE by criminal justice agencies that have arrested, investigated, encountered, or had custody of the individual; (2) individuals who report tips to DHS/ICE about suspicious activity or other law enforcement and the individuals about whom those reports are made; (3) individuals who are the subject of criminal arrest warrants and immigration lookouts that ICE has entered into the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC) System; (4) individuals subject to background investigations by a Federal agency for employment and/or national security purposes; (5) individuals who are applying to obtain/purchase a firearm in the United States and whose information has been submitted to ICE for the purpose of conducting an immigration status check in support of background checks required by the Brady Handgun Violence Protection Act (Brady Act) or other applicable laws; and (6) personnel working for criminal justice agencies who contact ICE for law enforcement assistance.

DHS is also updating and clarifying the existing categories of records in this system of records notice to include: (1) Biographic identifiers, other identifiers, and contact information, (2) visa, border, immigration and citizenship information, (3) criminal history information, (4) NCIC hit confirmation records, (5) background investigation records, (6) criminal justice immigration status check records received from domestic, foreign, and international criminal justice agencies about individuals who have been arrested by, investigated by, encountered by, or are otherwise in the custody of such agencies, (7) identification and authentication information for criminal justice agency personnel who contact ICE, (8) public tip records, and (9) information about ICE's follow-up actions on tips or other information received.

DHS is updating this notice to clarify and expand the purposes of the ACRIMe system of records. The purposes of the ACRIMe system of records are now as follows: (1) To identify and arrest individuals in the United States who may be subject to removal under the Immigration and Nationality Act, as amended; (2) to respond to inquiries from criminal justice agencies that seek to determine the immigration status of an individual in the context of a criminal justice matter for the purpose of identifying and arresting those who may be subject to removal; (3) to inform criminal justice agencies and agencies conducting background checks whether an individual is under investigation and/or wanted by ICE or other criminal justice agencies; (4) to receive, process and act on information received from the general public and other sources regarding suspicious activities and actual or potential violations of laws enforced by ICE or DHS, and to refer any other actionable information to the appropriate agencies for action; (5) to provide assistance to domestic, foreign and international agencies that contact ICE and the LESC on matters within the scope of ICE's law enforcement authorities, including violations of U.S. customs and immigration laws; (6) to collect and analyze data to evaluate the effectiveness and quality of services provided to other agencies in support of

the purposes described above, and of ICE's customs and immigration law enforcement efforts generally; and (7) to identify potential criminal activity, immigration violations, and threats to homeland security; to uphold and enforce the law; and to ensure public safety.

Finally, DHS is updating this system of records notice to add several new routine uses that clarify the scope of external sharing of information from the ACRIMe system of records. Specifically, DHS proposes to add new routine uses that support the sharing of results of immigration status inquiries for handgun applicants, persons undergoing certain background checks, and for criminal law enforcement purposes. DHS also proposes to add a new routine use to support ICE's operation of the DHS Tip-line, which necessitates the sharing of information gathered from various voluntary sources with appropriate agencies that may have authority, jurisdiction, or other need to know regarding the subject of the tip. A new routine use is proposed to specifically support the sharing of information with criminal justice agencies and other users of NCIC when those agencies have a hit against an ICE-generated NCIC record to resolve the hit. DHS proposes a new routine use to support the sharing of information that is necessary when ICE places an immigration detainer on an individual currently in the custody of another agency or seeks to transfer custody from another agency to ICE pursuant to its efforts to enforce Federal immigration laws. Finally, DHS is adding new routine uses to support the necessary sharing of information with Congress and the Office of Management and Budget in connection with private immigration relief legislation; with other agencies as needed to test information systems and technologies; with foreign governments and the State Department as necessary to support current information sharing agreements and diplomatic communications with foreign governments; and with other criminal justice agencies to coordinate, collaborate, and deconflict actions on investigative matters or criminal law enforcement operations.

II. ACRIMe System of Records

The ICE LESC was originally established primarily to respond to inquiries from Federal, State, local, tribal and international criminal justice agencies (*i.e.,* law enforcement agencies, criminal courts, booking and correctional facilities, and parole boards) regarding the immigration status of individuals they encountered while performing their law enforcement duties across the U.S. and internationally. The LESC's mission and ACRIMe functionality have expanded to support ICE's handling of and response to immigration status inquiries made by ICE and other Federal, State, local, tribal, and international criminal justice agencies regarding individuals arrested, subject to background checks, under investigation, or otherwise encountered by those agencies. The ACRIMe system supports and keeps appropriate records of the following customs, immigration, and law enforcement functions: (1) Support the ICE Secure Communities Program, which seeks to improve public safety by implementing a comprehensive, integrated approach to identify and remove criminal aliens from the U.S. using biometric data; (2) respond to electronic "Immigration Alien Queries" submitted by ICE and other criminal justice agencies regarding the immigration status of individuals they have arrested or are investigating (known as "Traditional law enforcement checks"); (3) support "Brady Act Checks," which are background checks on foreign born persons seeking to purchase or obtain firearms in the U.S.; (4) create, update and clear records in the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC) system about persons who are the subject of ICE-issued criminal warrants or immigration lookouts; (5) operate a 24-hour Tip-line for the public to report customs and immigration violations, suspicious activity or other law enforcement matters to the DHS; (6) conduct immigration status checks on individuals in support of special security events like the Super Bowl, or the security of visiting national leaders or sensitive facilities; and (7) process inquiries from OPM to determine the immigration status of Federal and contract applicants and employees undergoing a background investigation (known as "OPM checks"). The ACRIMe system is divided into four separate user interfaces, called modules: (1) The Operations Module; (2) Communications Center Module; (3) NCIC Section Module; and (4) Tip-line Module.

The ACRIMe Operations Module facilitates the electronic receipt of and response to Immigration Alien Queries (IAQs) from ICE and other agencies requesting an immigration status check pursuant to a traditional law enforcement, Brady Act, special security event, or OPM check. In the future the ACRIMe will automatically prioritize pending requests for immigration status checks to give preference to those concerning criminal aliens with more severe criminal histories. The ACRIMe Operations Module uses personal identifiers provided in the IAQ to automatically search various criminal, customs and immigration databases to gather information about the subject of the IAQ. Based on the search results, ICE prepares an Immigration Alien Response (IAR) in ACRIMe indicating the individual's last known immigration status, and electronically returns the IAR to the requesting agency.

The ACRIMe Communications Center Module documents calls from IAQ submitters who have further questions regarding IARs received from ICE, from criminal justice agencies contacting ICE to report suspected customs or immigration violations, and from law enforcement agencies seeking to confirm matches against ICE-generated National Crime Information Center (NCIC) records (known as "NCIC Hit Confirmation" calls).

The ACRIMe NCIC Section Module allows ICE to create, update and clear records in the Federal Bureau of Investigation's (FBI) NCIC system about persons for whom ICE has an outstanding criminal warrant or immigration lookout. ICE maintains "hit confirmation files" for these ICE-generated NCIC records, which provide additional information about the subject of the NCIC records and allow easy access to this information so that ICE can quickly confirm whether a person run through NCIC is likely the person who is the subject of the active warrant or lookout.

The ACRIMe Tip-line Module documents calls received from the general public and governmental and non-government organizations via the DHS/ICE Tip-line who are reporting suspected customs and immigration violations, suspicious activities or other law enforcement matters to ICE. If enough information is provided by the caller, ICE may manually conduct research in various government and commercial databases. Based on the findings of the search, ICE can manually create an investigatory lead that is routed to the appropriate ICE field office for further investigation or action.

This updated system of records notice is being published concurrently with the Privacy Impact Assessment (PIA) for the ACRIMe System because information maintained in ACRIMe is described in this notice. The ACRIMe PIA is available on the DHS Privacy Office Web site at *http://www.dhs.gov/privacy.*

Portions of the DHS/ICE–007 ACRIMe System of Records are exempt from one or more provisions of the Privacy Act

because of criminal, civil and administrative enforcement requirements. Individuals may request information about records pertaining to them stored in the DHS/ICE–007 ACRIMe System of Records as outlined in the "Notification Procedure" section below. ICE reserves the right to exempt various records from release. The Secretary of Homeland Security has exempted portions of this system of records from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (4)(G), (4)(H), (5) and (8); (f); and (g) of the Privacy Act. In addition, the system has been exempted from subsections (c)(3) and (4); (d); (e)(1), (4)(G), (4)(H), and (f) pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register** as addition to Title 28, Code of Federal Regulations (28 CFR 16.99). In addition, to the extent a record contains information from other exempt systems of records, ICE will rely on the exemptions claimed for those systems.

Consistent with DHS's information sharing mission, information stored in the DHS/ICE–007 ACRIMe 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.

In accordance with the Privacy Act of 1974, the Department of Homeland Security U.S. Immigration and Customs Enforcement is updating an existing system of records titled, Department of Homeland Security/U.S. Immigration and Customs Enforcement-007 Law Enforcement Support Center Alien Criminal Response Information Management System of Records (73 FR 74739, December 9, 2008). The information in this system of records includes data gathered and maintained both in paper form and electronically by U.S. Immigration and Customs Enforcement to carry out its mission to receive and respond to immigration status inquiries from criminal justice agencies regarding individuals arrested, under investigation, or otherwise encountered by those agencies. This system of records supports the U.S. Immigration and Customs Enforcement Secure Communities Program, the management of records in the Federal Bureau of Investigation's National Crime Information Center about persons who are the subject of U.S. Immigration and Customs Enforcement-issued criminal warrants and immigration lookouts, and the Department of Homeland Security/U.S. Immigration and Customs Enforcement Tip-line operation for receiving reports from the public as well as governmental and non-governmental organizations concerning customs and immigration violations, suspicious activity, or other law enforcement matters. This system also supports the U.S. Immigration and Customs Enforcement efforts to conduct immigration status checks on foreign born individuals applying to purchase/obtain a firearm in the United States, individuals supporting special security events or who are visiting or requesting access to national leaders or sensitive facilities, and individuals who are Federal or contract employees and applicants undergoing a U.S. Office of Personnel Management background investigation. Categories of individuals, categories of records, and the purpose statement and routine uses of this system of records notice have been updated to better reflect the current status of these records. The exemptions for the existing system of records notice will continue to be applicable for this system of records notice. Additionally, this system will continue to be included in the Department of Homeland Security's inventory of record systems.

III. 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 individuals' 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 for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to 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 part 5.

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 to which their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/ICE–007 ACRIMe System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records:

DHS/ICE—007

SYSTEM NAME:

Alien Criminal Response Information Management (ACRIMe) System

SECURITY CLASSIFICATION:

Unclassified and Law Enforcement Sensitive (LES).

SYSTEM LOCATION:

Records are maintained at the U.S. Immigration and Customs Enforcement (ICE) Law Enforcement Support Center (LESC) in Williston, Vermont, at ICE Headquarters, and other ICE field office locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered in this system include:

(1) Individuals who are encountered by, arrested by, under the investigation of, or in the custody of a criminal justice agency and are the subject of an immigration status inquiry directed to ICE.

(2) Individuals who report tips concerning customs and immigration violations, suspicious activity or other law enforcement matters to the Department of Homeland Security (DHS)/ICE and individuals about whom those reports are made.

(3) Individuals who are the subject of criminal arrest warrants and immigration lookouts that ICE has entered into the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC) System.

(4) Individuals subject to background investigations by a Federal agency for employment and/or national security purposes.

(5) Individuals who are applying to obtain/purchase a firearm in the United States and whose information has been submitted to ICE for the purpose of

conducting an immigration status check in support of background checks required by the Brady Handgun Violence Protection Act (Brady Act) or other applicable laws.

(6) Law enforcement officers or other personnel working for criminal justice agencies who contact ICE for reasons relating to the purposes of this system of records, or for other law enforcement assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system may include:

• Biographic identifiers, other identifiers, and contact information (e.g., name, aliases, date and place of birth, address, telephone number, Social Security Number (SSN), Alien Registration Number (A-Number), driver's license number, other personal identification numbers, fingerprint identification number, passport number).

• Visa, border, immigration and citizenship information (*e.g.,* citizenship and/or immigration status, application for benefit information, visa and travel history).

• Criminal history information (*e.g.,* FBI number, booking number, current charge[s], custodial status, past offenses and convictions).

• NCIC hit confirmation records, which consist of information supporting the entry of criminal warrants or immigration lookouts into the NCIC system, such as criminal arrest warrant information, fingerprints and photographs, other information identifying the individual, and records reflecting the purpose/basis for the warrant or lookout. Records of inquiries received from criminal justice agencies regarding potential matches against ICE-created NCIC records, and records pertaining to ICE's research, resolution, and response to those inquiries.

• Background investigation records, which consist of identifying and other information received from agencies requesting an immigration status check on individuals as part of a background check for employment, gun ownership, or other reasons; research conducted by ICE during the conduct of the immigration status check; and ICE's research, resolution, and response to those inquiries.

• Criminal justice immigration status check records, which consist of identifying and other information received from criminal justice agencies requesting an immigration status check on individuals in the context of a criminal justice matter; prioritization of requests; research conducted by ICE during the conduct of the immigration status check; and ICE's research, resolution, and response to those inquiries.

• Public tip records, which consist of information contained in tips received from the public or other sources regarding customs and immigration violations, or other violations of law, and suspicious activities. This includes identifying and contact information about the individual reporting the tip (if provided) and information about the person or persons who are the subject of the tip.

• Information pertaining to ICE's follow-up activities regarding a tip or other information received pursuant to the activities supported by this system of records, including setting leads for ICE investigations and referrals to other agencies.

• Identification and authentication information for law enforcement officers or other criminal justice personnel who contact ICE.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1103, 8 U.S.C 1324(b)(3); 8 U.S.C 1360(b); 5 U.S.C. 52a(b); 5 U.S.C. 301; Section 504 of the Immigration and Nationality Act of 1990 (Pub. L. 101–649); the Brady Handgun Violence Protection Act of 1993 (Pub.L. 103–159); FY2008 DHS Appropriations Act (Pub. L. 108–161, 1844, 2050 (2007)); INA provisions regarding removal of criminal aliens (INA section 237(2) and section 238); and the Economy Act (31 U.S.C. 1535); the Federal Records Act, 44 U.S.C. 3101.

PURPOSE(S):

The purposes of this system are to:

(1) Identify and arrest individuals in the United States who may be subject to removal under the Immigration and Nationality Act, as amended.

(2) Respond to inquiries from criminal justice agencies that seek to determine the immigration status of an individual in the context of a criminal justice matter for the purpose identifying and arresting those who may be subject to removal.

(3) Inform criminal justice agencies and agencies conducting background checks whether an individual is under investigation and/or wanted by ICE or other criminal justice agencies.

(4) Receive, process and act on information received from the general public and other sources regarding suspicious activities and actual or potential violations of laws enforced by ICE or DHS, and to refer any other actionable information to the appropriate agencies for action.

(5) Provide assistance to domestic, foreign and international agencies that contact ICE and the LESC on matters within the scope of ICE's law enforcement authorities, including violations of U.S. customs and immigration laws.

(6) Collect and analyze data to evaluate the effectiveness and quality of services provided to other agencies in support of the purposes described above, and of ICE's customs and immigration law enforcement efforts generally.

(7) Identify potential criminal activity, immigration violations, and threats to homeland security; uphold and enforce the law; and ensure public safety.

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 or 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, or HHS employee detailed to DHS, in his/her official capacity;

3. Any employee of DHS, or HHS employee detailed to 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 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 that 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, tribal, local, international, or foreign law enforcement agency, 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 and disclosure is appropriate to the proper performance of the official duties of the person making the request.

I. To domestic governmental agencies seeking to determine the immigration status of persons who have applied to purchase/obtain a firearm in the United States, pursuant to checks conducted on such persons under the Brady Handgun Violence Prevention Act or other applicable laws.

J. To the U.S. Office of Personnel Management (OPM) or its agents seeking to determine the immigration status of individuals undergoing background investigations.

K. To appropriate Federal, State, local, tribal, foreign or international criminal justice agencies, or other authorized users of NCIC, to respond to inquiries regarding a person who is or may be the subject of an ICE-generated NCIC criminal arrest warrant or immigration lookout record.

L. To appropriate Federal, State, local, tribal, foreign or international agencies seeking to determine the immigration status of individuals who are being screened with respect to their participation in, attendance at, or other relation to a special security event.

M. To appropriate Federal, State, local, tribal, foreign or international agencies in order to refer reports of suspicious activity, tips, potential violations of law and other relevant information to agencies with appropriate jurisdiction, authorities, and/or need-to-know concerning the matters.

N. To the Department of Justice (DOJ), Federal Bureau of Prisons (BOP) and other Federal, State, local, territorial, tribal and foreign law enforcement or custodial agencies for the purpose of placing an immigration detainer on an individual in that agency's custody, or to facilitate the transfer of custody of an individual to ICE from the other agency.

O. To the appropriate foreign government agency charged with enforcing or implementing laws where there is an indication of a violation or potential violation of the law of another nation (whether civil or criminal), and to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

P. To other Federal, State, local, or foreign government agencies, individuals, and organizations during the course of an investigation, proceeding, or activity within the purview of immigration and nationality laws to elicit information required by DHS/ICE to carry out its functions and statutory mandates.

Q. To international, foreign, and intergovernmental agencies, authorities, and organizations in accordance with law and formal or informal international arrangements.

R. To the Office of Management and Budget (OMB) in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

S. To the U.S. Senate Committee on the Judiciary or the U.S. House of Representatives Committee on the Judiciary when necessary to inform members of Congress about an alien who is being considered for private immigration relief.

T. To the State Department when it requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications.

U. To a criminal, civil, or regulatory law enforcement authority (whether Federal, State, local, territorial, tribal, international or foreign) where the information is necessary for collaboration, coordination and de-confliction of investigative matters, to avoid duplicative or disruptive efforts, and for the safety of law enforcement officers who may be working on related investigations.

V. To appropriate Federal, State, local, tribal, foreign or international governmental agencies or multilateral governmental organizations where DHS is aware of a need to utilize relevant data for purposes of testing new technology and systems designed to enhance national security or identify other violations of law.

W. 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 in response to a subpoena from a court of competent jurisdiction.

X. To Federal and foreign government intelligence or counterterrorism agencies or components where DHS becomes aware of an indication of a threat or potential threat to national or international security, or where such use is to assist in anti-terrorism efforts and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

Y. 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 behind locked doors. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by personal, biographic or biometric identifiers such as name, date of birth, place of birth, address, A-Number(s), FBI criminal history number(s), Social Security Number, Fingerprint Identification Number, and passport number.

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 the risk of compromising the information that is being stored. Access to the computer systems 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:

ICE is seeking approval for a records disposition schedule for the records described in this system of records. ICE proposes to maintain the IAQ and IAR records pertaining to traditional law enforcement checks for seventy-five (75) and special security event and OPM checks for five (5) years from the date an immigration status determination is made and IAR returned, after which the records will be deleted from the ACRIMe system. ICE proposes to maintain NCIC Module records (containing the underlying basis for the ICE-generated NCIC record) for 75 years from the date the record is removed from NCIC. Pursuant to the legal requirements as defined by the Brady Act, ICE proposes to maintain IAQs and IARs related to Brady Act checks for twenty-four (24) hours, after which the records will be deleted from the ACRIMe system. ICE proposes to maintain Communication Center Module records containing NCIC Hit Confirmation calls for 75 years and follow-up calls to IARs for the time period consistent with the type of query conducted. Additionally, ICE proposes to maintain suspicious activity reporting in the Tip-line and the Communications Center Modules for ten (10) years from the date of the tip.

SYSTEM MANAGER AND ADDRESS:

Unit Chief, Law Enforcement Support Center, U.S. Immigration and Customs Enforcement, 188 Harvest Lane, Williston, VT 05495.

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, ICE 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 ICE'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 ICE and other Federal, State, local, tribal, foreign and international criminal justice agencies (*e.g.*, law enforcement agencies, investigators, prosecutors, correctional institutions, police departments, and parole boards).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (4)(G), (4)(H), and (5) and (8); (f); and (g) of the Privacy Act. In addition, the system has been exempted from subsections (c)(3), (d), and (e)(1), (4)(G), (4)(H), and (f) pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register as additions to Title 28, Code of Federal Regulations (28 CFR 16.99). In addition, to the extent a record contains information from other exempt systems of records, ICE will rely on the exemptions claimed for those systems.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–3605 Filed 2–23–10; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2010–0006]

Agency Information Collection Activities: Proposed Collection; Comment Request, 1660–NEW; FEMA Preparedness Grants: State Homeland Security Program (SHSP) Tribal

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form 089–22, SHSP-Tribal Investment Justification Template.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed new information collection. In accordance with the Paperwork Reduction Act of 1995, this Notice seeks comments concerning the State Homeland Security Program (SHSP) Tribal.

DATES: Comments must be submitted on or before April 26, 2010.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under docket ID FEMA–2010–0006. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Office of Chief Counsel, Regulation and Policy Team, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA-POLICY@dhs.gov.* Include docket ID FEMA–2010–0006 in the subject line.

All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via a link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Stacey Street, Program Analyst, Grant Programs Directorate, 202–786–9728 for additional information. You may contact the Office of Records Management for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION: FEMA's State Homeland Security Program (SHSP) Tribal is authorized by Sections 2004 and 2005 of the Homeland Security Act of 2002, as amended by Section 101, Title I of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53 (6 U.S.C. 605 and 606). SHSP provides supplemental funding to eligible tribes to help strengthen the Nation against risks associated with potential terrorist attacks. SHSP support building and sustaining capabilities at the State and Local levels through planning, equipment, training, and exercise activities, and help states to implement the strategic goals and objectives included in the State Homeland Security Strategies. This law empowers FEMA Administrator to make grant awards directly to eligible tribes and requires the Administrator to accept appropriate application data submitted by eligible tribes similar to the SHSP application requirements of States, such as:

- The purpose for which the State seeks grant funds and the reasons why the State needs the grant to meet its target capabilities;
- A description of how the State plans to allocate the grant funds to local governments and Indian tribes;
- A budget showing how the State intends to expend the grant funds; and
- A directly eligible tribe must provide a copy of its application to each State within which any part of the tribe is located for review before the tribe submits such application to the Department.

Collection of Information

Title: FEMA Preparedness Grants: State Homeland Security Program (SHSP) Tribal.

Type of Information Collection: New information collection.

OMB Number: 1660–NEW.

Form Titles and Numbers: FEMA Form 089–22, SHSP-Tribal Investment Justification Template.

Abstract: The SHSP-Tribal provides supplemental funding to directly eligible tribes to help strengthen the nation against risks associated with potential terrorist attacks. This program provides funds to build capabilities at the State & local levels and implement goals and objectives included in state homeland security strategies.

Affected Public: State, Local, or Tribal Government.

Estimated Total Annual Burden Hours: 12,007 hours.

TABLE A.12—ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	No. of respondents	No. of responses per respondent	Total no. of responses	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate*	Total annual respondent cost
State, Local or Tribal Government.	SHSP—Tribal Investment Justification Template, FEMA Form 089–22.	40	1	40	300	12,000	$37.80	$453,600.00
State, Local or Tribal Government.	Copy of Application provided to State prior to submission/No Form.	40	1	40	0.167 (10 mins.)	7	$37.80	$264.60
Total	.....	80				12,007		$453,864.60

Estimated Cost: There is no annual reporting recordkeeping cost associated with this collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Larry Gray,

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–3598 Filed 2–23–10; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, OMB No. 1660–NEW; FEMA Preparedness Grants: Trucking Security Grant Program (TSP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form 089–7, TSP Investment Justification Template.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 26, 2010.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Office of Records Management, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov*.

Collection of Information

Title: FEMA Preparedness Grants: Trucking Security Program (TSP). The title has changed since publication of the 60-day **Federal Register** Notice at 74 FR 48091, Sept. 21, 2009.

Type of Information Collection: New information collection.

OMB Number: 1660–NEW. The OMB Number has changed since publication of the 60-day **Federal Register** Notice at 74 FR 48091, Sept. 21, 2009.

Form Titles and Numbers: FEMA Form 089–7, TSP Investment Justification Template.

Abstract: FEMA uses the information to evaluate applicants' familiarity with national preparedness architecture and identify how elements of this architecture have been incorporated into regional/State/local planning, operations, and investments. The TSP Investment Justification Template provides narrative detail on proposed investments. This document must demonstrate how proposed projects address gaps and deficiencies in current programs and capabilities and the ability to provide enhancements consistent with the purpose of the program and guidance provided by FEMA.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 25.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 125 hours.

Estimated Cost: There are no annual reporting or recordkeeping costs associated with this collection.

Larry Gray,

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–3600 Filed 2–23–10; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, OMB No. 1660–NEW; FEMA Preparedness Grants: Intercity Bus Security Grant Program (IBSGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form 089–8, IBSGP Investment Justification Template.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 26, 2010.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection

should be made to Director, Office of Records Management, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: FEMA Preparedness Grants: Intercity Bus Security Grant Program (IBSGP). The title has changed since publication of the 60-day **Federal Register** Notice at 74 FR 50232, Sept. 30, 2009.

Type of Information Collection: New information collection.

OMB Number: 1660–NEW.

Form Titles and Numbers: FEMA Form 089–8, IBSGP Investment Justification Template.

Abstract: The IBSGP Investment Justification Template is submitted with the application which provides narrative details on proposed investments. These Investment Justifications must demonstrate how proposed projects address gaps and deficiencies in current programs and capabilities and the ability to provide enhancements consistent with the purpose of the program and guidance provided by FEMA. The data from the IBSGP Investment Justification Template is collected to assist decision-making at all levels, although it is primarily used by individual application reviewers.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 56.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 280 hours.

Estimated Cost: There are no annual reporting or recordkeeping costs associated with this collection.

Larry Gray,

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–3602 Filed 2–23–10; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2009–0001]

Agency Information Collection Activities: Proposed Collection; Comment Request, 1660–0100; General Admissions Application (Long and Short) and Stipend Forms

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; revision of a currently approved information collection; OMB No. 1660–0100; FEMA Forms 064–0–1 (replaces FEMA Form 75–5), General Admissions Application; 064–0–2 (replaces FEMA Form 75–5a), General Admissions Application Short-Form; 106–0–1 (replaces FEMA Form 75–3), Student Stipend Agreement; and 106–0–2 (replaces FEMA For 75–3a), Student Stipend Agreement (Amendment); FEMA Form 064–0–3 (replaces FEMA Form 95–22) National Fire Academy Executive Fire Officer Program Application Admission.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this Notice seeks comments concerning an extension of the existing authorization to collect information for admissions and reimbursement for courses and programs offered by the Federal Emergency Management Agency.

DATES: Comments must be submitted on or before April 26, 2010.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under docket ID FEMA–2009–0001. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Office of Chief Counsel, Regulation and Policy Team, DHS/FEMA, 500 C Street, SW., Room 835, Wash, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA-POLICY@dhs.gov*. Include docket ID FEMA–2009–0001 in the subject line.

All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact JoAnn Boyd, Admissions Specialist, United States Fire Administration, 301–447–1415 for additional information. You may contact the Office of Records Management for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121–5207, authorizes the President to establish a disaster preparedness program that includes the use of services of all appropriate agencies, including training and exercises. Under the authority of Executive Order 12127 and Executive Order 12148, as amended, the Secretary of the Department of Homeland Security is responsible for carrying out the mandates of the Stafford Act. The Federal Emergency Management Agency (FEMA) is charged with carrying out this mandate and collects information to determine eligibility for courses and programs offered by FEMA, to provide a consolidated record of all FEMA training taken by a student, to provide a transcript which can be used by the student in requesting college credit or continuing education units for courses completed, and to determine eligibility for student stipends.

Collection of Information

Title: General Admissions Application (Long and Short) and Stipend Forms.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0100.

Form Titles and Numbers: FEMA Forms 064–0–1 (replaces FEMA Form 75–5), General Admissions Application; 064–0–2 (replaces FEMA Form 75–5a), General Admissions Application Short-Form; 106–0–1 (replaces FEMA Form 75–3), Student Stipend Agreement; and 106–0–2 (replaces FEMA For 75–3a), Student Stipend Agreement

(Amendment); FEMA Form 064–0–3 (replaces FEMA Form 95–22) National Fire Academy Executive Fire Officer Program Application Admission.

Abstract: FEMA personnel use the application forms to admit applicants to courses and programs offered at National Emergency Training Center (NETC), the Noble Training Facility (NTF), and various locations throughout the United States. The FEMA Form 064–0–1, General Admissions Application is the regular form and FEMA Form 064–0–2 is the short form used when FEMA personnel are not required to determine eligibility for courses and programs. FEMA Form 064–0–3 and the requested supporting documentation Letter of Intent, Resume, Letter of Recommendation, Diploma Photocopy, and Organizational Chart is used to select applicants to the Executive Fire Officer Program. FEMA Forms 106–0–1 and 106–0–2, Student Stipend Agreement and Student Stipend Agreement (Amendment), respectively, are provided to individuals who have been accepted to attend certain courses for which a stipend is paid. The 106–0–2 form is used when there is a supplemental reimbursement request for expenses that occur after arrival at the training site.

Affected Public: Individuals or households; Businesses or other for-profit; State, local or Tribal Government; Not-for-profit institutions; Federal Government.

Estimated Total Annual Burden Hours: 12,350 Hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form No.	Number of respondents	Number of responses per respondent	Total number of responses	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate*	Total annual respondent cost
State, local, or Tribal Government; Business or other for profit; Not-for-profit Institutions, Federal Government.	General Admissions Application/FEMA Form 064–0–1.	25,000	1	25,000	.15 (9 minutes)	3,750	$38.46	$144,225
State, local, or Tribal Government; Business or other for profit; Not-for-profit Institutions, Federal Government.	General Admissions Application Short Form/FEMA Form 064–0–2.	75,000	1	75,000	0.1 (6 minutes)	7,500	38.46	288,450
State, local, or Tribal Government; Business or other for profit; Not-for-profit Institutions, Federal Government.	National Fire Academy Executive Fire Officer Program Application Admission/FEMA Form 064–0–3.	400	1	400	1	400	47.70	19,080
State, local, or Tribal Government; Business or other for profit; Not-for-profit Institutions, Federal Government.	Additional Documentation: Letter of Intent, Resume, Letter of Recommendation, Diploma Photocopy, Organizational Chart/No Form.	400	1	400	1	400	47.70	19,080
State, local, or Tribal Government; Business or other for profit; Not-for-profit Institutions, Federal Government.	Student Stipend Agreement/FEMA Form 106–0–1.	8,000	1	8,000	0.033 (2 minutes)	267	38.46	10,269
State, local, or Tribal Government; Business or other for profit; Not-for-profit Institutions, Federal Government.	Student Stipend Agreement (Amendment)/FEMA Form 106–0–2.	1,000	1	1,000	.033 (2 minutes)	33	38.46	1,269
Total		109,800		109,800		12,350		482,373

Estimated Cost: There are no annual operation, maintenance, capital or start-up costs associated with this collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information will have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: February 5, 2010.

Larry Gray,

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–3604 Filed 2–23–10; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, OMB No. 1660–NEW; FEMA Preparedness Grants: Driver's License Security Grant Program (DLSGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form—None.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of

Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 26, 2010.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Office of Records Management, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: FEMA Preparedness Grants: Driver's License Security Grant Program (DLSGP).

Type of Information Collection: New information collection.

OMB Number: 1660–NEW.

Form Titles and Numbers: FEMA Form—None.

Abstract: The DLSGP information is needed to evaluate applicants' familiarity with the national preparedness architecture and identify how elements of this architecture have been incorporated into regional/State/local planning, operations, and investments. The DLSGP Program Narrative and Program Management Capabilities Work Plan provide the State with a Driver's License Security Grant Program implementation roadmap and tells the Department of Homeland Security (DHS) how grant funding will be used. The Program Narrative is a separate document from the Program Management Capabilities Work Plan, both of which help to assess program implementation potential and a State's management procedures and capabilities. The Program Narrative and the Program Management Capabilities Work Plan are required upon grant application and are reviewed by FEMA and the DHS Policy Office to determine funding decisions and assists with project oversight.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 56.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 168 hours.

Estimated Cost: There are no annual reporting or recordkeeping costs associated with this collection.

Larry Gray,

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–3603 Filed 2–23–10; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, OMB No. 1660–NEW; FEMA's Grants Reporting Tool (GRT)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form—None.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 26, 2010.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Office of Records Management, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: FEMA's Grants Reporting Tool (GRT).

Type of information collection: New information collection.

OMB Number: 1660–NEW.

Form Titles and Numbers: FEMA Form—None.

Abstract: The Grants Reporting Tool (GRT) is a Web-based reporting system designed to help State Administrative Agencies (SAAs) meet all reporting requirements as identified in the grant guidance of FEMA's portfolio of preparedness grants sponsored by FEMA's Grant Programs Directorate (GPD). The information enables FEMA to evaluate applications and make award decisions, monitor ongoing performance and manage the flow of federal funds, and to appropriately close out grants or cooperative agreements. GRT supports the information collection needs of each grant program processed in the system.

Affected Public: State, Local, or Tribal Government.

Estimated Number of Respondents: 56.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: 29.25 hours.

Estimated Total Annual Burden Hours: 2,492 hours.

Estimated Cost: There are no annual reporting or recordkeeping costs associated with this collection.

Larry Gray,

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–3601 Filed 2–23–10; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, OMB No. 1660–NEW; FEMA Preparedness Grants: Freight Rail Security Grant Program (FRSGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form 089–6, FRSGP Investment Justification.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 26, 2010.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Office of Records Management, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

Collection of Information

Title: FEMA Preparedness Grants: Freight Rail Security Grant Program (FRSGP). The title has changed since publication of the 60-day **Federal Register** Notice at 74 FR 48090, Sept. 21, 2009.

Type of Information Collection: New information collection.

OMB Number: 1660–NEW. The OMB Number has changed since publication of the 60-day **Federal Register** Notice at 74 FR 48090, Sept. 21, 2009.

Form Titles and Numbers: FEMA Form 089–6, FRSGP Investment Justification.

Abstract: The FRSGP Investment Justification is submitted with the application which provides narrative details on proposed investments. These Investment Justifications (IJ) must demonstrate how proposed projects address gaps and deficiencies in current programs and capabilities and the ability to provide enhancements consistent with the purpose of the program and guidance provided by FEMA. The data from the IJ is collected to assist decision-making at all levels, although, it is primarily used by individual application reviewers. FRSGP application data, including the IJ, is evaluated to determine which applications are the highest-scoring and address the program priorities stated in the grant guidance.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 400.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: 24 hours.

Estimated Total Annual Burden Hours: 9,600 hours.

Estimated Cost: There are no annual reporting or recordkeeping costs associated with this collection.

Larry Gray,

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–3599 Filed 2–23–10; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, OMB No. 1660–NEW; FEMA Preparedness Grants: Interoperable Emergency Communications Grant Program (IECGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form 089–2, IECGP Investment Justification.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 26, 2010.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Office of Records Management, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: FEMA Preparedness Grants: Interoperable Emergency Communications Grant Program (IECGP).

Type of Information Collection: New information collection.

OMB Number: 1660–NEW.

Form Titles and Numbers: FEMA Form 089–2, IECGP Investment Justification.

Abstract: The IECGP is an important tool among a comprehensive set of measures to help strengthen the Nation against risks associated with potential terrorist attacks. FEMA uses the information to evaluate applicants' familiarity with the national preparedness architecture and identify how elements of this architecture have been incorporated into regional/State/local planning, operations, and investments. Respondents are

comprised of State, local, and tribal entities.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 56. The estimated number of respondents has increased since publication of the 60-day **Federal Register** Notice at 74 FR 59227, Nov. 17, 2009.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: 572 hours. The average hour burden per respondent has decreased since publication of the 60-day **Federal Register** Notice at 74 FR 59227, Nov. 17, 2009.

Estimated Total Annual Burden Hours: 32,032 hours. The total annual burden hours has decreased since publication of the 60-day **Federal Register** Notice at 74 FR 59227, Nov. 17, 2009.

Estimated Cost: There are no annual reporting or recordkeeping costs associated with this collection.

Larry Gray

Director, Office of Records Management, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–3597 Filed 2–23–10; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0075]

St. Croix River Aids to Navigation

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Coast Guard announces a public meeting to receive comments on the aids to navigation in the St. Croix River.

DATES: A public meeting will be held on Tuesday, March 2, 2010, from 6:30 p.m. to 8:30 p.m. to provide an opportunity for oral comments. Written comments and related material may also be submitted to Coast Guard personnel specified at that meeting. All written comments and related material must be received by the Coast Guard on or before the meeting date.

ADDRESSES: The public meeting will be held in the auditorium at Stillwater Junior High School, 523 Marsh Street West, Stillwater, MN 55082–5700. Parking is provided in the main parking lot on the north side of the building.

You may submit written comments identified by docket number USCG–2010–0075 before the meeting using any one of the following methods:

(1) *D8localnoticefeedback@uscg.mil.*

(2) *Austin.T.Glass@uscg.mil.*

(3) *Fax:* 504–671–2137 (ATTN: Federal Projects).

(4) *Mail:* Commander (dpw), Eighth Coast Guard District, ATTN: Federal Projects, 500 Poydras Street, Room 1230, New Orleans, LA 70130–3310.

(5) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To avoid duplication, please use only one of these five methods. Our online docket for this meeting is available on the Internet at *http://www.regulations.gov* under docket number USCG–2010–0075.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the meeting, please e-mail ENS Austin Glass, U.S. Coast Guard, Eighth District, Waterways Management, at *Austin.T.Glass@uscg.mil* or telephone 504–671–2113.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The purpose of this meeting is to review the current Aids to Navigation system on the St. Croix River and discuss concerns and improvements that could be made to create a more consistent and useful waterway.

You may view the online docket and comments submitted thus far by going to *http://www.regulations.gov.* Once there, select the Advanced Docket Search option on the right side of the screen, insert USCG–2010–0075 in the "Search" box, and then click "Search" at the bottom of the page. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

We encourage you to participate in this meeting by submitting comments either orally at the meeting or in writing. If you bring written comments to the meeting, you may submit them to Coast Guard personnel specified at the meeting to receive written comments.

Comments must be submitted to the Coast Guard on or before the meeting date. If you submit a comment online through e-mail to *Austin.T.Glass@uscg.mil* or *D8localnoticefeedback@uscg.mil,* it will be considered received by the Coast Guard when you successfully transmit the comment. If faxed, hand delivered, or mailed, comments will be considered as having been received by the Coast Guard when it is received at the Coast Guard District Eight facilities.

These comments will be submitted to our online public docket. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

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

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact ENS Austin Glass, U.S. Coast Guard, at the e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

We will provide a written summary of the meeting and comments and place that summary in the docket.

Dated: February 3, 2010.

M.E. Landry,

Rear-Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2010–3657 Filed 2–23–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–08]

Eligibility of a Nonprofit Corporation/ Housing Consultant Certification

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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.

Nonprofit organizations provide financial and other information so that HUD can determine that the sponsor and/or mortgagor are truly a nonprofit and demonstrates probably success in

project development and continuing operation. A Housing Consulting hired by the nonprofit certifies to HUD that he/she has no other financial interest in the project and has no conflict of interest. The general contractor, subcontractors, equipment lessees, material and other suppliers, and management of the project certify to any direct or indirect contractual relationship they have with the sponsor or the mortgagor. HUD uses this information to assure compliance with regulations.

DATES: *Comments Due Date: March 26, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0057) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *fax:* 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney Jr. at *Leroy.McKinneyJr@hud.gov* or telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting 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: Eligibility of a Nonprofit Corporation/Housing Consultant Certification.

OMB Approval Number: 2502–0057.

Form Numbers: HUD–3433, HUD–3434, HUD–3435 and HUD–92531.

Description of the Need for the Information and Its Proposed Use: Nonprofit organizations provide financial and other information so that HUD can determine that the sponsor and/or mortgagor are truly a nonprofit and demonstrates probably success in project development and continuing operation. A Housing Consulting hired by the nonprofit certifies to HUD that he/she has no other financial interest in the project and has no conflict of interest. The general contractor, subcontractors, equipment lessees, material and other suppliers, and management of the project certify to any direct or indirect contractual relationship they have with the sponsor or the mortgagor. HUD uses this information to assure compliance with regulations.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	260	1.115		0.441		128

Total Estimated Burden Hours: 128.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 17, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–3608 Filed 2–23–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–10]

Assisted Living Conversion Program (ALCP) and Emergency Capital Repair Program (ECRP)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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.

The Assisted Living Conversion Program (ALCP) provides funding for the physical costs of converting some or all the units of an eligible multifamily development into an assisted living facility. ALCP also provides funding for the substantial capital repairs to eligible multifamily projects with elderly tenants that are needed to rehabilitate, modernize, or retrofit aging structure, common areas, or individual dwelling units through the Emergency Capital Repair Program (ECRP).

DATES: *Comments Due Date: March 26, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0542) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney Jr. at *Leroy.McKinneyJr@hud.gov* or telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting 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: Assisted Living Conversion Program (ALCP) and Emergency Capital Repair Program (ECRP).

OMB Approval Number: 2502–0542.

Form Numbers: SF–424, SF–434–Supplemental, HUD–424–CB, HUD–424–CBW, SF–LLL, HUD–2880, HUD–2990, HUD–2991, HUD–2530, HUD–96010, HUD–96011, HUD–50080–ALCP, SF–269, HUD–50080–ECRP, HUD–92045, HUD–92046, and HUD–92047.

Description of the Need for the Information and its Proposed Use: The Assisted Living Conversion Program (ALCP) provides funding for the physical costs of converting some or all the units of an eligible multifamily development into an assisted living facility. ALCP also provides funding for the substantial capital repairs to eligible multifamily projects with elderly tenants that are needed to rehabilitate, modernize, or retrofit aging structure, common areas, or individual dwelling units through the Emergency Capital Repair Program (ECRP).

Frequency of Submission: Quarterly, Semi-annually, Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	85	9.517		3.113		2,519

Total Estimated Burden Hours: 2,519.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 17, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–3610 Filed 2–23–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–11]

Low Income Housing Tax Credit Tenant Database

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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.

The Housing and Economic Recovery Act (HERA) of 2008 requires each state agency administering low-income housing tax credits (LIHTCs) to furnish HUD information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the United State Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of households residing in each property receiving such credits. This data collection complies with this mandate.

DATES: *Comments Due Date:* March 26, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528–0165) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney Jr. at *Leroy.McKinneyJr@hud.gov* or telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting 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: Low Income Housing Tax Credit Tenant Database.

Omb Approval Number: 2528–0165.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The Housing and Economic Recovery Act (HERA) of 2008 requires each state agency administering low-income housing tax credits (LIHTCs) to furnish HUD information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the United State Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of households residing in each property receiving such credits. This data collection complies with this mandate.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	59	1		14		826

Total Estimated Burden Hours: 826.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: *February 17, 2010.*

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–3609 Filed 2–23–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–09]

Housing Counseling Training Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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.

Nonprofit organizations to submit documentation and information to HUD to apply for funding to develop and implement a training program for housing counselors. HUD will use the information to evaluate applicants competitively and select one or more organizations to receive cooperative agreement funding to develop and implement the training program for housing counselors. The term of the cooperative agreement is one year. Awardees can apply for funding in subsequent years if applicable.

DATES: *Comments Due Date: March 26, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0567) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney, Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney, Jr. at *Leroy.McKinneyJr@hud.gov* or telephone 202–402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting 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: Housing Counseling Training Program.

OMB Approval Number: 2502–0567.

Form Numbers: SF–424, SF–424–Supp, HUD–424–CB, SF–LLL, HUD–2880, HUD–96010, and HUD–2994a.

Description of the Need for the Information and its Proposed Use: Nonprofit organizations to submit documentation and information to HUD to apply for funding to develop and implement a training program for housing counselors. HUD will use the information to evaluate applicants competitively and select one or more organizations to receive cooperative agreement funding to develop and implement the training program for housing counselors. The term of the cooperative agreement is one year. Awardees can apply for funding in subsequent years if applicable.

Frequency of Submission: Quarterly.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	15	3.4		8.020		409.68

Total Estimated Burden Hours: 409.68.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 17, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–3611 Filed 2–23–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act

AGENCY: Department of the Interior, Office of the Assistant Secretary—Water and Science.

ACTION: Notice of Availability of the Finding of No Significant Impact associated with the Environmental Assessment for the East Juab Water Efficiency Project—Phase II, Juab County, Utah.

SUMMARY: On January 8, 2010, the Department of the Interior (Interior) signed a Finding of No Significant Impact (FONSI) which documents the selection for implementation of Alternative 1 as presented in the Final Environmental Assessment (EA) for the East Juab Water Efficiency Project—Phase II, Juab County, Utah.

ADDRESSES: Copies of the Final EA and FONSI are available for inspection at:

- Central Utah Water Conservancy District, Attention Sarah Sutherland 355 West University Parkway, Orem, Utah 84058–7303.
- Department of the Interior, Attention Lee Baxter, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606.

In addition, the document is available at *http://www.cuwcd.com.*

FOR FURTHER INFORMATION: Additional information may be obtained by contacting Mr. Lee Baxter at (801) 379–1174, or by e-mail at *lbaxter@uc.usbr.gov.*

SUPPLEMENTARY INFORMATION: Interior has determined that implementing Alternative 1 as described in the EA will not have a significant impact on the quality of the human environment and that an environmental impact statement is not required.

This project anticipates the rehabilitation of several existing wells, installation of additional booster pump capability, extension of associated distribution system pipelines and overhead power lines, and development and implementation of a supervisory control and data acquisition system.

Also anticipated is the construction of a bypass pipeline along a segment of Spring Creek channel to reduce loss of water during the late irrigation season period of water shortage, and perforated infiltration pipelines to recharge water to the groundwater basin at other times.

These actions are proposed to be taken in order to more efficiently utilize existing ground-water supplies in conjunction with existing surface water supplies.

The Bonneville Unit of the Central Utah Project was authorized to develop central Utah's water resources. Both the 1987 Final Supplement to the Final Environmental Impact Statement for the Municipal and Industrial System, Bonneville Unit, Central Utah Project and the 2004 Supplement to the 188 Definite Plan Report for the Bonneville Unit anticipated additional water development in East Juab County. Under the authority of Section 202 of the Central Utah Project Completion Act (Pub. L. 102–575), the Secretary of the Interior oversees Bonneville Unit water development, and specifically has authority to provide cost share associated with Conjunctive Use investigations and projects.

Dated: January 12, 2010.

Reed R. Murray,

Program Director, Central Utah Project Completion Act, Department of the Interior.

[FR Doc. 2010–3651 Filed 2–23–10; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

FWS–R6–R–2009–N218; 60138–1265–6CCP–S3]

Quivira National Wildlife Refuge, Stafford, KS

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment. Request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a comprehensive conservation plan (CCP) and environmental assessment (EA) for Quivira National Wildlife Refuge in Stafford, Kansas. We provide this notice in compliance with our CCP policy to advise other Federal and State agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider in the planning process.

DATES: To ensure consideration, please send your written comments by March 26, 2010. We will hold public meetings to begin the CCP planning process; see Public Meetings under **SUPPLEMENTARY INFORMATION** for dates, times, and locations.

ADDRESSES: Send your comments or requests for more information by any of the following methods.

E-mail: quivira@fws.gov. Include "Quivira CCP" in the subject line of the message.

Fax: Attn: Toni Griffin, Planning Team Leader, 303/236–4792.

U.S. Mail: Toni Griffin, Planning Team Leader, Division of Refuge Planning, 134 Union Blvd., Lakewood, CO 80225.

In-Person Drop-off: You may drop off comments during regular business hours at the above address, or at the Quivira National Wildlife Refuge office located at 1434 NE 80th Street, Stafford, KS 67578.

FOR FURTHER INFORMATION CONTACT: Toni Griffin, 303–236–4378 (phone); or David C. Lucas, Chief, Division of Planning, P.O. Box 25486, Denver Federal Center, Denver, CO 80228.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for Quivira National Wildlife Refuge in Stafford, KS. This notice complies with our CCP policy to (1) advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed planning on this refuge and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Each unit of the National Wildlife Refuge System was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the National Wildlife Refuge System, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Our CCP process provides participation opportunities for Tribal, State, and local governments; agencies; organizations; and the public. At this time we encourage input in the form of issues, concerns, ideas, and suggestions for the future management of the Quivira National Wildlife Refuge.

We will conduct the environmental review of this project and develop an EA in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Quivira National Wildlife Refuge

The Quivira NWR was established in 1955 to provide wintering and migration stopover habitat for migratory birds along the Central Flyway of North America. The refuge has two purposes:

(1) "For use as an inviolate sanctuary, or for any other management purpose, for migratory birds" (Migratory Bird Conservation Act); and

(2) "For the development, advancement, management, conservation, and protection of fish and wildlife resources for the benefit of the United States Fish and Wildlife Service" (Fish and Wildlife Act of 1956).

The refuge is located in Stafford, Rice, and Reno Counties, Kansas. Wetlands, large and small, are present throughout the refuge; there are approximately 7,000 acres of wetlands with slightly to moderately saline water. Thousands of Canada geese, ducks, and other migratory birds, such as sandhill cranes and shorebirds, use these wetlands as they pass through the refuge on their annual migrations. The refuge provides numerous opportunities for the public including hunting, fishing, wildlife observation and photography, interpretation, and environmental education for students and visitors.

Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified preliminary issues, concerns, and opportunities that we may address in the CCP. During public scoping, we may identify additional issues.

We request input as to which issues affecting management or public use should be addressed during the planning process. We are especially interested in receiving public input in the following areas:

(a) What do you value most about this refuge?

(b) What problems or issues do you see affecting management of this refuge?

(c) What changes, if any, would you like to see in the management of this refuge?

We provide the above questions for your optional use. We have no requirement that you provide information; however, any comments the planning team receives will be used as part of the planning process.

Public Meetings

We will hold the following public meetings. For more, contact the person under **FOR FURTHER INFORMATION CONTACT.**

Date	Time	Location
March 8, 2010	4–7 p.m.	Stafford Senior Center, 103 South Main, Stafford, KS 67578.
March 9, 2010	4–7 p.m.	Front Door Community Center, 1615 Tenth Street, Great Bend, KS 67530.
March 10, 2010	4–7 p.m.	Great Plains Nature Center, 6232 East 29th Street North, Wichita, KS 67220–2200.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 14, 2009.

Hugh Morrison,

Acting Regional Director, Region 6.

[FR Doc. 2010–3588 Filed 2–23–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bunker Hill Groundwater Basin, Riverside-Corona Feeder Project, San Bernardino and Riverside Counties, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), the Bureau of Reclamation and the Western Municipal Water District (Western) will prepare a joint EIS/EIR for the proposed Riverside-Corona Feeder Project. The public and agencies are invited to comment on the scope of the EIS/EIR and the proposed alternatives.

This notice is provided pursuant to NEPA (42 U.S.C. 4332 (2) (c)) and Department of Interior regulations for implementation of NEPA (43 CFR Part 46).

DATES: Written comments on the scope of the EIS/EIR are requested within 30 days of the publication of this notice.

ADDRESSES: Please send written comments to Ms. Amy Campbell, Southern California Area Office, Bureau of Reclamation, 27708 Jefferson Avenue, Suite 202, Temecula, CA 92590; or e-mail to *ACampbell@usbr.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Campbell, Southern California Area Office general telephone number 951–695–5310, or e-mail *ACampbell@usbr.gov.*

SUPPLEMENTARY INFORMATION:

Background

The proposed project is a large capacity water pipeline associated with an aquifer storage and recovery project. The project will install new groundwater wells at the Bunker Hill Groundwater Basin in San Bernardino County with pipelines ranging in diameter up to 78 inches to Western's Service Area in Riverside County.

Existing recharge basins will be used to store imported water and local Santa Ana River flows in the Bunker Hill Groundwater Basin during wet years for delivery to communities in western Riverside County in dry years via 28 miles of pipeline capable of delivering up to 40,000 acre-feet per year of ground water at 100 cubic feet per second (cfs). The proposed pipeline alignment will also provide access to groundwater from the Chino Basin in San Bernardino County.

Section 9112 of the Omnibus Public Land Management Act of 2009 (Pub. L. 111–11, 123 Stat. 1318), signed by the President on March 30, 2009, authorizes the Secretary of the Interior, in cooperation with Western, to participate in the planning, design, and construction of the Riverside-Corona Feeder Project including: (i) 20 groundwater wells; (ii) groundwater treatment facilities; (iii) water storage and pumping facilities; and (iv) 28 miles of pipeline in San Bernardino and Riverside Counties in the State of California.

Western certified a Program EIR (California State Clearinghouse No. 2003031121) under CEQA in 2005, and issued a Notice of Preparation of a draft Supplemental Program EIR on July 30, 2008 to evaluate a proposed change in the pipeline alignment. Our intention is to circulate the supplemental EIR for public review as a joint CEQA/NEPA document, incorporating the earlier Program EIR by reference. The draft document is expected to be available for public review in mid-March 2010.

Scoping Process

To avoid duplication with State and local procedures, we plan to use the scoping process initiated by Western under CEQA. No additional public scoping meetings are planned at this time. The CEQA Notice of Preparation, comments received, and a map showing the proposed project and pipeline alignment alternatives are available at *http://www.usbr.gov/lc/socal/envdocs.html*. No known Indian trust assets or environmental justice issues are associated with the Proposed Action, although the proposed pipeline alignment may include areas of low income and minority populations.

Written comments are requested to help identify any additional alternatives and issues that should be analyzed in the EIS/EIR. Federal, State and local agencies, tribes, and the general public are invited to participate in the environmental review process.

Public Disclosure

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, please be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 18, 2010.

Jayne Harkins,

Deputy Regional Director, Bureau of Reclamation, Lower Colorado Region.

[FR Doc. 2010–3644 Filed 2–23–10; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–R–2009–N288; 70133–1265–0000–U4]

Izembek National Wildlife Refuge, Cold Bay, Alaska

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Revised Notice

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare an environmental impact statement (EIS) for a proposed land exchange of certain lands owned by the State of Alaska and certain lands owned by the King Cove Corporation and evaluation of a proposed road corridor through the Izembek National Wildlife Refuge and the Izembek Wilderness Area. We published a notice in the **Federal Register** on August 6, 2009, inviting suggestions on the scope of issues to address in the EIS. We now provide a comment-period end date and announce the dates, times, and locations of upcoming public meetings. Special mailings, newspaper articles, and other media releases will announce additional opportunities to provide written and oral input.

DATES: *Meetings:* Public scoping meetings will be held in Anchorage, Alaska on March 4, 2010, 5–8 p.m. and on March 11, 2010, 1–4 p.m. in Washington, DC. In addition, we will hold public scoping meetings in King Cove, Cold Bay, Sand Point, and Nelson Lagoon in Alaska. We will announce these meeting dates, times, and locations locally, at least 10 days prior to each meeting.

Comments: Please provide any written comments, information, or suggestions on the scope of issues to address in the EIS by April 30, 2010.

ADDRESSES: Additional information concerning the proposed land exchange is at *http://izembek.fws.gov/EIS.htm.* Send your comments or requests for information by any of the following methods:

- *E-mail: izembek_eis@fws.gov;*
- *Fax:* Attn: Stephanie Brady, (907) 786–3965; or
- *U.S. Mail:* Stephanie Brady, Project Coordinator, U.S. Fish and Wildlife Service, 1011 East Tudor Rd., MS–231, Anchorage, AK 99503.

FOR FURTHER INFORMATION CONTACT: Stephanie Brady, 907–246–1203 (phone), or at the addresses above.

SUPPLEMENTARY INFORMATION: The Izembek National Wildlife Refuge (417,533 acres) and the North Creek (8,452 acres) and Pavlof (1,447,264 acres) units of the Alaska Peninsula National Wildlife Refuge are located at the westernmost tip of the Alaska Peninsula. The 1,008,697-acre Unimak Island (the easternmost Aleutian Island of the Alaska Maritime National Wildlife Refuge) lies across the Isanotski Strait. To the north of the Izembek Refuge is the Bering Sea; to the south is the Pacific Ocean. The Alaska Peninsula is dominated by the rugged Aleutian Range, part of the Aleutian arc chain of volcanoes. Landforms include mountains, active volcanoes, U-shaped valleys, glacial moraines, low tundra wetlands, lakes, sand dunes, and lagoons. Elevations range from sea level to the 9,372-foot Shishaldin Volcano. Shishaldin Volcano is a designated National Natural Landmark.

Several major lagoons are within the Izembek Refuge boundary. These lagoons contain some of the world's largest eelgrass beds. The lagoons are under the jurisdiction of the State of Alaska. Izembek Lagoon is designated as Izembek State Game Refuge. Birds from all over the Arctic funnel through Izembek Refuge in fall on their way to wintering grounds throughout the world. More than 98 percent of the world's Pacific black brant use Izembek Lagoon as a staging area for their fall migration to Mexico. Other birds that use the refuge include golden plovers, ruddy turnstones, western sandpipers, tundra swans, Steller's eiders, and emperor geese. The refuge also is home to large concentrations of brown bears and other large mammals, such as caribou and wolves. The red, pink, chum, and silver salmon that use the waters within the refuge enrich the entire ecosystem with the nutrients they bring from the sea. The refuge also has a rich human history, from ancient settlements of Alaska Natives, through the 18th and 19th century Russian fur traders, to a World War II outpost. The Izembek Wilderness covers much of the refuge and includes pristine streams, extensive wetlands, steep mountains, tundra, and sand dunes, and provides high scenic, wildlife, and scientific values, as well as outstanding opportunities for solitude and primitive recreation.

Alaska Maritime National Wildlife Refuge stretches from the Arctic Ocean to the southeast panhandle of Alaska and protects breeding habitat for seabirds, marine mammals, and other wildlife on more than 2,500 islands, spires, rocks, and coastal headlands. Sitkinak Island, which lies within the boundaries of the Alaska Maritime National Wildlife Refuge, is primarily owned by the State of Alaska, with two parcels owned by the Service.

The King Cove Corporation is an Alaska Native Village Corporation established under the Alaska Native Claims Settlement Act of 1971 (ANCSA; 43 U.S.C. 1601 *et seq.*). Under the authority of ANCSA, Congress granted King Cove Corporation land entitlements within and adjacent to Izembek Refuge. The State of Alaska also owns lands, submerged lands, shorelands, and tidelands within and adjacent to Izembek and Alaska Peninsula Refuges, including the Izembek State Game Refuge.

In the Omnibus Public Land Management Act of 2009 (H.R. 146, Subtitle E; the Act), Congress directed us to prepare an EIS under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and

its implementing regulations (40 CFR parts 1500–1508) to evaluate the impacts of a proposed land exchange with the State of Alaska and the King Cove Corporation for the purpose of constructing a single-lane gravel road between the communities of King Cove and Cold Bay, Alaska. The land exchange would involve the removal of approximately 206 acres within the Izembek Wilderness portion of Izembek National Wildlife Refuge for the road corridor and approximately 1,600 acres of Federal land within the Alaska Maritime National Wildlife Refuge on Sitkinak Island. In exchange, we would receive approximately 43,093 acres of land owned by the State of Alaska and approximately 13,300 acres of land owned by the King Cove Corporation. These lands are located around Cold Bay and adjacent to the North Creek Unit of Alaska Peninsula National Wildlife Refuge.

The Act directed us to begin our preparation of this EIS not later than 60 days after the Secretary received notification by the State and the King Cove Corporation of their intention to exchange lands. The Secretary received notification from the King Cove Corporation on May 19, 2009, and from the State of Alaska on June 19, 2009. Our notice of August 6, 2009 (74 FR 39336), initiated the process and opened the period for public scoping. This revised notice informs the public of the dates for the public scoping meetings in Washington, DC, and Anchorage, Alaska, and also notifies the public of the comment-period end date (see **DATES**). We will also hold public scoping meetings at King Cove, Cold Bay, Sand Point, and Nelson Lagoon, Alaska; we will announce the dates, times, and locations locally, at least 10 days prior to each meeting.

In accordance with Section 6402(b)(2)(B) of the Act, the EIS will analyze the proposed land exchange and the potential construction and operation of a road between the communities of King Cove and Cold Bay, Alaska, and will evaluate a specific road corridor through the Izembek Refuge that will be identified in consultation with the State of Alaska, the City of King Cove, and the Agdaagux Tribe of King Cove. The alternatives anticipated at this time include the existing situation (no land exchange or road construction) and the proposed land exchange and road construction and operation as outlined in the Act. In preparing the EIS, we will request comments from the public locally, regionally, and nationally. As required in the Act, subsequent to the preparation of the EIS and in conjunction with the Record of Decision, the Secretary of the Interior will determine whether the land exchange (including the construction of the proposed road) is in the public interest. We anticipate release of the Draft EIS in the spring of 2011, followed by a 90-day public review period.

Public Availability of Comments

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 to withhold it from public review, we cannot guarantee we will be able to do so.

Dated: February 16, 2010.

Geoffrey L. Haskett,

Regional Director, U.S. Fish and Wildlife Service, Anchorage, Alaska.

[FR Doc. 2010–3642 Filed 2–23–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUT91000–L11400000–PH0000–24–1A]

Notice of Utah's Resource Advisory Council (RAC)/Recreation RAC Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Utah's Resource Advisory Council (RAC)/Recreation RAC Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and The Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management's (BLM) Utah Resource Advisory Council (RAC)/Recreation RAC will meet as indicated below.

DATES: The Utah Resource Advisory Council (RAC)/Recreation RAC will meet March 24, 2010, (8:30 a.m.—3:30 p.m.) and March 25, 2010, (8 a.m.—5 p.m.) in St. George, Utah.

ADDRESSES: The Council will meet at the Hilton Garden Inn (Indigo meeting room), 1731 South Convention Center Drive, St. George, Utah.

FOR FURTHER INFORMATION CONTACT: Contact Sherry Foot, Special Programs Coordinator, Utah State Office, Bureau of Land Management, P.O. Box 45155, Salt Lake City, Utah, 84145–0155; phone (801) 539–4195.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Utah. In conformance with the Federal Lands Recreation Enhancement Act (Title 16 of the United States Code, Part 6801 *et seq.*), the U.S. Forest Service and the BLM will present the following recreation fee proposals on March 24: The BLM Moab Field Office proposal to begin charging Expanded Amenity fees at the Moab Skyway Group Site and the Entrada Bluffs, Bartlett, and Courthouse Rock camping areas; the BLM Fillmore Field Office proposal to increase Special Recreation Permit fees at the Little Sahara Recreation Area; the Dixie National Forest proposal to begin charging Expanded Amenity fees at the Pine Valley Guard Station; and the Fishlake National Forest proposals to increase Expanded Amenity fees at the Adelaide, Gooseberry, Lebaron, Maple Grove, and Oak Creek campgrounds. Planned agenda topics for the March 24 session also include a welcome and introduction of new Council members. A half-hour public comment period, where the public may address the Council, is scheduled to begin from 2:15 p.m.—2:45 p.m. Written comments may be sent to the Bureau of Land Management address listed above.

On March 25, topics will include an implementation overview of Subtitle O of the Omnibus Public Land Management Act of 2009, and the Washington County Commissioners' and School and Institutional Trust Lands Administration's perspectives on the Act. Randy Johnson, consultant, will address the Council on the status of ongoing land use bills from other counties. A field tour of the Red Cliffs National Conservation Area is planned from 1:15 p.m. until 4:30 p.m. All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

Dated: February 16, 2010.

Approved:

Selma Sierra,

State Director.

[FR Doc. 2010–3654 Filed 2–23–10; 8:45 am]

BILLING CODE 4310–DQ–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 February 6, 2010. Pursuant to section 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 March 11, 2010.

J. Paul Loether,

Chief, National Register of Historic Places/National, Historic Landmarks Program.

ALASKA

Dillingham Borough-Census Area

Brooks Camp Boat House, (Tourism and Early Park Development Resources of Katmai National Park and Preserve) Shore of Naknek Lake, just N. of the Brooks River Mouth in Katmai National Park and Preserve, King Salmon, 10000071

Brooks River Historic Ranger Station, (Tourism and Early Park Development Resources of Katmai National Park and Preserve Shore of Naknek Lake, just N. of the Brooks River Mouth in Katmai National Park and Preserve, King Salmon, 10000072

IDAHO

Latah County

Troy Downtown Historic District, 339 S. Main St. through 527 S. Main St., Troy, 10000073

Minidoka County

Rupert Town Square Historic District (Boundary Increase), 702 E St. and 405 6th St., Rupert, 10000074

IOWA

Dubuque County

Roshek Brothers Department Store, 250 W. 8th St., Dubuque, 10000076

Linn County

Brown Apartments, 1234 4th Ave. SE, Cedar Rapids, 10000075

Polk County

Hawkeye Transfer Company Warehouse, 702 Elm St., Des Moines, 10000077

Schmitt and Henry Manufacturing Company, 309 SW 8th St., Des Moines, 10000078

Younker Brothers Department Store, 713 Walnut St., Des Moines, 10000079

NEBRASKA

Douglas County

Oft-Gordon House, 11523 156th St., Bennington, 10000080

Twin Towers, 3000,3002, 3002 ½ Farnam St. 3001 Douglas St., Omaha, 10000081

OHIO

Belmont County

Blaine Hill "S" Bridge, Township Rd. 649, Blane, Pease Township, 10000082

Crawford County

Harvey One-Room School, 1120 Caldwell Rd., Bucyrus, 10000083

Montgomery County

Grafton-Rockwood Historic District, Parts of Grafton, Homewood, Rockwood Ave, Oaks Ave, Old Orchard Ave., Dayton, 10000084

TENNESSEE

Giles County

Wilkinson-Martin House, 954 N. 1st St., Pulaski, 10000085

Knox County

Hotpoint Living-Conditioned Home, (Knoxville and Knox County MPS) 509 W. Hills Rd., Knoxville, 10000086

Union County

Hamilton-Tolliver Complex, 158 Kettle Hollow Rd., Maynardville, 10000087

VIRGINIA

Botetourt County

Gala Site, Address Restricted, Gala, 10000088

Campbell County

Caryswood, 8291 Colonial Hwy., Evington, 10000089

Floyd County

Oakdale, 5773 Franklin Pk., Floyd, 10000090

Request for REMOVAL has been made for the following resources:

TENNESSEE

Weakley County

Oakland, SR 22 and TN 89, Dresden, 82004065

VIRGINIA

Danville County

Dan River Inc. Riverside Division Historic District, Both sides of Dan River roughly bounded by Union St. Dam, Main St Bridge, and Riverside and Memorial Drs., Danville, 00000480

[FR Doc. 2010–3555 Filed 2–23–10; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: United States International Trade Commission.

ACTION: Notice of proposed information collection; comment request.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35), the Commission intends to seek approval from the Office of Management and Budget to survey complainants who obtained exclusion orders that are currently in effect from the U.S. International Trade Commission following proceedings under 19 U.S.C. 1337. The survey will seek feedback on the effectiveness of the exclusion orders in stopping certain imports. Comments from the public concerning the proposed information collection are requested in accordance with 5 CFR 1320.8(d).

DATES: To be assured of consideration, written comments must be received not later than sixty (60) days after publication of this notice. All submissions received must reference docket number MISC–025.

ADDRESSES: Signed comments should be submitted to Marilyn R. Abbott, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

FOR FURTHER INFORMATION: Copies of the proposed survey that the Commission will submit to the Office of Management and Budget for approval are posted on the Commission's Internet server at *http://www.usitc.gov/intellectual_property/*or may be obtained from Vu Q. Bui, Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone, 202–205–2560.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are solicited as to (1) whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection; (3) the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond.

Summary of the Proposed Information Collection

In its FY 2010 Performance Plan (available on the agency's Internet server at *http://www.usitc.gov/press_room/documents/budget_2010.pdf),* the Commission set itself the goal of obtaining feedback on the effectiveness of its exclusion orders issued under 19 U.S.C. 1337. The proposed survey is directed to entities that have obtained an outstanding exclusion order, and asks each such entity that responds to the survey to: (i) Evaluate whether the exclusion order has prevented the importation of items covered by the order; (ii) if not, estimate what are the absolute value and effect in the United States market of such imports; and (iii) indicate what experience it has had in policing the exclusion order, particularly with respect to any investigatory efforts and any interactions with U.S. Customs and Border Protection.

Responses to the survey are voluntary. The Commission estimates that the survey will require less than one hour to complete.

By order of the Commission.

February 19, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–3749 Filed 2–23–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–704]

In the Matter of Certain Mobile Communications and Computer Devices and Components Thereof; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 15, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Apple Inc., f/k/a Apple Computer, Inc. of Cupertino, California. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile communications and computer devices and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 5,379,431; 5,455,599; 5,519,867; 5,915,131; 5,920,726; 5,969,705; 6,343,263; 6,424,354; and RE 39,486. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel L. Girdwood, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 708–4708.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2009).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 17, 2010, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain mobile communications or computer devices or components thereof that infringe one or more of claims 1, 2, 4, 5, 11–15, and 27–31 of U.S. Patent No. 5,379,431; claims 1–3, 6–10, 12, and 14 of U.S. Patent No. 5,455,599; claims 1–3, 7, 12, 32, and 48 of U.S. Patent No. 5,519,867; claims 1, 3, 4, 6, 7, 9, 10, 15, and 17 of U.S. Patent No. 5,915,131; claim 1 of U.S. Patent No. 5,920,726; claim 1 of U.S. Patent No. 5,969,705; claims 1–6, 24, 25, 29, and 30 of U.S. Patent No. 6,343,263; claims 1–4, 7, 8, 41, and 42 of U.S. Patent No. 6,424,354; and claims 1, 2, 6, 8–10, 12–15, and 20 of U.S. Patent No. RE 39,486, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Apple Inc., f/k/a Apple Computer, Inc., 1 Infinite Loop, Cupertino, CA 95014.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Nokia Corporation, Keilalahdentie 4, Espoo, Finland;

Nokia Inc., 102 Corporate Park Drive, White Plains, NY 10604.

(c) The Commission investigative attorney, party to this investigation, is Daniel L. Girdwood, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the

issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: February 18, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–3658 Filed 2–23–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–705]

In the Matter of Certain Notebook Computer Products and Components Thereof; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 19, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Toshiba Corporation of Japan. A supplement to the complaint was filed on February 5, 2010. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain notebook computer products and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,156,693 and 5,430,867. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue exclusion orders and cease and desist orders.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: David O. Lloyd, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2576.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2009).

Scope Of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 17, 2010, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain notebook computer products or components thereof that infringe one or more of claims 1, 2, 5, 7, 9, 15–17, and 20–22 of U.S. Patent No. 7,156,693 and claims 21–25 of U.S. Patent No. 5,430,867, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Toshiba Corporation, 1–1, Shibaura 1-chome, Minato-ku, Tokyo 105–8001, Japan.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Wistron Corporation, 21F, 88, Sec. 1, Hsin Tai Wu Road, Hsichih, Taipei Hsien 221, Taiwan;

Wistron InfoComm (Texas) Corporation, 4051 Freeport Parkway, Suite 200, Grapevine, TX 76051;

Wistron InfoComm Technology (America) Corporation, 800 Parker Square, Suite 285–A,Flower Mound, TX 75028.

(c) The Commission investigative attorney, party to this investigation, is David O. Lloyd, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: February 18, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–3661 Filed 2–23–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–706]

In the Matter of Certain Wireless Communications System Server Software, Wireless Handheld Devices and Battery Packs; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 22, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Motorola, Inc.

of Schaumburg, Illinois. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wireless communications system server software, wireless handheld devices and battery packs by reason of infringement of certain claims of U.S. Patent Nos. 5,319,712; 5,359,317; 5,569,550; 6,232,970; and 6,272,333. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Bryan F. Moore, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2767.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2009).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 17, 2010, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain wireless communications system server software, wireless handheld devices or battery packs that infringe one or more of claims 6, 8–10 and 17 of U.S. Patent No. 5,319,712; claims 9, 10, 13–19, 21, and 22 of U.S. Patent No. 5,359,317; claims 1, 3–5, 7, 9, 10, and 12–15 of U.S. Patent No. 5,569,550; claims 10–20 of U.S. Patent No. 6,232,970; and claims 1–13 of U.S. Patent No. 6,272,333, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Motorola, Inc., 1303 East Algonquin Road, Schaumburg, IL 60196.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Research In Motion Ltd., 295 Phillip Street, Waterloo, Ontario, Canada N2L 3W8.

Research In Motion Corp., 122 West John Carpenter Parkway, Suite 430, Irving, TX 75039.

(c) The Commission investigative attorney, party to this investigation, is Bryan F. Moore, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: February 18, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–3662 Filed 2–23–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–10–002]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 26, 2010 at 9:30 a.m.

PLACE: Room 110, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.

2. Minutes.

3. Ratification List.

4. Inv. No. AA1921–167 (Third Review) (Pressure Sensitive Plastic Tape from Italy)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before March 11, 2010.)

5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: February 19, 2010.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2010–3856 Filed 2–22–10; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Notice is hereby given that on February 17, 2010, a proposed Consent Decree in *United States of America* v. *ITT Corporation,* Civil Action No. 4:10–cv–00053–SPM–WCS, was lodged with the United States District Court for the Northern District of Florida, Tallahassee Division.

In this action, the United States, on behalf of the U.S. Environmental Protection Agency ("EPA"), sought injunctive relief and recovery of response costs pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9606 and 9607, with respect to the ITT Thompson Industries Superfund Site located at 800 Livingston Street (State Road 145), Madison, Florida. ITT Corporation formerly operated a manufacturing facility at the Site, where soil, sediment, and water have been contaminated with hazardous substances such as volatile organic compounds and heavy metals.

The proposed Consent Decree requires ITT Corporation to conduct the remedial action as provided in EPA's Record of Decision, maintain a performance guarantee in the amount of $2.2 million, reimburse EPA $23,308.01 in past response costs, and pay all future response costs. The remedial action consists of disposal of contaminated soil and sediment, bioremediation of contaminated groundwater, institutional controls to limit Site uses until cleanup goals are reached, and five-year reviews of the remedy.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States of America* v. *ITT Corporation,* D.J. Ref. 90–11–3–09718. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

During the public comment period, the proposed Consent Decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $110.50 (inclusive of appendices) or $13.75 (exclusive of appendices) (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–3549 Filed 2–23–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries and Efforts by Certain Countries To Eliminate the Worst Forms of Child Labor

AGENCY: The Bureau of International Labor Affairs, United States Department of Labor.

ACTION: Notice; request for information.

SUMMARY: This notice is two related requests for information to be used by the Department of Labor (DOL) in preparation of its reporting under Congressional mandates and Presidential directive. The first request seeks information on the use of forced labor, child labor, and/or forced or indentured child labor in the production of goods internationally, as well as information on government, industry, or third-party actions and initiatives to address these problems. DOL will use the information as appropriate to maintain the list of goods that the Bureau of International Labor Affairs (ILAB) has reason to believe are produced by child labor or forced labor in violation of international standards under Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005, Section 105(b), and the List of Products Produced by Forced or Indentured Child Labor under Executive Order 13126 of 1999. The second request seeks additional information on exploitive child labor, which DOL will use to produce an annual report on certain trade beneficiary countries' implementation of international commitments to eliminate the worst forms of child labor. This will be the ninth such report by DOL under the Trade and Development Act of 2000 (TDA). For information on terms and definitions used here, please see the "Terms and Definitions" section of this notice.

DATES: Submitters of information are requested to provide their submission to the Office of Child Labor, Forced Labor and Human Trafficking at the e-mail or physical address below by 5 p.m., April 9, 2010.

ADDRESSES: E-mail submissions should be addressed to Tina McCarter at *mccarter.tina@dol.gov* or Leyla Strotkamp at *strotkamp.leyla@dol.gov.* Written submissions should be addressed to Ms. McCarter or Ms. Strotkamp at the Office of Child Labor, Forced Labor and Human Trafficking, Bureau of International Labor Affairs, USDOL, 200 Constitution Avenue, NW., Room S–5317, Washington, DC 20210, or faxed to (202) 693–4843.

FOR FURTHER INFORMATION CONTACT: Tina McCarter or Leyla Strotkamp (*see* contact information above). DOL's international child labor and forced labor reports can be found on the Internet at *http://www.dol.gov/ILAB/media/reports/iclp/main.htm* or can be obtained from the Office of Child Labor, Forced Labor and Human Trafficking (OCFT).

SUPPLEMENTARY INFORMATION: Section 105(b)(1) of the Trafficking Victims Protection Reauthorization Act of 2005 ("TVPRA of 2005"), Public Law 109–164 (2006), directed the Secretary of Labor, acting through ILAB, to "develop and make available to the public a list of goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards."

Pursuant to this mandate, in December 2007 DOL published in the **Federal Register** a set of procedural guidelines that ILAB follows in developing the list of goods (72 FR 73374). The guidelines set forth the criteria by which information is evaluated; established procedures for public submission of information to be considered by ILAB; and identified the process ILAB follows in maintaining and updating the list after its initial publication.

On September 10, 2009, ILAB released its initial list of goods from

countries (TVPRA list). This list will be updated periodically, as additional countries and territories are researched and new information for countries and territories already reviewed is monitored. For a copy of the initial TVPRA report, Frequently Asked Questions, and other materials relating to the list's release, see ILAB's TVPRA Web page at: *http://www.dol.gov/ILAB/programs/ocft/tvpra.htm.*

Executive Order No. 13126 (EO 13126) declared that it was "the policy of the United States Government * * * that the executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part by forced or indentured child labor." Pursuant to the EO 13126, and following public notice and comment, the Department of Labor published in the January 18, 2001, **Federal Register**, a final list of products (the "List"), identified by their country of origin, that the Department, in consultation and cooperation with the Departments of State and Treasury [relevant responsibilities now within the Department of Homeland Security], had a reasonable basis to believe might have been mined, produced or manufactured with forced or indentured child labor (66 FR 5353). In addition to the List, the Department also published on January 18, 2001, "Procedural Guidelines for Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor" (Procedural Guidelines), which provide for maintaining, reviewing, and, as appropriate, revising the List (66 FR 5351). Based on DOL research and information submitted by the public, DOL issued an initial determination on September 11, 2009, announcing proposed updates to the E.O. 13126 list and requesting public comments. The current List, the Procedural Guidelines, and the initial determination can be accessed on the Internet at *http://www.dol.gov/ILAB/regs/eo13126/main.htm.*

Pursuant to Sections D through G of the Procedural Guidelines, the EO 13126 List may be updated through considerations of submissions by individuals or through OCFT's own initiative.

The Trade and Development Act of 2000 [Pub. L. 106–200] established a new eligibility criterion for receipt of trade benefits under the Generalized System of Preferences (GSP), Caribbean Basin Trade and Partnership Act (CBTPA), and Africa Growth and Opportunity Act (AGOA). The TDA amends the GSP reporting requirements of the Trade Act of 1974 (Section 504) [19 U.S.C. 2464] to require that the President's annual report on the status of internationally recognized worker rights include "findings by the Secretary of Labor with respect to the beneficiary country's implementation of its international commitments to eliminate the worst forms of child labor." Title II of the TDA and the TDA Conference Report [Joint Explanatory Statement of the Committee of Conference, 106th Cong. 2d sess. (2000)] indicate that the same criterion applies for the receipt of benefits under CBTPA and AGOA, respectively.

In addition, the Andean Trade Preference Act (ATPA), as amended and expanded by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) [Pub. L. 107–210, Title XXXI], includes as a criterion for receiving benefits "[w]hether the country has implemented its commitments to eliminate the worst forms of child labor as defined in section 507(6) of the Trade Act of 1974."

Information Requested for TVPRA and Executive Order 13126 Lists

DOL seeks information on the nature and extent of child labor, forced labor, and forced or indentured child labor in the production of goods in foreign countries. Submitters should take into consideration the definitions of child labor, forced labor, and forced or indentured child labor provided at the end of this notice. Information tending to establish the presence or absence of a significant incidence of these problems in the production of a particular good in a country will be considered the most relevant and probative.

DOL also seeks information on government, industry, or third-party actions and initiatives to address these issues. Information on such actions and initiatives will be taken into consideration, although they are not necessarily sufficient in and of themselves to prevent a good and country from being listed. In evaluating such information, ILAB will consider particularly relevant and probative any evidence of government, industry, and third-party actions and initiatives that are effective in significantly reducing if not eliminating child labor, forced labor, and forced or indentured child labor.

In the interest of transparency, classified information will not be accepted. Where applicable, information submitted should indicate their source or sources, and copies of the source material should be provided. If primary sources are utilized, such as research studies, interviews, direct observations, or other sources of quantitative or qualitative data, details on the research or data-gathering methodology should be provided.

Scope of TDA Report

Countries and non-independent countries and territories presently eligible under the GSP and to be included in the report are: Afghanistan, Albania, Algeria, Angola, Anguilla, Argentina, Armenia, Azerbaijan, Bangladesh, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, British Indian Ocean Territory, British Virgin Islands, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Christmas Island, Cocos Islands, Colombia, Comoros, Democratic Republic of the Congo, Republic of Congo, Cook Islands, Cote d'Ivoire, Croatia, Djibouti, Dominica, East Timor, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Falkland Islands, Fiji, Gabon, the Gambia, Georgia, Ghana, Gibraltar, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Heard Island and McDonald Islands, India, Indonesia, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kosovo, Kyrgyz Republic, Lebanon, Lesotho, Liberia, Macedonia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mauritius, Moldova, Mongolia, Montenegro, Montserrat, Mozambique, Namibia, Nepal, Niger, Nigeria, Niue, Norfolk Island, Pakistan, Panama, Papua New Guinea, Paraguay, Philippines, Pitcairn Islands, Russia, Rwanda, Saint Helena, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tomé and Principe, Senegal, Serbia, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, Sri Lanka, Suriname, Swaziland, Tanzania, Thailand, Togo, Tokelau Island, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turks and Caicos Islands, Tuvalu, Uganda, Ukraine, Uruguay, Uzbekistan, Vanuatu, Venezuela, Wallis and Futuna, West Bank and Gaza Strip, Western Sahara, Republic of Yemen, Zambia, and Zimbabwe.

Countries eligible or potentially eligible for additional benefits under the AGOA and to be included in the report are: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Comoros, Republic of Congo, Democratic Republic of the Congo, Djibouti, Ethiopia, Gabon, the Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra

Leone, South Africa, Swaziland, Tanzania, Togo, Uganda, and Zambia.

Countries potentially eligible for additional benefits under the CBTPA and to be included in the report are: Barbados, Belize, Guyana, Haiti, Jamaica, Panama, Saint Lucia, and Trinidad and Tobago.

Countries potentially eligible for additional benefits under the ATPA/ATPDEA and to be included in the report are: Colombia, Ecuador, and Peru.

In addition, the following countries will be included in the report in accordance with the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 2010, S. Rep. 111–066 (2009): Bahrain, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Morocco, Nicaragua, Oman, and Peru.

Information Requested for TDA Report

The Department invites interested parties to submit information relevant to the findings to be made by DOL under the TDA for any or all listed countries. Information provided through public submission will be considered by DOL in preparing its findings. Materials submitted should be confined to the specific topic of the study. Please see the "Terms and Definitions" section of this notice for a definition of the worst forms of child labor. The reporting period for which information is requested is calendar year 2009. In cases in which source materials, such as reports or statistics on inspections, prosecutions and convictions, are not available for 2009, DOL will generally consider sources with data up to five years old (*i.e.* data not older than January 2004). DOL appreciates the extent to which reference periods are clearly indicated in submissions.

In making submissions, interested parties are requested to consider DOL's 2008 Findings on the Worst Forms of Child Labor (TDA report), which may be found online at: *http://www.dol.gov/ilab/programs/ocft/PDF/2008OCFTreport.pdf.* Those making submissions should note, however, that information requested this year has changed.

In particular, ILAB is seeking information on the following topics:

(A) Prevalence and Sectoral Distribution of Child Labor

DOL seeks information on the nature and extent of the worst forms of child labor in the countries listed above. Children's involvement in the worst forms of child labor may be related to the production of goods, but may also occur in sectors not related to the production of goods, such as trafficking, armed conflict, or prostitution, as well as hazardous work in activities such as domestic service, street vending, or begging. In the case of trafficking of children, the report typically provides information specifying the type of exploitation involved, whether for commercial sex or for labor exploitation, and if for the latter, the industries into which children are trafficked and the goods that they produce. In providing such information, please note that the TDA report also attempts to address the extent to which children are trafficked across national borders or within the country (specifying source, destination and transit countries/regions/communities).

Note that in order to provide comparable statistics on child work and education across countries in the TDA report, DOL relies on the Understanding Children's Work Project (*see http://www.ucw-project.org/*) and UNESCO Institute of Statistics data (*http://stats.uis.unesco.org/*); therefore, such data is NOT being requested in this Notice.

(B) Laws and Regulations

DOL also seeks information on new laws or regulations enacted in regard to the worst forms of child labor over the past year, and to what extent, if any, these changes constitute improvements in the legal and regulatory framework. Based on this, and other information gathered and consistent with the goals of the TDA Report, DOL aspires to adjudge whether each relevant country/territory's legal and regulatory framework adequately addresses the worst forms of child labor. Indications of an inadequate framework would include instances in which children have been found working in hazardous conditions, but the sector in which they were working is exempted from minimum age laws; cases in which boys are being exploited as prostitutes, but the law only prohibits female prostitution; or cases in which there are prohibitions against worst forms of child labor, but penalties are too weak to serve as deterrents.

(C) Part I: Institutional Mechanisms for Effective Enforcement—Hazardous Child Labor and Forced Child Labor

DOL also seeks information on the institutional mechanisms for effective enforcement of laws relating to hazardous child labor and forced child labor, two categories of the worst forms of child labor. (*Please see* "Terms and Definitions" below for more information). Information describing the agencies responsible for the enforcement of laws relating to the worst forms of child labor listed above is of particular interest. Similarly, information related to the functioning of these agencies in receiving child labor complaints and in enforcing applicable laws would be useful. This information will assist in DOL attempts to accurately indicate the adequacy of resources dedicated to the enforcement of laws relating to hazardous child labor and forced child labor, and the results and effectiveness of enforcement efforts.

(C) Part II: Institutional Mechanisms for Effective Enforcement—Child Trafficking, Commercial Sexual Exploitation of Children, and Use of Children in Illicit Activities

DOL further seeks information on the institutional mechanisms for effective enforcement of laws relating to child trafficking; commercial sexual exploitation of children—such as prostitution or pornography; and the use of children in illicit activities, the three remaining categories of the worst forms of child labor. (*Please see* "Terms and Definitions" below for more information.) Information describing the agencies responsible for the enforcement of laws relating to these worst forms of child labor is of particular interest. Similarly, information related to the functioning of these agencies in receiving notice of child labor violations and enforcement would be useful. This information will assist in DOL attempts to accurately indicate the adequacy of resources dedicated to enforcement of laws relating to child trafficking, commercial sexual exploitation of children, and the use of children in illicit activities, and the results and effectiveness of enforcement efforts. In those situations where the country/territory experienced armed conflict during the reporting period or in the recent past involving the use of child soldiers, the report would benefit from information concerning actions taken to penalize those responsible and the adequacy of these actions.

(D) Government Policies on Child Labor

DOL further seeks information on government policies or plans, funded or otherwise, regarding the worst forms of child labor and the effectiveness of such initiatives. (*Please note* that DOL will not consider anti-poverty, education or other general child welfare policies to be addressing worst forms of child labor unless such policies or plans have a child labor component. *Please also note* that DOL will not consider anti-poverty, education or other general child welfare policies or plans to be addressing worst

forms of child labor unless they have a child labor component.) Included government efforts could also take the form of government participation in commissions or task forces regarding worst forms of child labor, as well as bilateral, regional or international agreements to combat one or more of the worst forms of child labor.

(E) Social Programs To Eliminate or Prevent Child Labor

DOL also seeks information on government programs, funded or otherwise, to combat the worst forms of child labor and the effectiveness of such initiatives. Most relevant for the purposes of the TDA report is information regarding government-implemented programs that specifically address the worst forms of child labor. (*Please note* that DOL considers programs implemented by industry or third parties that receive government support, either funding or in-kind, to constitute government efforts. Please also note that DOL will not consider anti-poverty, education or other general child welfare programs to be addressing worst forms of child labor unless they have a child labor component.) Relevant information would also include any information regarding government actions taken pursuant to bilateral, regional or international agreements to combat one or more of the worst forms of child labor and the effectiveness of these measures.

DOL greatly appreciates submission of original sources. Information submitted may include reports, newspaper articles, or other materials. Governments that have ratified ILO Convention 182 are requested to submit copies of their most recent article 22 submissions under the Convention, especially those with information on types of work determined in accordance with article 4 of the Convention. Governments that have not ratified ILO Convention 182 and are members of the ILO are requested to submit copies of their recent article 19 submissions.

Terms and Definitions

Child Labor—"Child labor" under international standards means all work performed by a person below the age of 15. It also includes all work performed by a person below the age of 18 in the worst forms of child labor as defined in ILO Convention 182 and incorporated into provisions (A)–(D) below. The work referred to in subparagraph (D) is determined by the laws, regulations, or competent authority of the country involved, after consultation with the organizations of employers and workers concerned, and taking into consideration relevant international standards. This definition will not apply to work specifically authorized by national laws, including work done by children in schools for general, vocational or technical education or in other training institutions, where such work is carried out in accordance with international standards under conditions prescribed by the competent authority, and does not prejudice children's attendance in school or their capacity to benefit from the instruction received.

Worst Forms of Child Labor—The TDA uses the definition of the "worst forms of child labor" from ILO Convention 182. The term "worst forms of child labor" is defined in section 412(b) of the TDA as comprising:

"(A) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;

(B) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(C) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in relevant international treaties; and

(D) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."

The TDA Conference Report noted that the phrase, "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children," is to be defined as in article II of Recommendation No. 190, which accompanies ILO Convention 182. Commonly referred to as "hazardous child labor," this includes:

"(a) work which exposes children to physical, psychological, or sexual abuse;

(b) work underground, under water, at dangerous heights or in confined spaces;

(c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

(d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer."

The TDA Conference Report further indicated "that this phrase be interpreted in a manner consistent with the intent of article 4 of ILO Convention 182, which states that 'such work shall be determined by national laws or regulations or by the competent authority in the country involved.'" In addition, the TDA Conference report indicated that the phrase generally not apply to situations in which children work for their parents on bona fide family farms or holdings.

Forced Labor—"Forced labor" under international standards means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, and includes indentured labor. "Forced labor" includes work provided or obtained by force, fraud, or coercion, including: (1) By threats of serious harm to, or physical restraint against any person; (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) by means of the abuse or threatened abuse of law or the legal process. For purposes of this definition, forced labor does not include work specifically authorized by national laws where such work is carried out in accordance with conditions prescribed by the competent authority, including: any work or service required by compulsory military service laws for work of a purely military character; work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country; work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations; work or service required in cases of emergency, such as in the event of war or of a calamity or threatened calamity, fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population; and minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives have the right to be

consulted in regard to the need for such services.

Forced or Indentured Child Labor means all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 pursuant to a contract the enforcement of which is accomplished by process or penalties.

Goods—"Goods" means goods, wares, articles, materials, items, supplies, and merchandise.

International Standards—"International standards" means generally accepted international standards relating to forced labor and child labor, such as international conventions and treaties. These Guidelines employ definitions of "child labor" and "forced labor" derived from international standards.

Produced—"Produced" means mined, extracted, harvested, farmed, produced, created, and manufactured.

This notice is a general solicitation of comments from the public.

Signed at Washington, DC, this 18th day of February, 2010.

Sandra Polaski,

Deputy Undersecretary for International Labor Affairs.

[FR Doc. 2010–3655 Filed 2–23–10; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0045]

Aerial Lifts; Extension of the Office of Management and Budget's (OMB) Approval of an Information Collection (Paperwork) Requirement.

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirement contained in the Aerial Lift Standard. Employers who modify an aerial lift for uses other than those provided by the manufacturer must obtain a certificate from the manufacturer or equivalent entity certifying that the modification is in conformance with applicable American National Standards Institute (ANSI) standards and this Standard, and the equipment is as safe as it was prior to the modification.

DATES: Comments must be submitted (postmarked, sent, or received) by April 26, 2010.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0045, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Ave., NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the information Collection Request (ICR) (OSHA–2009–0045). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at *http://www/regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled "**SUPPLEMENTARY INFORMATION.**"

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or to the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Todd Owen or Theda Kenney at the address below to obtain a copy of the Information Collection Request (ICR).

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The certification requirement specified in the Aerial Lifts Standard demonstrates that the manufacturer or an equally-qualified entity has assessed a modified aerial lift and found that it was safe for use by, or near, workers; and that it would provide workers with a level of protection at least equivalent to the protection afforded by the lift prior to modification.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirement is necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirement, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirement in the Aerial Lifts Standard (29 CFR 1926.453(a)(2)). OSHA proposes to retain its current burden hour estimate of 6 hours. The certification requirement specified in the Aerial Lifts Standard demonstrates that the manufacturer or an equally-

qualified entity has assessed a modified aerial lift and found that it was safe for use by workers.

The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved information collection.

Title: Manufacturer's Certification of Aerial Lifts in Construction (29 CFR 1926.453).

OMB Number: 1218–0216.

Affected Public: Business or other for-profits.

Number of Respondents: 62.

Frequency of Response: On occasion.

Average Time per Response: 6 minutes (0.10 hour).

Estimated Total Burden Hours: 6 hours.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2009–0045). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (*see* the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, this 19th day of February 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–3740 Filed 2–23–10; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request use of the Identification Card Request, NA Form 6006, which will be used by NARA employees, on-site contractors, volunteers, Foundation members, Interns, and others in order to obtain a NARA Identification Card. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before April 26, 2010 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740–6001; or faxed to 301–713–7409; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways, including the use of information technology, to minimize the burden of the collection of information on respondents; and (e) whether small businesses are affected by this collection. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Identification Card Request.

OMB number: 3095–0057.

Agency form number: NA Form 6006.

Type of review: Regular.

Affected public: Individuals or households, Business or other for-profit, Federal government.

Estimated number of respondents: 1,500.

Estimated time per response: 3 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 75 hours.

Abstract: The collection of information is necessary as to comply with HSPD–12 requirements. Use of the form is authorized by 44 U.S.C. 2104. At the NARA College Park facility, individuals receive a proximity card with the identification badge that is electronically coded to permit access to secure zones ranging from a general nominal level to stricter access levels for classified records zones. The proximity card system is part of the security management system that meets the accreditation standards of the Government intelligence agencies for storage of classified information and serves to comply with E.O. 12958.

Dated: February 17, 2010.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. 2010–3876 Filed 2–23–10; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: Under the paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection. The NSF will publish periodic summaries of the proposed projects.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information will have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by April 26, 2010 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov.*

For Additional Information or Comments: Contact Suzanne Plimpton, the NSF Reports Clearance Officer, phone (703) 292–7556, or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: 2010 Survey of Doctorate Recipients.

OMB Approval Number: 3145–0020.

Expiration Date of Approval: July 31, 2011.

Type of Request: Intent to seek approval to renew an information collection for three years.

1. *Abstract.* The Survey of Doctorate Recipients (SDR) has been conducted biennially since 1973 and is a longitudinal survey. The 2010 SDR will consist of a sample of individuals less than 76 years of age who have earned a research doctoral degree in a science, engineering or health field from a U.S. institution. The purpose of this longitudinal panel survey is to collect data that will be used to provide national estimates on the doctoral science and engineering workforce and changes in their employment, education and demographic characteristics. The SDR is one of the three component surveys of the Scientists and Engineers Statistical Data System (SESTAT), which produces national estimates of the size and characteristics of the nation's science and engineering workforce. The 2010 SDR will provide necessary input into the SESTAT.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to "* * * provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government." The SDR is designed to comply with these mandates by providing information on the supply and utilization of the nation's doctoral level scientists and engineers. The NSF uses the information from the SDR to prepare congressionally mandated reports such as *Women, Minorities and Persons with Disabilities in Science and Engineering and Science and Engineering Indicators.* The NSF publishes statistics from the SDR in many reports, but primarily in the biennial series, *Characteristics of Doctoral Scientists and Engineers in the United States.* A public release file of collected data, designed to protect respondent confidentiality, also will be made available to researchers on CD–ROM and on the World Wide Web.

Currently, the NSF has contracted with the National Opinion Research Corporation (NORC) of the University of Chicago to conduct this survey. Data will be obtained by mail questionnaire, computer-assisted telephone interviews and Web survey beginning in October 2010. The survey will be collected in conformance with the Confidential Information Protection and Statistical Efficiency Act of 2002 and the individual's response to the survey is voluntary. NSF will ensure that all information collected will be kept strictly confidential and will be used only for statistical purposes.

2. *Expected Respondents.* A statistical sample of approximately 40,000 individuals with U.S. earned doctorates in science, engineering and health will be contacted in 2010, and this is the main SDR sample. The total response rate in 2008 was 80%. NSF will also include a supplemental statistical sample of 3,300 U.S. doctorates that received their degrees in the 2001–2009 academic years, who are non-U.S. citizens, and indicated they planned on leaving the U.S. after they received their U.S. doctorate. The total response rate for the supplemental sample in 2008 was 72%.

3. *Estimate of Burden.* The amount of time to complete the questionnaire may vary depending on an individual's circumstances; however, on average it will take approximately 25 minutes. NSF estimates that the annual burden will be 13,400 hours for the main sample and 990 hours for the supplemental sample. Thus, NSF estimates that the total annual burden for both the main and the supplemental sample will be 14,390 hours.

Dated: February 18, 2010.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2010–3591 Filed 2–23–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection. The NSF will publish

periodic summaries of the proposed projects.

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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by April 26, 2010, to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Suzanne Plimpton, the NSF Reports Clearance Officer, phone (703) 292–7556, or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION: *Title of Collection:* 2010 National Survey of College Graduates.

OMB Approval Number: 3145–0141.

Expiration Date of Approval: July 31, 2011.

Type of Request: Intent to seek approval to renew an information collection for three years.

1. Abstract

The National Survey of College Graduates (NSCG) has been conducted biennially since the 1970s. The 2010 NSCG sample will be selected from the 2009 American Community Survey (ACS), the 2008 NSCG, and the 2008 National Survey of Recent College Graduates (NSRCG).

The purpose of this longitudinal survey is to provide national estimates on the science and engineering workforce and changes in their employment, education, and demographic characteristics. The NSCG is one of three component surveys of the Scientists and Engineers Statistical Data System (SESTAT), which produces national estimates of the size and characteristics of the nation's science and engineering population. The 2010 NSCG will provide necessary input into the SESTAT.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to " * * * provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government." The NSCG is designed to comply with these mandates by providing information on the supply and utilization of the nation's scientists and engineers.

The NSF uses the information from the NSCG to prepare congressionally mandated reports such as *Women, Minorities and Persons with Disabilities in Science and Engineering and Science and Engineering Indicators.* A public release file of collected data, designed to protect respondent confidentiality, will be made available to researchers on CD–ROM and on the Internet.

The Bureau of the Census, as in the past, will conduct the NSCG for NSF. The survey data collection will begin in October 2010 using mail and Web questionnaires. Nonrespondents to the mail or web questionnaire will be followed up by computer-assisted telephone interviewing. The survey will be collected in conformance with the Confidential Information Protection and Statistical Efficiency Act of 2002, and the individual's response to the survey is voluntary. NSF will ensure that all information collected will be kept strictly confidential and will be used only for statistical purposes.

2. Expected Respondents

A statistical sample of approximately 100,000 will be contacted in 2010. NSF expects the response rate to be 70 to 80 percent.

3. Estimate of Burden

The amount of time to complete the questionnaire may vary depending on an individual's circumstances; however, on average it will take approximately 25 minutes to complete the survey. NSF estimates that the total annual burden will be no more than 33,333 hours during the 2010 survey cycle.

Dated: February 18, 2010.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2010–3592 Filed 2–23–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection. The NSF will publish periodic summaries of the proposed projects.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Foundation, including whether the information will have practical utility; (b) the accuracy of the Foundation's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by April 26, 2010, to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov.*

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne Plimpton, the NSF Reports Clearance Officer, phone (703) 292–7556, or send e-mail to

splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: 2010 National Survey of Recent College Graduates.

OMB Approval Number: 3145–0077.

Expiration Date of Approval: July 31, 2011.

Type of Request: Intent to seek approval to renew an information collection for three years.

1. Abstract

The National Survey of Recent College Graduates (NSRCG) has been conducted biennially since 1974. The 2010 NSRCG will consist of a sample of individuals who have completed bachelor's and master's degrees in science, engineering and health from U.S. institutions during the academic years 2008 and 2009. The purpose of the NSRCG is to provide national estimates on the new entrants into the science and engineering workforce and to provide estimates on the characteristics of recent bachelor's and master's graduates with science, engineering and health degrees. The NSRCG is one of three component surveys of the Scientists and Engineers Statistical Data System (SESTAT), which produces national estimates of the size and characteristics of the nation's science and engineering population. The 2010 NSRCG will provide necessary input into the SESTAT.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to "* * * provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government." The NSRCG is designed to comply with these mandates by providing information on the supply and utilization of the nation's recent bachelor's and master's level scientists and engineers.

The NSF uses the information from the NSRCG to prepare congressionally-mandated reports such as *Women, Minorities and Persons with Disabilities in Science and Engineering and Science and Engineering Indicators.* NSF publishes statistics from the survey in many reports, but primarily in the biennial series, *Characteristics of Recent Science and Engineering Graduates in the United States.* A public release file of collected data, designed to protect respondent confidentiality, will be made available to researchers on CD–ROM and on the Internet.

A nationally recognized survey firm will conduct the 2010 NSRCG under contract for NSF. Data will be obtained by mail questionnaire, computer-assisted telephone interviews and Web survey beginning in October 2010. The survey will be collected in conformance with the Confidential Information Protection and Statistical Efficiency Act of 2002, and the individual's response to the survey is voluntary. NSF will ensure that all information collected will be kept strictly confidential and will be used only for statistical purposes.

2. Expected Respondents

A statistical sample of approximately 18,000 bachelor's and master's degree recipients in science, engineering, and health will be contacted in 2010. NSF expects the response rate to be 70 percent.

3. Estimate of Burden

The amount of time to complete the questionnaire may vary depending on an individual's circumstances; however, on average it will take approximately 25 minutes to complete the survey. NSF estimates that the total annual burden will be 5,250 hours during the 2010 survey cycle.

Dated: February 18, 2010.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2010–3593 Filed 2–23–10; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261; NRC–2010–0062]

Carolina Power & Light Company: H. B. Robinson Steam Electric Plant, Unit No. 2; 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) Section 73.5, "Specific exemptions," from the implementation date for certain new requirements of 10 CFR Part 73, "Physical protection of plants and materials," for Facility Operating License No. DPR–23, issued to Carolina Power & Light Company (the licensee), for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP), located in Darlington County, South Carolina. In accordance with 10 CFR 51.21, "Criteria for and identification of licensing and regulatory actions requiring environmental assessments," the NRC prepared an environmental assessment documenting its finding. The NRC concluded that the proposed action will have no significant environmental impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt HBRSEP from the required implementation date of March 31, 2010, for two new requirements of 10 CFR part 73. Specifically, HBRSEP would be granted an exemption from being in full compliance with certain new requirements contained in 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," by the March 31, 2010, deadline. The licensee has proposed an alternate full compliance implementation date of December 30, 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 HBRSEP site.

The proposed action is in accordance with the licensee's application dated November 30, 2009.

The Need for the Proposed Action

The licensee has stated that it has performed an extensive evaluation of the revised 10 CFR part 73 and will achieve compliance with a vast majority of the revised rule by the March 31, 2010, compliance date. However, the licensee has determined that implementation of two specific provisions of the rule will require more time to implement because they involve upgrades to the security system that require significant physical modifications (*e.g.,* the relocation of certain security assets to a new security building that will be constructed, and the addition of certain power supplies). Therefore, the licensee proposes to extend the compliance date beyond March 31, 2010, to December 30, 2010, in order to complete these security modifications.

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 or consequences of an accident.

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-Stevens 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 (March 27, 2009, 74 FR 13967).

The NRC staff's safety evaluation will be provided as part of a 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 were 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 HBRSEP, dated April 1975, as supplemented through the "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: H.B. Robinson Steam Electric Plant, Unit 2—Final Report (NUREG—1437, Supplement 13)."

Agencies and Persons Consulted

In accordance with its stated policy, on January 22, 2010, the staff consulted with the South Carolina State official, Mike Gandy of the South Carolina Bureau of Land and Waste Management, 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 November 30, 2009. Portions of the November 30, 2009, submittal contain proprietary and security-related information, and accordingly, are not available to the public. Other parts of these documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.*

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 16th day of February 2010.

For the Nuclear Regulatory Commission.

Tracy J. Orf,

Project Manager, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–3667 Filed 2–23–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0189]

Office of New Reactors: Interim Staff Guidance on Assessing the Consequences of an Accidental Release of Radioactive Materials From Liquid Waste Tanks; Reopening of Comment Period

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Reopening of comment period.

SUMMARY: The NRC published a request for public comment in the **Federal Register** on May 4, 2009, on proposed Interim Staff Guidance (ISG) DC/COL–ISG–013, "Assessing the Consequences of an Accidental Release of Radioactive Materials from Liquid Waste Tanks" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090830488). The NRC has completed a related ISG, DC/COL–ISG–014, "Assessing Ground Water Flow and Transport of Accidental Radionuclide Releases," and is making it available for public comment by separate document published today in the **Federal Register**. The NRC believes that the public will be better served by being able to review and comment on both documents at this time. This action is necessary to reopen the comment period for ISG DC/COL–ISG–013.

ADDRESSES: Please include Docket ID NRC–2009–0189 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.

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

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2009–0189. Comments may be submitted electronically through this Web site. Address questions about NRC dockets to Carol Gallagher at 301–492–3668; e-mail at *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–2009–0189.

FOR FURTHER INFORMATION CONTACT: Mr. Edward H. Roach, Acting Chief, Health Physics Branch, Division of Construction Inspection and Operational Programs, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; telephone at 301–415–1973 or e-mail at *edward.roach@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC requested public comment on May 4, 2009 (74 FR 20510), on its Proposed Interim Staff Guidance (ISG) DC/COL–ISG–013 (ADAMS Accession No. ML090830488). The purpose of this ISG is to modify and provide Combined License (COL) and Design Certification (DC) applicants additional clarity and guidance for the application of Standard Review Plan (SRP) Sections 11.2 and 2.4.13 on the characterization of hydro geological properties of a site associated with the effects of accidental releases of radioactive liquid on existing or likely future uses of ground and surface water resources in meeting the requirements of Title 10 of the Code of Federal Regulations, Part 100 (10 CFR 100.10 or 100.20) and Appendix B to 10 CFR part 20 on effluent concentration limits. This ISG would revise the staff guidance previously issued in March 2007 in the SRP NUREG–0080, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," Sections 11.2 and 2.4.13. These two SRP sections are not internally consistent in identifying acceptable criteria for assessing the consequences of accidental releases of radioactive materials, or in providing guidance to the staff and applicants to establish conditions for such releases and define acceptable assumptions to describe exposure scenarios and pathways to members of the public. 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. The NRC staff will also incorporate the approved DC/COL–ISG–013 into the next revision of the SRP and related guidance documents.

The NRC staff is issuing this notice to reopen the public comment period for proposed DC/COL–ISG–013. After the NRC staff considers all public comments, it will make a determination regarding proposed DC/COL–ISG–013. The agency posts its issued staff guidance on the agency's Web site at *http://www.nrc.gov/reading-rm/doc-collections/isg/.*

Dated at Rockville, Maryland, this 16th day of February 2010.

For the Nuclear Regulatory Commission,

William F. Burton,

Chief, Rulemaking and Guidance Development Branch, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2010–3676 Filed 2–23–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0047]

Office of New Reactors: Interim Staff Guidance on Assessing Ground Water Flow and Transport of Accidental Radionuclide Releases; Solicitation of Public Comment

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Solicitation of public comment.

SUMMARY: The NRC is soliciting public comment on its Proposed Interim Staff Guidance (ISG) DC/COL–ISG–014 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML091320560). The purpose of this ISG is to provide Combined License (COL) and Design Certification (DC) applicants additional clarity and guidance for the application of Sections 2.4.12 and 2.4.13 of the Standard Review Plan (SRP), NUREG 0800 "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants." Specifically, this ISG would revise the staff guidance in SRP Sections 2.4.12 and 2.4.13 regarding the assessment of ground water flow and transport of accidental radionuclide releases necessary to demonstrate compliance with the requirements of Title 10 of the *Code of Federal Regulations,* Part 100 (10 CFR 100) and Appendix B to 10 CFR part 20 on effluent concentration limits. 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. The NRC staff will also incorporate the approved DC/COL–ISG–014 into the next revision of the SRP and related guidance documents.

DATES: Comments must be filed no later than 60 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: Please include Docket ID NRC–2010–0047 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.

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

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0047. Comments may be submitted electronically through this Web site. Address questions about NRC dockets to Carol Gallagher at 301–492–3668; e-mail at *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.

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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–2010–0047.

FOR FURTHER INFORMATION CONTACT: Mr. Richard P. Raione, Chief, Hydrologic Engineering Branch, Division of Site and Environmental Reviews, Office of the New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone at 301–415–7190 or e-mail at *richard.raione@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/*).

The NRC staff is issuing this notice to solicit public comments on proposed DC/COL–ISG–014. After the NRC staff considers any public comments, it will make a determination regarding proposed DC/COL–ISG–014.

Dated at Rockville, Maryland, this 3rd day of February 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. 2010–3679 Filed 2–23–10; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, March 3, 2010 at 11 a.m.

PLACE: Commission hearing room, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001.

STATUS: The portion of the meeting dealing with agenda items 1 through 6 will be open to the public. The remainder of the meeting (agenda items 7 through 9) will be closed to the public. The public session will be podcast.

MATTERS TO BE CONSIDERED:

1. Report on international activities (open).
2. Commission participation in Congressional staff briefings (open).
3. Status of Annual Compliance Review (open).
4. Status of other active cases (open).
5. Update on recent activities of Joint Periodicals Task Force and status of anticipated report to the Congress pursuant to section 708 of the Postal Accountability and Enhancement Act of 2006 (open).
6. Discussion of Postal Service's March 2, 2010 presentation on its future business model (open).
7. Discussion of pending litigation *(USPS v. PRC)* (closed).
8. Personnel matters—compensation and senior staff goals (closed).
9. Discussion of confidential commercial information relative to Commission contracts (closed).

CONTACT PERSON FOR FURTHER INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, at 202-789-6820 or *stephen.sharfman@prc.gov* (for questions concerning the agenda) and Shoshana M. Grove at 202-789-6842 or *shoshana.grove@prc.gov* (for questions concerning podcasting).

Dated: February 19, 2010.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–3809 Filed 2–22–10; 8:45 am]

BILLING CODE 7710–FW–S

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) will be sending an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) to request a revision to the following collection of information: 3220–0042, Application for Spouse Annuity Under the Railroad Retirement Act, consisting of RRB Form(s) AA–3, Application for Spouse/Divorced Spouse Annuity and AA–3cert, Application Summary and Certification. Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

Application for Spouse Annuity Under the Railroad Retirement Act; OMB 3220–0042

Section 2(c) of the Railroad Retirement Act (RRA), provides for the payment of annuities to spouses of railroad retirement annuitants who meet the requirements under the RRA. The age requirements for a spouse annuity depend on the employee's age and date of retirement and the employee's years of railroad service. The requirements

relating to the annuities are prescribed in 20 CFR 216, 218, 219, 232, 234, and 295.

The RRB currently uses the electronic *AA–3cert, Application Summary and Certification* process and manual Form AA–3, *Application for Spouse/Divorced Spouse Annuity,* to obtain the information needed to determine an applicant's entitlement to an annuity and the amount of the annuity.

The AA–3cert process obtains information from an applicant by means of an interview with an RRB field-office representative. During the interview, the field-office representative enters the information obtained into an on-line information system. Upon completion of the interview, the applicant receives Form AA–3cert, Application Summary and Certification, which summarizes the information that was provided by/or verified by the applicant, for review and signature. The RRB also uses manual Form AA–3 in instances where the RRB representative is unable to contact the applicant in person or by telephone *i.e.,* the applicant lives in another country. Completion of Forms AA–3 and AA–3cert is required to obtain a benefit. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (74FR 65551 on December 10, 2009) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Application for Spouse Annuity Under the Railroad Retirement Act.

OMB Control Number 3220–0042.

Form(s) submitted: AA–3, Application for Spouse/Divorced Spouse Annuity, AA–3cert, Application Summary and Certification.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or households.

Obligation to Respond: Required to obtain or retain benefits.

Abstract: The Railroad Retirement Act provides for the payment of annuities to spouses of railroad retirement annuitants who meet the requirements under the Act. The application obtains information supporting the claim for benefits based on being a spouse of an annuitant. The information is used for determining entitlement to and amount of the annuity applied for.

Changes Proposed: The RRB proposes minor non-burden impacting, editorial changes to Form AA–3cert and Form AA–3.

The burden estimate for this ICR is proposed as follows:

Estimated annual number of respondents: 11,050.

Total annual responses: 11,050.

Total annual reporting hours: 5,642.

FOR FURTHER INFORMATION CONTACT: Copies of the form and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments: Comments regarding the information collection should be addressed to Patricia Henaghan, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Patricia.Henaghan@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

RRB Clearance Officer.

[FR Doc. 2010–3705 Filed 2–23–10; 8:45 am]

BILLING CODE 7905–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12038 and # 12039]

California Disaster # CA–00150

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of California dated 02/16/2010.

Incident: Severe Winter Storms, Heavy Snow, Flooding, Debris Flows and Mudslides.

Incident Period: 01/17/2010 and continuing.

DATES: *Effective Date:* 02/16/2010.

Physical Loan Application Deadline Date: 04/19/2010.

Economic Injury (Eidl) Loan Application Deadline Date: 11/16/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Los Angeles.

Contiguous Counties:

California: Kern, Orange San Bernardino, Ventura.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.125
Homeowners Without Credit Available Elsewhere	2.562
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.625
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12038 B and for economic injury is 12039 0.

The States which received an EIDL Declaration # are California.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: February 16, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–3614 Filed 2–23–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12033]

Tennessee Disaster # TN–00036 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Tennessee, dated 02/16/2010.

Incident: Polk County Rock Slide.

Incident Period: 11/10/2009 and continuing.

EFFECTIVE DATE: 02/16/2010.

EIDL Loan Application Deadline Date: 11/16/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance,

U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Polk.

Contiguous Counties: Tennessee: Bradley, McMinn, Monroe.

Georgia: Fannin, Murray.

North Carolina: Cherokee.

The Interest Rates are:

	Percent
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for economic injury is 120330.

The States which received an EIDL Declaration # are Tennessee, Georgia, North Carolina.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: February 16, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–3615 Filed 2–23–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61528; File No. 4–443]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan for the Purpose of Developing and Implementing Procedures To Facilitate the Listing and Trading of Standardized Options To Add BATS Exchange, Inc. as a Sponsor

February 17, 2010.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 608 thereunder,[2] notice is hereby given that on February 2, 2010, BATS Exchange, Inc. ("BATS" or "Exchange") filed with the Securities and Exchange Commission ("Commission") an amendment to the Plan for the Purpose of Developing and Implementing Procedures to Facilitate the Listing and Trading of Standardized Options ("OLPP").[3] The amendment proposes to add BATS as a Sponsor of the OLPP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Description and Purpose of the Amendment

The current Sponsors of the OLPP are Amex, BSE, CBOE, ISE, NYSE Arca, OCC, Phlx and Nasdaq. The proposed amendment to the OLPP would add BATS as a Sponsor of the OLPP. A national securities exchange may become a Sponsor if it satisfies the requirement of Section 7 of the OLPP. Specifically an Eligible Exchange [4] may become a Sponsor of the OLPP by: (i) Executing a copy of the OLPP, as then in effect; (ii) providing each current Plan Sponsor with a copy of such executed Plan; and (iii) effecting an amendment to the OLPP, as specified in Section 7(ii) of the OLPP.

Section 7(ii) of the OLPP sets forth the process by which an Eligible Exchange may effect an amendment to the OLPP. Specifically, an Eligible Exchange must: (a) execute a copy of the OLPP with the only change being the addition of the new sponsor's name in Section 8 of the OLPP; and (b) submit the executed OLPP to the Commission. The OLPP then provides that such an amendment will be effective at the later of either the amendment being approved by the Commission or otherwise becoming effective pursuant to Section 11A of the Act. BATS has submitted a signed copy of the OLPP to the Commission in accordance with the procedures set forth in the OLPP regarding new Plan Sponsors.

II. Effectiveness of the Proposed Linkage Plan Amendment

The foregoing proposed OLPP amendment has become effective pursuant to Rule 608(c)(3)(iii) [5] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraphs (b)(1) of Rule 608,[6] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed amendment is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number 4–443 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–1090.

All submissions should refer to File Number 4–443. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] On July 6, 2001, the Commission approved the OLPP, which was proposed by the American Stock Exchange LLC ("Amex"), Chicago Board Options Exchange, Incorporated ("CBOE"), International Securities Exchange LLC ("ISE"), Options Clearing Corporation ("OCC"), Philadelphia Stock Exchange, Inc. ("Phlx"), and Pacific Exchange, Inc. ("PCX") (n/k/a NYSE Arca). *See* Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). On February 5, 2004, Boston Stock Exchange, Inc. ("BSE") was added as a Sponsor to OLPP. *See* Securities Exchange Act Release No. 49199, 69 FR 7030 (February 12, 2004). On March 21, 2008, the Nasdaq Stock Market, LLC ("Nasdaq") was added as a Sponsor to the OLPP.

[4] The OLPP defines an "Eligible Exchange" as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Exchange Act, 15 U.S.C. 78f(a), that (1) has effective rules for the trading of options contracts issued and cleared by the OCC approved in accordance with the provisions of the Exchange Act and the rules and regulations thereunder and (2) is a party to the Plan for Reporting Consolidated Options Last Sale Reports and Quotation Information (the "OPRA Plan"). BATS has represented that it has met both the requirements for being considered an Eligible Exchange. *See* Letter from Eric Swanson, SVP, General Counsel, BATS to Johnna Dumler, Special Counsel, Division of Trading and Markets, Commission, dated February 12, 2010.

[5] 17 CFR 242.608(b)(3)(iii).

[6] 17 CFR 242.608(b)(1).

public in accordance with the provisions of 5 U.S.C. 552, will be available for Web viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at BATS' principal office. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. 4–443 and should be submitted on or before March 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–3545 Filed 2–23–10; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on February 24, 2010 at 10 a.m., in the Auditorium, Room L–002.

Commissioner Casey, as duty officer, determined that no earlier notice thereof was possible.

The subject matter of the Open Meeting will be:

Item 1: The Commission will consider whether to adopt amendments to Rules 201 and 200(g) of Regulation SHO relating to short sale restrictions.

Item 2: The Commission will consider whether to publish a statement regarding its continued support for a single-set of high-quality globally accepted accounting standards and its ongoing consideration of incorporating International Financial Reporting Standards into the financial reporting system for U.S. issuers.

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 19, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–3792 Filed 2–22–10; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61531; File No. SR–BX–2010–009]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Directed Order Process on the Boston Options Exchange Facility

February 17, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 25, 2010, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Exchange filed Amendment No 1. to the proposed rule change on February 10, 2010.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Rules of the Boston Options Exchange Group, LLC ("BOX") to modify the Directed Order process on BOX. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet website at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing modifications to the Directed Order process on BOX.[4] When a BOX Market Maker indicates its interest in receiving Directed Orders, the receiving Market Maker is referred to as the Executing Participant ("EP"). Specifically, the Exchange is proposing to automate the creation of the Guaranteed Directed Order ("GDO") and the manner in which the quote of the EP is handled during the Directed Order process.

'Quote Shelving' and 'GDO'

Upon receipt of a Directed Order an EP must either submit the Directed Order to the PIP[5] or send the Directed Order to the BOX Book. Currently, when the EP sends the Directed Order to the BOX Book and the EP's quotation on the opposite side of the market from the Directed Order is equal to the National Best Bid or Offer ("NBBO") and the Directed Order is also executable against the NBBO, the EP must guarantee execution of the Directed Order at the current NBBO for at least the size of his quote. This guarantee is called the GDO. The EP must immediately send the Directed Order with the GDO to the Trading Host. Sending the GDO to the Trading Host enables it to simultaneously take down or 'shelve' the EP's quote and any pending quote updates while the Directed Order is being exposed on the BOX Book.[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 added clarifying language regarding the implementation of the proposed rule change and removed erroneously included information.

[4] A Directed Order is any Customer Order to buy or sell which has been directed to a particular Market Maker by an OFP. *See* Chapter I, Section 1(21) (sic) of the BOX Rules. Terms not otherwise defined herein shall have the meaning assigned to them in the BOX Rules.

[5] *See* Chapter V, Section 18 of the BOX Rules.

[6] The proposal clarifies in Section 5(c)(iii)(2)(b)(2) and (3) that when the EP does not PIP the Directed Order and releases it to the BOX Book, the Directed Order will immediately execute against the BOX Book if the BOX Best Bid or Offer is equal to or better than the NBBO and GDO. Any remaining quantity not executed will immediately be exposed to BOX Participants at the better of the NBBO or GDO price. This exposure period will last three (3) seconds, during which time any Options Participant, except for the EP, may submit an order to the BOX Book in response. Any orders submitted to the BOX Book during the three second period will execute immediately against any remaining quantity of the Directed Order, in time priority.

Under the proposal, the GDO will be automatically created by the Trading Host instead of by the EP. The Trading Host will use the shelved EP quote as the GDO. In addition, the GDO creation and the EP's quote shelving will be moved to an earlier point in the Directed Order process. Where presently they occur only when the Directed Order is sent to the BOX Book, they will now take place immediately upon the Trading Host's receipt of the Directed Order from the submitting OFP. Once the GDO has been generated by the Trading Host, the EP will systemically be prohibited from posting a quotation. The EP's pending quote will not be released until either (i) the Directed Order is modified by the submitting OFP;[7] (ii) the EP PIPs the Directed Order;[8] or (iii) the Directed Order is submitted to the BOX Book, and either one of the following occurs: (a) The Directed Order trades in full; (b) the Directed Order exposition ends; or (c) the Directed Order is modified or cancelled by the submitting OFP during such exposition.

Under the proposal, if a GDO has been automatically generated and is pending, then upon receipt by the Trading Host of a subsequent Directed Order for the same EP for the same series and side of the market such subsequent order will not be considered a Directed Order but be treated as a regular order. The Trading Host will not send the order to the EP, but will immediately release it to the BOX Book as a regular order. If no GDO has been automatically generated, then such subsequent order will be sent to the EP and treated as a new Directed Order.

Directed Order Exposure Period

With this proposal the Exchange also wishes to add certain details in the rule regarding the treatment of Directed Orders that have been released to the BOX Book for exposure. If a GDO has been automatically generated and the Directed Order is not executable against the current NBBO, then the Trading Host will expose the order at the better GDO price for three (3) seconds.

During the exposure period when the Directed Order is executable against the current NBBO, the EP must not decrement the size, worsen the price of his GDO or submit a contra order. Because the Trading Host has automatically created the GDO and shelved the EP's quote, it will not process such changes to the GDO or pending quote, except a decrementation of the GDO size down to the size of the remaining Directed Order after execution with the BOX Book. The EP also may increase the size or better the price of his GDO. The EP may also modify his pending quote to be reestablished, but the Trading Host won't apply such modifications until the quote is reestablished.

Market Maker Quoting Obligations

The Exchange proposes to add new Supplementary Material .02 to Chapter VI, Section 5, stating that such time without posting a quote when a Market Maker's quote is shelved while acting as EP will not count towards fulfilling his obligations for purposes of the Market Maker's quoting obligations under Chapter VI, Section 6(d) of the BOX Rules.

Non-Substantive Changes

The Exchange proposes to change several references to 'Market Maker' in the Directed Order rules to 'EP'. The term 'EP' is first referenced in Chapter VI, Section 5(c)(i) as "a Market Maker who desires to accept Directed Orders * * * [by] * * * indicat[ing] that it is an Executing Participant ('EP')." This change is being made solely to provide greater clarity throughout the Directed Order rule and more closely aligns the rule text with the terminology used to describe the Directed Order process on BOX. In addition, the Exchange is adding the word "current" in the relevant instances of the use of the term NBBO in the Directed Order rules in order to clarify which NBBO is being referenced at a particular stage in the Directed Order process. Also, unnecessary and duplicative language about the function of the NBBO filter process pursuant to Chapter V, Section 16(b) will be removed from Section 5(c)(iii)(1). Finally, the proposal clarifies in Section 5(c)(iii)(2)(b)(4) that the Trading Host will reestablish the quote of the EP with a new time priority, decremented by any executed portion of the GDO or as modified by the EP. After Commission approval of the proposal, and at least one week prior to implementation of the rule change, BOXR will issue a regulatory circular to Participants. The regulatory circular will inform Participants of the implementation date. This will give Participants an opportunity to make any necessary modifications to coincide with the implementation date.

2. Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[9] in general, and Section 6(b)(5) of the Act,[10] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, under the proposal the BOX Trading Host will automate the creation of the GDO and the manner in which the quote of the EP is handled during the Directed Order process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

[7] *See* Section 5(c)(ii)(5). If the Directed Order is modified once the Trading Host has automatically established the GDO, then the modified Directed Order shall no longer be considered a Directed Order and shall be immediately released to the BOX Book and treated as a regular order. Upon modification or cancellation of the Directed Order, the Trading Host will immediately reestablish the EP's quote, including any of the EP's pending quote modifications, with a new time priority; or in the case of a pending quote cancellation, the EP's quote will be cancelled. If no GDO had been established, then the modified Directed Order shall be resubmitted to the EP pursuant to paragraph (c)(ii)(1). Also, it shall be considered conduct inconsistent with just and equitable principles of trade for any Options Participant or person to communicate with an EP about the terms or conditions of a Directed Order prior to its outcome in the BOX Trading Host (e.g. execution, cancellation).

[8] Under the proposal the EP's obligations when using the PIP remain the same, however in some instances the obligation will be met automatically by the Trading Host. Upon submission of the Directed Order to the PIP the Trading Host will only accept a Primary Improvement Order priced at or better than (i) the GDO or (ii) the NBBO at the time the EP sent the Directed Order to the PIP, whichever is better for the Directed/PIP Order. In addition, if a GDO has been automatically generated, then the Trading Host will prohibit the EP from adjusting his quotation prior to submitting the Directed Order to the PIP process.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BX–2010–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2010–009. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2010–009 and should be submitted on or before March 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–3640 Filed 2–23–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61530; File No. SR–CBOE–2010–014]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Settlement Payment Obligation

February 17, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 3, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. CBOE has filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(3) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE is filing this proposed rule change with the Commission under Section 19(b) of the Act in connection with a matter that is concerned solely with the administration of the Exchange.[5]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange agreed to make a Payment described below pursuant to the Stipulation of Settlement ("Stipulation") into which the Exchange entered on August 20, 2008, with The Board of Trade of the City of Chicago, Inc. ("Board of Trade" or "CBOT"), its parent company CME Group, Inc. ("CME Group"), and a class of persons (collectively, the "CBOT Parties").[6] The Stipulation resolves a lawsuit ("CBOT Lawsuit") brought by the CBOT Parties against the Exchange and its Board of Directors ("CBOE Board").[7] The Court of Chancery of the State of Delaware (the "Delaware Court") approved the Stipulation on June 3, 2009 in a Memorandum Opinion ("Opinion") and entered its Order of Final Approval and Final Judgment on July 29, 2009.[8] On December 2, 2009, the Delaware Supreme Court approved the dismissal of all appeals of the Order of Final Approval and Final Judgment. The dismissal constitutes the final judicial approval of the Stipulation.

The Exchange is filing this proposed rule change in connection with its obligation to make the Payment pursuant to the Stipulation. The

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[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(3).

[5] 15 U.S.C. 78s(b).

[6] The Stipulation can be found at (*http://www.cboe.org/Legal/pdf/StipulationofSettlement.pdf*). The Stipulation was amended on September 30, 2008 to change, among other things, an eligibility date to participate in the settlement. This first amendment can be found at (*http://www.cboe.org/Legal/pdf/AmendmenttoStipulationofSettlement.pdf*). The Stipulation also was amended on October 6, 2008 to change, among other things, the settlement period. This second amendment can be found at (*http://www.cboe.org/Legal/pdf/SecondAmendment.pdf*).

[7] *CME Group Inc. et al.* v. *CBOE Inc. et al.*, Civil Action No. 2369–VCN (Filed Aug. 23, 2006).

[8] *CME Group Inc. et al.* v. *CBOE Inc. et al.*, Civil Action No. 2369–VCN (Memorandum Opinion dated June 3, 2009). This Opinion can be found at (*http://www.cboe.org/Legal/pdf/_0603134855_001.pdf*).

Exchange has concluded that the Payment is part of the business decision it made to resolve the CBOT Lawsuit, and that its act of making the Payment therefore is concerned solely with the administration of the Exchange. Even though CBOE believes that this rule filing does not implicate its responsibilities as a self-regulatory organization ("SRO"), and thus is not required to be submitted as a proposed rule change, the Exchange is filing it with the SEC out of an abundance of caution because CBOE agreed in the Stipulation to use its best efforts to obtain any necessary SEC approval to make the Payment. CBOE has subsequently concluded that the proposed rule change can be filed under Section 19(b)(3)(A)(iii) of the Exchange Act [9] and Rule 19b–4(f)(3) [10] thereunder because the proposed rule change is concerned solely with the administration of the Exchange. Accordingly, the proposed rule change will take effect upon its filing with the SEC. CBOE has concluded that this rule filing satisfies the conditions for making the payment that are contained in the Stipulation.

(i) Background on the CBOT Lawsuit

As described in the Stipulation, CBOE was established and initially funded by the Board of Trade. As a result, in 1972, the Board of Trade included a right in Article Fifth(b) ("Article Fifth(b)") of CBOE's Certificate of Incorporation—known as the "Exercise Right"—that allows a Board of Trade "member" to become a member of CBOE without separately paying for that membership. Board of Trade members who became CBOE members pursuant to Article Fifth(b) were known as "Exerciser Members." Under CBOE rules, only an individual can become an Exerciser Member.

In response to CBOE's plans to demutualize, the Board of Trade, which had already demutualized, its parent CBOT Holdings, Inc. ("CBOT Holdings"), and two individuals representing a class of certain Board of Trade members filed the CBOT Lawsuit on August 23, 2006. In that lawsuit, the plaintiffs sought, among other things, a declaratory judgment that CBOE was required, by Article Fifth(b) and an agreement interpreting Article Fifth(b), to treat Exerciser Members of CBOE the same in the demutualization as CBOE members who paid for their memberships ("CBOE Seat Owners").

On October 17, 2006, CBOT Holdings and Chicago Mercantile Exchange Holdings, Inc., now known as CME Group, announced a transaction whereby CME Group would merge with CBOT Holdings, and CME Group would survive the merger (the "CME Transaction"), with the Board of Trade becoming a wholly-owned subsidiary of CME Group after the CME Transaction. In response to that announcement, CBOE filed an interpretation of Article Fifth(b) with the Commission on December 12, 2006 pursuant to Section 19(b) of the Exchange Act.[11] In that rule filing (the "Eligibility Rule Filing"), CBOE sought the Commission's approval of its interpretation of Article Fifth(b) that, upon consummation of the CME Transaction, no persons any longer would qualify as "members" of the Board of Trade as that term is used in Article Fifth(b) and that, as a result, no person would be eligible to be an Exerciser Member of CBOE.[12]

On June 6, 2007, CME Group and CBOT Holdings announced that the vote to approve the CME Transaction would take place on July 9, 2007 and that, if approved, the CME Transaction would be consummated immediately thereafter. To address the impact of the CME Transaction on the membership status of Exerciser Members, the CBOE filed Interpretation and Policy .01 of CBOE Rule 3.19 (the "Continued Membership Interpretation") with the SEC on July 2, 2007.[13] The Continued Membership Interpretation, which was effective upon filing, provided that persons who were Exerciser Members in good standing before the consummation of the CME Transaction would temporarily retain their CBOE membership status until the SEC ruled on the Eligibility Rule Filing (persons who temporarily retained their CBOE membership status pursuant to the Continued Membership Interpretation and the Transition Rule Filing (as defined below) are referred to as "CBOE Temporary Members," and the rights they hold are referred to as "Temporary Memberships").[14] On July 9, 2007, the shareholders of CME Group and CBOT Holdings and members of the Board of Trade voted to approve the CME Transaction. The CME Transaction was consummated on July 12, 2007, and the Board of Trade became a wholly-owned subsidiary of CME Group.[15]

On September 10, 2007, CBOE filed Interpretation and Policy .02 of CBOE Rule 3.19 (the "Transition Rule Filing") with the SEC.[16] The Transition Rule Filing, which was effective upon filing, provided that the membership status of CBOE Temporary Members would continue after the SEC approved the Eligibility Rule Filing until, among other things, the consummation of a transaction pursuant to which either CBOE was converted into a stock corporation or memberships in CBOE were converted into stock. Pursuant to the Continued Membership Interpretation and the Transition Rule Filing, all CBOE Temporary Members were required to pay access fees ("Access Fees") to CBOE to have continued trading access to the Exchange.

On January 15, 2008, the SEC approved the interpretation in the Eligibility Rule Filing that no person qualifies to become or remain an Exerciser Member of CBOE pursuant to Article Fifth(b) following the CME Transaction.[17] On March 14, 2008, certain CBOT Parties filed a Petition for Review in the United States Court of Appeals for the District of Columbia Circuit, Case No. 08–1116, seeking review of the SEC order approving the Eligibility Rule Filing (the "Federal Appeal"). The Federal Appeal was dismissed on December 4, 2009, following the termination of the CBOT Lawsuit.

As noted above, CBOE entered into the Stipulation with the CBOT Parties on August 20, 2008 to settle the CBOT Lawsuit. The Stipulation was approved by the CBOE membership on September 17, 2008, and was approved by the Delaware Court on June 3, 2009. The Stipulation, among other things, provides for the payment of consideration to the members of the settlement class.

The Stipulation provides that subject to Commission approval, part of that consideration would be a payment ("Payment") to class members who also qualified as CBOE Temporary Members and who beneficially owned the three parts necessary to be an Exerciser Member on July 11, 2007 ("Eligible

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(3).

[11] 15 U.S.C. 78s(b).

[12] *See* Securities Exchange Act Release No. 55190 (Jan. 29, 2007), 72 FR 5472 (Feb. 6, 2007) (notice of filing of SR–CBOE–2006–106).

[13] *See* Securities Exchange Act Release No. 56016 (Jul. 5, 2007), 72 FR 38106 (Jul. 12, 2007) (notice of filing and immediate effectiveness of SR–CBOE–2007–77).

[14] In order to be an Exerciser Member immediately prior to the CME Transaction, a CBOT "member" needed to hold (i) one B–1 Membership, (ii) one Exercise Right Privilege, and (iii) 27,338 shares of CBOT Common Stock.

[15] As part of the CME Transaction, the 27,338 shares of CBOT Common Stock were converted into 10,251.75 shares of CME Group Common Stock.

[16] *See* Securities Exchange Act Release No. 56458 (Sept. 18, 2007), 72 FR 54309 (Sept. 24, 2007) (notice of filing and immediate effectiveness of SR–CBOE–2007–107).

[17] *See* Securities Exchange Act Release No. 57159 (Jan. 15, 2008), 73 FR 3769 (Jan. 22, 2008) (order approving SR–CBOE–2006–106).

CBOE Temporary Members").[18] The Payment to each such Eligible CBOE Temporary Member would equal the total amount of Access Fees paid to CBOE by such Eligible CBOE Temporary Member during the period from June 1, 2008 to the date CBOE demutualizes ("CBOE Demutualization Date") or the date CBOE is restructured in a different manner ("CBOE Conversion Event Date").[19] The Payment would be measured exclusively in respect of Access Fees that were paid in respect of CBOE Temporary Membership(s) held because the Eligible CBOE Temporary Member beneficially owned the three parts necessary to be an Exerciser Member on July 11, 2007. Under the Stipulation, the Payment would be paid by CBOE within five business days of the later of (i) the CBOE Demutualization Date or the CBOE Conversion Event Date, and (ii) the SEC's order approving CBOE's request to make the Payment.

(ii) Discussion

Under paragraph 22 of CBOE's fee schedule, every CBOE Temporary Member is required to pay a monthly fee to CBOE to have access to the Exchange (*i.e.,* an Access Fee). This paragraph provides in part that this fee "is assessed to each person granted temporary CBOE membership status under CBOE Rule 3.19.02," and that this fee "is non-refundable."

CBOE is filing this proposed rule change to reflect its conclusion that the Payment is part of the business decision it made to resolve the CBOT Lawsuit, and that its act of making the Payment therefore is concerned solely with the administration of the Exchange.[20] In this regard, CBOE believes that while the Payment is measured by the Access Fees paid by Eligible CBOE Temporary Members, it should not be viewed as a refund or waiver of such fees. Rather, it should be viewed as part of the settlement consideration that CBOE made the business decision to pay, as reflected in the Stipulation, to resolve the CBOT Lawsuit. When the Payment is viewed in this manner, CBOE believes that its act of making the Payment is an action concerned solely with the administration of the Exchange. As noted above, CBOE is filing this interpretation out of an abundance of caution, even though CBOE believes that it does not implicate CBOE's obligations as an SRO.

As described above and in detail in the Delaware Court's Opinion, the settlement set forth in the Stipulation is the product of hard-fought negotiations between CBOE and the CBOT Parties. The litigation was commenced by the CBOT Parties in August 2006, but the dispute underlying the litigation—namely, the scope of the Exercise Right—has been subject to disagreements and disputes between CBOE and the CBOT almost since the inception of the Exercise Right in 1972. The settlement is intended to resolve once and for all the disputes over the Exercise Right. The court approved the settlement, including the Payment, finding it to be fair and reasonable.

In approving the Payment, as well as another portion of the total settlement consideration related to Access Fees (collectively with the Payment, the "Additional Payments"), the Delaware Court rejected objections by certain member organizations that the Additional Payments should also be paid to CBOE member organizations. Specifically, the Delaware Court stated that:

> If rights to Additional Payments were opened up to legal entities generally, the exposure of CBOE would increase materially. This is but one part of a much larger settlement negotiation process. In the context of the overall settlement and in recognition that many contested lines had to be drawn, the Court concludes that the conditions for qualifying for Additional Payments were established reasonably. In short, the objections of [those member organizations] to the fairness of the Settlement are overruled. (footnotes omitted)

Thus, the Delaware Court recognized that the Additional Payments, including the Payment, were the product of a highly-negotiated settlement.[21]

In addition to the Delaware Court's approval of the settlement, the CBOE membership voted to approve the settlement on September 17, 2008. Prior to that membership vote, CBOE provided the membership with electronic access to a copy of the Stipulation, as well as an information circular on August 20, 2008 that summarized key settlement terms.[22] This information circular outlined the total settlement consideration, and included a description of the Payment. Thus, CBOE believes that the membership was fully informed that the Payment was part of the settlement consideration that CBOE made the business decision to pay in order to resolve the CBOT Lawsuit. Accordingly, CBOE believes that the Payment should be viewed as such, rather than as a refund or waiver of Access Fees.

CBOE believes that its act of making the Payment does not implicate its responsibilities under Section 6(b)(4) of the Exchange Act, which requires CBOE's rules to "provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities."[23] In this regard, CBOE believes that its act of making the Payment should not viewed as a fee change subject to this provision. Instead, CBOE believes that its act of making the Payment should be viewed as an undertaking to give full effect to the business decision it made to resolve the CBOT Lawsuit.

Similarly, CBOE believes that its act of making the Payment does not implicate its responsibilities under Sections 6(b)(5) and 6(b)(8) of the Exchange Act.[24] Section 6(b)(5) requires CBOE's rules "to promote just and equitable principles of trade" and to avoid "unfair discrimination between customers, issuers, brokers, or dealers,"

[18] *See supra* note 14. The Payment is referred to in the Stipulation as the "Supplemental Fee Based Payment," and is described in paragraph 36G of the Stipulation.

[19] The Stipulation defines the "CBOE Demutualization Date" as "the date on which the CBOE Demutualization Transaction is effective," the "CBOE Demutualization Transaction" as the "the transaction in which the memberships held by CBOE Seat Owners will be converted into or exchanged for Class A Common Stock of the CBOE Demutualization Entity," and the "CBOE Demutualization Entity" as "CBOE Holdings, Inc., a Delaware stock corporation, or such other Delaware stock corporation, including CBOE, if applicable, the common stock of which is issued to CBOE Seat Owners and [certain members of the settlement class] in the CBOE Demutualization Transaction."

In addition, the Stipulation defines the "CBOE Conversion Event Date" as "the date on which a CBOE Conversion Event is effective," and the "CBOE Conversion Event" as "(i) any consolidation, combination or merger of CBOE with another entity, other than the CBOE Demutualization Transaction, regardless of which entity is the surviving entity, in connection with which CBOE Seat Owners shall be entitled to receive securities, cash, assets, rights or other property or things of value (or any combination thereof) in respect of their memberships, (ii) the sale, lease, transfer, license or other disposition, in a single transaction or series of transactions, of all or substantially all of the assets of CBOE, (iii) any liquidation, dissolution, or winding up of CBOE or (iv) any recapitalization, reorganization or other transaction or event, or series of transactions or events, other than the CBOE Demutualization Transaction, upon the effectiveness of which CBOE Seat Owners shall be entitled to receive securities, cash, assets, rights or other property or things of value (or any combination thereof) upon conversion, sale or other disposition of, or in exchange for, their memberships."

[20] As noted above, CBOE has determined to file the proposed rule change under Section 19(b)(3)(A)(iii) of the Exchange Act and Rule 19b–4(f)(3) thereunder because it is concerned solely with the administration of CBOE. 15 U.S.C. 78s(b)(3)(A)(iii) and 17 CFR 240.19b–4(f)(3).

[21] While the Delaware Court referred to these Additional Payments as "rebates" in its Opinion, we believe that these Additional Payments are more properly characterized as part of the business decision to settle the CBOT Lawsuit.

[22] *See* CBOE Information Circular IC08–143.

[23] 15 U.S.C. 78f(b)(4).

[24] 15 U.S.C. 78f(b)(5) and (b)(8).

and Section 6(b)(8) requires CBOE's rules to "not impose any burden on competition not necessary or appropriate in furtherance of the purposes of" the Exchange Act.[25] CBOE believes that its act of making the Payment should not be viewed as treating an Eligible CBOE Temporary Member differently from a non-Eligible CBOE Temporary Member. Rather, CBOE believes that its act of making the Payment should be viewed as an undertaking to give full effect to the business decision it made to resolve the CBOT Lawsuit.

2. Statutory Basis

For the reasons described above, the Exchange believes that this proposed rule change is not inconsistent with its obligations under Section 6(b) of the Exchange Act.[26] In particular, CBOE believes that its act of making the Payment does not implicate its obligations under Sections 6(b)(4), 6(b)(5) and 6(b)(8) of the Exchange Act,[27] or other obligations it has under Section 6(b) of the Exchange Act.[28] Rather, CBOE believes that its act of making the Payment should be viewed as an undertaking to give full effect to the business decision it made to resolve the CBOT Lawsuit.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[29] and subparagraph (f)(3) of Rule 19b–4 thereunder.[30] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2010–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2010–014. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2010–014 and should be submitted on or before March 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–3641 Filed 2–23–10; 8:45 am]

BILLING CODE 8011–01–P

[25] *Id.*

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(4), (b)(5) and (b)(8).

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78s(b)(3)(A)(iii).

[30] 17 CFR 240.19b–4(f)(3).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61529; File No. SR–Phlx–2010–17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating to the Options Regulatory Fee

February 17, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Options Regulatory Fee.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Options Regulatory Fee to eliminate the minimum one-cent charge per trade. The Exchange notes that the total monthly charges to be assessed in a given month will be rounded to the nearest $0.01. The Exchange believes that by eliminating the one-cent charge per trade this should reduce fees related to the ORF for members.

Currently, the Exchange assesses $.0035 per contract to each member for all options transactions executed or cleared by the member that are cleared by The Options Clearing Corporation ("OCC") in the customer range (*i.e.,* that clear in the customer account of the member's clearing firm at OCC), excluding P/A Orders as defined in the Options Intermarket Linkage Plan ("Linkage").[3] The ORF is imposed upon all such transactions executed by a member, even if such transactions do not take place on the Exchange.[4] The ORF also includes options transactions that are not executed by an Exchange member but are ultimately cleared by an Exchange member. The Exchange charges members $.0035 per contract for all options transactions executed or cleared by the member that are cleared by OCC in the customer range, excluding Linkage P/A Orders, regardless of the marketplace of execution. In the case where one member both executes a transaction and clears the transaction, the ORF is assessed to the member only once on the execution. In the case where one member executes a transaction and a different member clears the transaction, the ORF is assessed only to the member who executes the transaction and is not assessed to the member who clears the transaction. In the case where a non-member executes a transaction and a member clears the transaction, the ORF is assessed to the member who clears the transaction. The ORF is not charged for member options transactions because members incur the costs of owning memberships and through their memberships are charged transaction fees, dues and other fees that are not applicable to non-members.[5] The dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The ORF is collected indirectly from members through their clearing firms by OCC on behalf of the Exchange. Currently, there is a minimum one-cent charge per trade.[6]

The ORF is designed to recover a portion of the costs to the Exchange of the supervision and regulation of its members, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, do not exceed regulatory costs. If the Exchange determines regulatory revenues would exceed regulatory costs, the Exchange would adjust the ORF by submitting a fee change filing to the Commission.

Presently, the Exchange, in monitoring its revenue, has determined that regulatory revenues may exceed regulatory costs on an annual basis. The Exchange is proposing to adjust the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed regulatory costs. The Exchange will continue to monitor the amount of revenue collected from the ORF.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(4) of the Act[8] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The Exchange believes that this fee proposal is equitable because it eliminates the minimum one-cent charge per trade and reduces the monthly ORF charge for all members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and paragraph (f)(2) of Rule 19b–4[10] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml;* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2010–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2010–17. This file

[3] *See* Securities Exchange Act Release Nos. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009) (National Market System Plan Relating to Options Order Protection and Locked/Crossed Markets).

[4] The ORF would apply to all "C" account origin code orders executed by a member on the Exchange. Exchange rules require each member to record the appropriate account origin code on all orders at the time of entry in order to allow the Exchange to properly prioritize and route orders and assess transaction fees pursuant to the rules of the Exchange and report resulting transactions to the OCC. *See* Exchange Rule 1063, Responsibilities of Floor Brokers, and Options Floor Procedure Advice F–4, Orders Executed as Spreads, Straddles, Combinations or Synthetics and Other Order Ticket Marking Requirements. The Exchange represents that it has surveillances in place to verify that members mark orders with the correct account origin code.

[5] For example, non-broker-dealer customers generally are not charged transaction fees to trade equity options on the Exchange.

[6] *See* Securities and Exchange Act Release No. 61133 (December 9, 2009), 74 FR 66715 (December 16, 2009) (SR–Phlx–2009–100).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2010–17 and should be submitted on or before March 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–3546 Filed 2–23–10; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61514; File No. SR–BX–2010–013]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change To Modify Fees for Members Using the NASDAQ OMX BX Equities System

February 12, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on January 29, 2010, NASDAQ OMX BX, Inc. ("BX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BX is filing a proposed rule change to modify pricing for BX members using the NASDAQ OMX BX Equities System. BX will implement the proposed rule change on February 1, 2010. The text of the proposed rule change is attached as Exhibit 5 [3]and is available at *http://nasdaqomxbx.cchwallstreet.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, BX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. BX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BX is proposing to modify its fees to execute transactions on the NASDAQ OMX BX Equities System. BX is modifying its fee structure for securities that execute at prices below $1. For these securities, BX currently charges members accessing liquidity a fee equal to 0.1% (10 basis points) of the total transaction cost and provides no credit to members providing liquidity. Under the new fee structure, members accessing liquidity will be charged 0.3% (30 basis points) of the total transaction cost, and members providing liquidity will be provided a credit equal to 0.25% (25 basis points) of the total transaction cost. The change is intended to provide a competitive response to another trading venue that has adopted a similar "maker-taker" pricing structure for securities priced below $1.[4] The proposal is consistent with the provisions of Rule 610 under Regulation NMS[5] that govern access fees.

[3] The Commission notes that Exhibit 5 is not attached to this Notice which is being published in the **Federal Register,** however it will be posted on the Commission's Web site.

[4] *See http://www.directedge.com/SubscriberInfo/FeeSchedule.aspx.*

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and with Section 6(b)(4) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which BX operates or controls. BX is adapting the "maker-taker" pricing model that is prevalent across most U.S. transaction venues for securities priced at $1 or higher and applying it [sic] securities priced below $1. This change is a competitive response to another trading venue that has already introduced this pricing model for low-priced securities. The change will result in a fee increase for firms when they access liquidity in these securities and a fee reduction for firms when they provide liquidity in these stocks. The proposed fee change applies uniformly to all BX members.

The impact of the changes upon the net fees paid by a particular market participant will depend upon the types of stocks that it trades, the order types that it uses, and the prices of its quotes and orders (*i.e.,* its propensity to add or remove liquidity). BX notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. BX believes that its fees remain competitive with other venues and are reasonable and equitably allocated to those members on the basis of whether they opt to direct orders to BX.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[5] 17 CFR 242.610.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and subparagraph (f)(2) of Rule 19b-4 thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BX–2010–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2010–013. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2010–013 and should be submitted on or before March 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–3544 Filed 2–23–10; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(a)(ii).

[9] 17 CFR 240.19b-4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6904]

Culturally Significant Objects Imported for Exhibition Determinations: "Leaves From an Austrian Mahzor"

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 "Leaves from an Austrian Mahzor," 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 Metropolitan Museum of Art Cloisters, New York, NY, from on or about June 1, 2010, until on or about June 1, 2012, 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: February 17, 2010.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–3710 Filed 2–23–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6903]

Culturally Significant Objects Imported for Exhibition Determinations: "Matisse: Radical Invention 1913–1917"

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 "Matisse: Radical Invention 1913–1917," 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 Art Institute of Chicago, Chicago, IL, from on or about March 20, 2010, until on or about June 20, 2010; at the Museum of Modern Art, New York, NY, from on or about July 18, 2010, until on or about October 11, 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: *February 18, 2010.*

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–3709 Filed 2–23–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6902]

Culturally Significant Objects Imported for Exhibition Determinations: "Masterpieces of European Painting From Dulwich Picture Gallery"

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 "Masterpieces of European Painting from Dulwich Picture Gallery," 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 owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Frick Collection, New York, NY, from on or about March 9, 2010, until on or about May 30, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: February 18, 2010.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–3711 Filed 2–23–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6881]

Advisory Committee on International Postal and Delivery Services

AGENCY: Department of State.

ACTION: Notice; FACA Committee meeting announcement.

SUMMARY: As required by the Federal Advisory Committee Act, Public Law 92–463, the Department of State gives notice of a meeting of the Advisory Committee on International Postal and Delivery Services. This Committee has been formed in fulfillment of the provisions of the 2006 Postal Accountability and Enhancement Act (Pub. L. 109–435) and in accordance with the Federal Advisory Committee Act. The Committee meeting scheduled for Thursday, February 11, 2010, was cancelled due to inclement weather.

Public input: Any member of the public interested in providing public input to the meeting should contact Mr. Chris Wood, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Each individual providing oral input is requested to limit his or her comments to five minutes. Requests to be added to the speaker list must be received in writing (letter, e-mail, or fax) prior to the close of business on March 4, 2010; written comments from members of the public for distribution at this meeting must reach Mr. Wood by letter, e-mail, or fax by this same date. A member of the public requesting reasonable accommodation should make the request to Mr. Wood by that same date.

Meeting agenda: The agenda of the meeting will include a review of the results of the October-November 2009 session of the UPU Council of Administration and other subjects related to international postal and delivery services of interest to Advisory Committee members and the public.

DATES: March 11, 2010, from 2 p.m. to about 5 p.m. (open to the public).

Location: The American Institute of Architects (Boardroom), 1735 New York Ave., NW., Washington, DC 20006.

For further information, please contact Christopher Wood, Office of Global Systems (IO/GS), Bureau of International Organization Affairs, U.S. Department of State, at (202) 647–1044, *woodcs@state.gov.*

Dated: February 17, 2010.

Dennis M. Delehanty,

Foreign Affairs Officer, Department of State.

[FR Doc. 2010–3712 Filed 2–23–10; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 13, 2009, vol. 74, no. 218, page 58677. The FAA Office of the Associate Administrator for Commercial Space Transportation (AST) conducts this survey in order to obtain industry input on customer service standards which have been developed and distributed to industry customers.

DATES: Please submit comments by March 26, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Associate Administrator for Commercial Space Transportation Customer Service Survey.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0611.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 50 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 1 hour per response.

Estimated Annual Burden Hours: An estimated 50 hours annually.

Abstract: The FAA Office of the Associate Administrator for Commercial Space Transportation (AST) conducts this survey in order to obtain industry input on customer service standards which have been developed and distributed to industry customers. This is a requirement of the White House NPR Customer Service Initiative. AST collects and analyzes the data for results.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed

to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 18, 2010.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–3704 Filed 2–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 16, 2009, vol. 74, no. 199, pages 53316–53317. Title 49, United States Code, Section 44702 authorizes the appointment of appropriately qualified persons to be representatives of the Administrator to allow those persons to examine, test and certify other persons for the purpose of issuing them pilot and instructor certificates.

DATES: Please submit comments by March 26, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Representatives of the Administrator, 14 CFR part 183.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0033.

Form(s): 8110–14, 8110–28, 8710–6, 8710–10.

Affected Public: An estimated 5,015 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 1.4 hours per response.

Estimated Annual Burden Hours: An estimated 7,098 hours annually.

Abstract: Title 49, United States Code, Section 44702 authorizes the appointment of appropriately qualified persons to be representatives of the Administrator to allow those persons to examine, test and certify other persons for the purpose of issuing them pilot and instructor certificates.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 18, 2010.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–3721 Filed 2–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2009–0192]

Reports, Forms, and Record Keeping Requirements

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

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes a generic Information Collection Request (ICR) for which NHTSA intends to seek OMB approval.

DATES: Comments must be submitted on or before April 26, 2010.

ADDRESSES: Direct all written comments to the U.S. Department of Transportation Dockets, 1200 New Jersey Ave., SE., W46–474, Washington, DC 20590. Docket No. NHTSA–2009–0192.

FOR FURTHER INFORMATION CONTACT: Scott Roberts, PhD, Contracting Officer's Technical Representative, Office of Behavioral Safety Research (NTI–132), National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., W46–495, Washington, DC 20590. Dr. Roberts' phone number is 202–366–5594 and his e-mail address is *Scott.Roberts@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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) 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) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Title: Focus Groups for Traffic Safety Programs, Interventions and Countermeasures.

Type of Request: New generic information collection request.

OMB Clearance Number: N/A.

Form Number: This collection of information uses no standard forms.

Requested Expiration Date of Approval: May 31, 2013.

Summary of the Collection of Information: The National Highway Traffic Safety Administration (NHTSA) anticipates the needs to periodically conduct focus group sessions to refine its efforts to reduce traffic injuries and fatalities. Session participation would be voluntary and compensated with a $75 honorarium. Focus group topics will include: strategic messaging (*e.g.,* slogans or advertisement concepts concerning seat belt use, impaired driving, driver distraction or tire pressure monitoring), problem identification (*e.g.,* discussions with high-risk groups on beliefs, attitudes, driving behaviors, or reactions to interventions and countermeasures), and resource development (*e.g.,* testing materials designed to communicate essential information about traffic safety issues such as vehicle or equipment performance rating systems). The purpose of the generic clearance request is to obtain approval for NHTSA's general approach to conducting focus group research. NHTSA will submit an individual Information Collection Request (ICR), detailing the specific nature and methodology of planned focus group sessions, to the Office of Management and Budget (OMB) prior to any collection activity covered under this generic clearance.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established by the Highway Safety Act of l970 (23 U.S. C. 101) to carry out a Congressional mandate to reduce the mounting number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. In support of this mission, NHTSA anticipates the occasional need to conduct focus group sessions in order to develop and refine effective interventions and countermeasures.

NHTSA will use the findings from focus group sessions to help focus current programs, interventions and countermeasures in order to achieve the greatest benefit in decreasing crashes and resulting injuries and fatalities, and provide informational support to States, localities, and law enforcement agencies that will aid them in their efforts to reduce traffic crashes.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Each year NHTSA anticipates conducting 100 focus groups sessions. Likely respondents are licensed drivers 18 years of age and older who have not participated in a previous focus group session.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information—Each of the 100 focus group sessions will consist of 10 participants on average and last approximately 80 minutes. Participants will be recruited by intercept or telephone using a brief screening questionnaire estimated to take no more than 10 minutes. Therefore, the estimated annual burden is 1500 hours. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any record keeping burden or record keeping cost from the information collection.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Issued on: February 19, 2010.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2010–3656 Filed 2–23–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Civil Supersonic Aircraft Panel Discussion

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting participation.

SUMMARY: This notice advises interested persons that the FAA is participating in a panel session on civil supersonic aircraft research. The session will include presentations on current research programs and a question and answer session for attendees. The FAA is seeking to raise public awareness of the continuing technological advances in supersonic aircraft technology aimed at reducing the intensity of sonic boom.

DATES: The public session will take place on Wednesday, April 21, 2010. The panel discussion is from 7 p.m. to 8:30 p.m. in Baltimore, Maryland.

ADDRESSES: The symposium is sponsored by the joint meeting of the 159th Acoustical Society of America and NOISE–CON 2010 and it will be held at the Baltimore Marriott Waterfront Hotel, Grand Ballroom V, 700 Aliceanna Street, Baltimore, MD 21202. Attendance is open to all interested parties, and there are no fees to attend this session.

FOR FURTHER INFORMATION CONTACT: Laurette Fisher, Office of Environment and Energy (AEE–100), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; facsimile (202) 267–5594, telephone (202) 267–3561.

Background: Since March 1973, supersonic flight over land by civil aircraft has been prohibited in the United States. The Concorde was the only civil supersonic airplane that offered service to the United States, but that airplane is no longer in service.

The interest in supersonic aircraft technology has not disappeared. Current research is dedicated toward reducing the impact of sonic booms as they reach the ground, in an effort to make overland flight acceptable. Recent research has produced promising results for low boom intensity, and has renewed interest in developing supersonic civil aircraft that could be considered environmentally acceptable for supersonic flight over land.

The FAA led its first panel discussion entitled, "State of the Art of Supersonics Aircraft Technology—What has progressed in science since 1973," in Chicago, IL on Friday, October 24, 2008, as part of the O'Hare Noise Compatibility Commission Symposium. The second panel discussion was held in Palm Springs, CA on Sunday, March 1, 2009, as part of the Annual University of California Symposium on Aviation Noise and Air Quality.

The FAA's third presentation and panel discussion will take place on Wednesday, April 21, 2010, as part of the joint meeting of the 159th Acoustical Society of America and

NOISE–CON 2010. It will be held at the Baltimore Marriott Waterfront Hotel, Grand Ballroom V, 700 Aliceanna Street, Baltimore, Maryland 21202.

The purpose of this panel session is to raise public awareness on advances in supersonic technology, and for the FAA, the National Aeronautics and Space Administration (NASA), and industry to get feedback from interested persons.

Public involvement is essential in any future definition of an acceptable new standard that would allow supersonic flights over land. We anticipate that this will be the second of many meetings informing the public on developments in the research of shaped sonic booms and other technical and environmental challenges that need to be addressed in developing a new supersonic airplane.

More information about the ASA/NOISE–CON joint meeting can be found at: *http://asa.aip.org/Baltimore/Baltimore.html* and *http://www.inceusa.org/NC10/.*

Issued in Washington, DC on February 18, 2010.

Lourdes Q. Maurice,

Acting Director of Environment and Energy.

[FR Doc. 2010–3726 Filed 2–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–295 (Sub-No. 7X); STB Docket No. AB–55 (Sub-No. 698X) [1]]

The Indiana Rail Road Company—Abandonment Exemption—in Martin and Lawrence Counties, IN; CSX Transportation, Inc.—Discontinuance of Service Exemption—in Clark, Floyd, Lawrence, Orange, and Washington Counties, IN

AGENCY: Surface Transportation Board.

ACTION: Notice of public meeting.

SUMMARY: Staff members of the Surface Transportation Board will hold a public meeting concerning the abandonment and discontinuance petitions for exemption in the respective above-titled dockets. The purpose of the meeting is to allow interested persons to comment on the petitions for exemption.

DATE/LOCATION: The public meeting will take place on March 5, 2010, beginning at 10 a.m., in the Community/Meeting Room of the Washington County Annex, 806 Martinsburg Road, Salem, IN.

FOR FURTHER INFORMATION CONTACT: Julia Farr, (202) 245–0359. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: A decision in STB Docket No. AB–295 (Sub-No. 7X), served on February 16, 2010, provided that a public meeting conducted by Board staff will be held to permit interested persons to express their views about the petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 filed by The Indiana Rail Road Company, requesting permission to abandon a 21.15-mile line of railroad extending from milepost 241.35 east of Crane, IN, to milepost 262.50 in Bedford, IN (Crane-Bedford Line), and a track extending from the Crane-Bedford Line at approximately milepost 262.40 and proceeding in an open counter-clockwise loop for approximately 1.65 miles (Bedford Industrial Track).

Letters of protest and requests for public hearing have been filed by: The Honorable Baron Hill, United States Congressman; Eric Koch, Indiana State Representative; Shawna Girgis, City of Bedford Mayor; Dan Terrell, City of Mitchell Mayor; Richard Wilson, on behalf of Radius Indiana; Citizens Against Rails-to-Trails; and several landowners. Correspondence expressing concern over the potential loss of rail service and, in one instance, requesting a hearing, has also been submitted by: Brent Steele, Indiana State Senator; Sandy Blanton, Indiana State Representative; David Bower, City of Salem Mayor; Douglas England, City of New Albany Mayor; David Branneman, Lawrence County Tourism Commission Executive Director; Gene McCracken, Lawrence County Economic Growth Council Executive Director; and Adele Bowden-Purlee, Bedford Area Chamber of Commerce President.[2]

Additionally, in STB Docket No. AB–55 (Sub-No. 698X), *CSX Transportation, Inc.—Discontinuance of Service Exemption—in Clark, Floyd, Lawrence, Orange, and Washington Counties, IN,* a petition for exemption was filed by CSX Transportation, Inc., to discontinue service over a line of railroad from a point south of Bedford to New Albany, IN, a distance of 62.3 miles. A number of the parties who have filed protests or comments in STB Docket No. AB–295 (Sub-No. 7X) reference in their submissions the impact of both that proposed abandonment as well as the proposed discontinuance in STB Docket No. AB–55 (Sub-No. 698X). While the two proceedings are independent matters that will be treated separately by the Board, participants may discuss both proceedings at the public meeting.

During the public meeting, staff from the Board's Office of Proceedings will hear comments regarding both the abandonment proceeding and the discontinuance proceeding. The meeting will continue until all interested persons or parties have had an opportunity to speak. Persons wishing to speak should place their names on the list of speakers upon arrival at the Washington County Annex. A court reporter will transcribe the meeting and prepare a transcript that will be included in the public record of each proceeding.

All decisions, notices, and filings in this proceeding are available on the Board's Web site at *http://www.stb.dot.gov.* A transcript of the meeting will also be posted on the Board's Web site.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Dated: February 18, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Andrea Pope-Matheson,

Clearance Clerk.

[FR Doc. 2010–3576 Filed 2–23–10; 8:45 am]

BILLING CODE 4915–01–P

[1] These proceedings are not consolidated; they are being handled together for administrative convenience.

[2] Correspondence submitted in response to STB Docket No. AB–295 (Sub-No. 7X) has been placed in the public docket even if it has not been served on all parties. However, pursuant to 49 CFR 1104.12, every document filed with the Board should include a certificate showing simultaneous service on all parties of record, if the filer intends for the document to be considered in the Board's evaluation of the merits of the proceeding.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 18, 2010.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the publication date of this notice. A copy of the submission may be obtained by calling the Treasury Departmental Office Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

DATES: Written comments should be received on or before March 26, 2010 to be assured of consideration.

Community Development Financial Institutions (CDFI) Fund

OMB Number: 1559–0033.

Type of Review: Revision of a currently approved collection.

Title: Quarterly Institutional Level Report.

Form: CDFI Form 0027.

Description: The CDFI Fund is requiring American Recovery and Reinvestment Act (ARRA) awardees to complete, on a quarterly basis, a much shorter version of the CDFI Fund's Institutional Level Report (ILR), which awardees currently report through the Community Investment Impact System (CIIS). The QILR will help the CDFI Fund to meet its own ARRA agency reporting requirements per OMB guidance and enable the CDFI Fund to standardize the data that ARRA awardees will be reporting separately to the CDFI Fund and *http://www.FederalReporting.gov* .

Respondents: Private Sector: businesses or other for-profits, not-for-profit institutions.

Estimated Total Burden Hours: 6,527 hours.

CDFI Fund Clearance Officer: Ashanti McCallum, Community Development Financial Institutions Fund, Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005; (202) 622–9018.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2010–3570 Filed 2–23–10; 8:45 am]

BILLING CODE 4810–70–P

Federal Register

Wednesday,
February 24, 2010

Part II

Department of Homeland Security

Coast Guard

46 Parts 25, 27, 28, et al.
Carbon Dioxide Fire Suppression Systems on Commercial Vessels; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 25, 27, 28, 31, 34, 35, 62, 71, 76, 78, 91, 95, 97, 107, 108, 112, 115, 118, 119, 122, 131, 132, 147, 162, 167, 169, 176, 181, 182, 185, 189, 190, 193, 194, and 196

[USCG–2006–24797]

RIN 1625–AB44

Carbon Dioxide Fire Suppression Systems on Commercial Vessels

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the current regulations for fire suppression systems on several classes of commercial vessels. The amendments would clarify that approved alternatives to carbon dioxide systems may be used to protect some spaces on these vessels and would set general requirements for alternative systems.

Additionally, new and existing carbon dioxide systems, when used in spaces that can be accessed by persons onboard the specified commercial vessels, would need to be equipped with lockout valves and olfactory additives to protect persons in the event of a carbon dioxide discharge. By requiring these features on carbon dioxide systems and by making a wider range of fire suppression systems available, the proposed regulations advance the Coast Guard's mission of promoting maritime safety and mobility.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before May 25, 2010 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2006–24797 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

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

Viewing incorporation by reference material: You may inspect the material proposed for incorporation by reference at room 1308, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Stop 7126, Washington, DC 20593–7126 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–372–1356. Copies of the material are available as indicated in the "Incorporation by Reference" section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Lieutenant Commander Suzanne Hemann, U.S. Coast Guard; telephone 202–372–1356, e-mail *Suzanne.E.Hemann@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

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

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2006–24797), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert "USCG–2006–24797" in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert "USCG–2006–24797" in the Docket ID box, press Enter, and then click on the item in the Docket ID column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

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

D. Public Meeting

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

II. Abbreviations

CO_2	Carbon dioxide
DHS	Department of Homeland Security
FK-5-1-12	Dodecafluoro-2-methylpentan-3-one
FR	**Federal Register**
HFC-227ea	Heptafluoropropane
IG-541	Nitrogen 52%, argon 40%, and carbon dioxide 8%
MODUs	Mobile offshore drilling units
U.S.C.	United States Code

III. Background

Until recently, carbon dioxide (CO_2) systems were the only systems suitable for suppressing or extinguishing fires in certain vessel spaces, such as those used for cargo and various types of machinery. Our current regulations require the use of CO_2 systems in such spaces on towing vessels, tank vessels, cargo and miscellaneous vessels, mobile offshore drilling units (MODUs), offshore supply vessels, public nautical school ships, and large passenger vessels ("Subchapter H" vessels). We also allow carbon dioxide systems on small passenger vessels carrying more than 150 passengers or with overnight accommodations for more than 49 passengers ("Subchapter K" vessels) and other small passenger vessels ("Subchapter T" vessels).

Carbon dioxide systems work by flooding a protected space with CO_2, thereby depriving a fire of the oxygen it needs to burn. Unfortunately, when a carbon dioxide discharge occurs, oxygen deprivation poses a risk to persons who may be in this protected space. Crew members have died when odorless CO_2 gas was discharged in their spaces accidentally or without adequate warning to evacuate.

In recent years, alternative systems have been developed that are comparable to carbon dioxide systems in their ability to suppress fires, but that do not pose the same risks to persons onboard. Our regulations currently allow for the use of Coast Guard-approved alternative systems. At present, most approved systems use halocarbon clean agents HFC-227ea (heptafluoropropane), FK-5-1-12 (dodecafluoro-2-methylpentan-3-one), or IG-541 (nitrogen 52%, argon 40%, and carbon dioxide 8%). We have also approved water mist systems for some applications. These systems have been tested by independent testing laboratories and have laboratory listings. Systems using other agents may be developed and approved in the future.

Along with the manufacturers of alternative systems, shipyards, and independent testing laboratories, we believe it would promote safety and be advantageous to industry to issue new regulations for installing, maintaining, and using approved carbon dioxide-alternative fire suppression systems.

IV. Discussion of Proposed Rule

We are proposing two overall changes to our regulations.

1. Lockout valves and olfactory additives.

We propose requiring lockout valves and olfactory additives in any CO_2 system used in a space that may be occupied by persons onboard, even if only occasionally.

Lockout valves, which are already required for shore-based facilities by National Fire Protection Association standards (NFPA 12, 2008 edition), are intended to be used during system maintenance to prevent inadvertent flooding of a protected space. We would require lockout valves on vessels that use CO_2 systems in spaces containing more than 6,000 cubic feet and in smaller spaces that do not have horizontal escapes, which provide a quick way to evacuate. Odorizer units would be required for CO_2 systems of any size to provide a scent to normally odorless CO_2 during discharge. A distinctive-smelling substance, like wintergreen, is added to the CO_2 so that in the event of a CO_2 discharge in a vessel's space, any persons in that space can quickly smell the discharge and evacuate.

Additionally, the odor would warn persons in adjacent spaces that the CO_2 may have migrated. The new lockout valve and olfactory additive requirements would apply immediately to new systems. They would be phased-in for existing systems, allowing the necessary simple retrofits to be made during drydocking or routine maintenance, thereby reducing the financial impact on vessel owners. Retrofitting would involve dismantling and reassembling a small section of system piping to include a lockout valve.

2. Alternative systems.

The second overall change we propose is to amend our existing regulations to make it clear that alternative systems using clean agent and inert gases may be used. Furthermore, we are proposing clarifications to the general requirements for maintaining, installing, and using an alternative system. System layout and control requirements would be based on the current regulations for engineered CO_2 systems on inspected vessels. Independent laboratories would oversee prototype testing and follow-up quality control supervision.

The following table lists the parts within 46 CFR that are affected by our proposal and the specific sections we propose to amend. The foregoing discussion provides a general explanation for each of these changes. When additional information is required, it appears in the table in parentheses. The table omits any discussion of numerous minor and nonsubstantive style, format, or wording changes that we are proposing solely to improve the clarity of our regulations.

TABLE 1—PROPOSED CHANGES TO 46 CFR

46 CFR part and topic	46 CFR sections affected (& comments)
25—Uninspected vessels	25.30–15 (remove paragraph designations and remove redundant second paragraph).
27—Towing vessels	27.101.
28—Commercial fishing industry vessels.	28.825.
31, 34, 35—Tank vessels	31.10–18 (remove flow test requirement in para. (f)), 34.01–15 (incorporation by reference), 34.05–5, 34.15–50 (new), 34.15–60 (new), 35.40–7, 35.40–8 (new), 35.40–10.
62—Marine engineering, vital systems automation.	62.25–20.
71, 76, 78—Subchapter H passenger vessels (≥ 100 gross tons).	71.20–20, 71.25–20, 71.65–5, 76.05–1, 76.10–5, 76.15–50 (new), 76.16–60 (new), 78.47–9, 78–47.11 (new), 78.47–17.

TABLE 1—PROPOSED CHANGES TO 46 CFR—Continued

46 CFR part and topic	46 CFR sections affected (& comments)
91, 95, 97—Cargo & miscellaneous vessels.	91.20–20, 91.25–20, 91.55–5, 95.01–2 (incorporation by reference), 95.05–10, 95.10–5, 95.15–5 (lengthen discharge time from 2 to 10 min. for spaces specially suitable for vehicles to provide greater safety margin and meet the International Maritime Organization's Safety of Life at Sea (SOLAS) requirements), 95.15–30 (provide for nitrogen pilot cylinders), 95.15–50 (new), 95.15–60 (new), 95.16–1—95.16–90 (new; based on current subpart 95.15, modified and reorganized), 97.37–9, 97.37–11 (new), 97.37–13.
107, 108—Mobile offshore drilling units	107.231, 107.235, 108.444 (new), 108.446 (new), 108.626 (new), 108.627, 108.631.
112—Electrical engineering, emergency lighting & power systems.	112.15–5.
115, 118, 119, 122—Subchapter K passenger vessels (< 100 gross tons & > 150 passengers or > 49 overnight passengers).	115.810, 118.410, 119.710, 122.612.
131, 132—Offshore supply vessels	131.815, 131.817 (new), 131.825, 132.350.
147—Hazardous ships' stores	147.7 (incorporation by reference), 147.45 (nonsubstantive change), 147.60 (nonsubstantive change), 147.66 (new), 147.67 (new).
162—Engineering equipment	162.161–1—162.161–9 (new).
167—Public nautical school ships	167.45–1, 167.45–45, 167.55–5.
169—Sailing school vessels	169.247, 169.564, 169.570 (new), 169.571 (new), 169.732, 169.734.
176, 181, 182, 185—Subchapter T passenger vessels (< 100 gross tons & ≤ 150 passengers or ≤ 49 passengers overnight).	176.810, 181.410, 182.710, 185.612.
189, 190, 193, 194, 196—Oceanographic research vessels.	189.25–20, 189.55–5, 190.15–5, 193.05–10, 193.10–5, 193.15–16 (new), 193.15–17 (new), 193.15–50 (new), 194.20–7, 196.37–8 (new), 196.37–9, 196.37–13.

V. Incorporation by Reference

Material proposed for incorporation by reference appears in 46 CFR 34.01–15, 46 CFR 147.7, and 46 CFR 162.161–2. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in 46 CFR 34.01–15, 46 CFR 147.7, and 46 CFR 162.161–2.

Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

VI. Regulatory Analysis

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

A. Regulatory Planning and Review

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

A draft Regulatory Analysis is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. A summary of the preliminary Regulatory Analysis follows.

We propose to amend the current regulations for carbon dioxide fire suppression systems on commercial vessels. The amendments would require certain safety requirements for current and future users of CO_2 systems. The proposed rule would require lockout valves for certain protected spaces as well as for an olfactory additive as a warning measure for all CO_2 systems. The proposed rule would also clarify what approved alternatives to CO_2 systems may be used to protect some spaces on these vessels and would set general requirements for alternative systems. We do not expect industry would incur additional costs as a result of the provisions for alternative systems. *See* below for additional discussion of alternative systems.

Carbon dioxide fire suppression systems pose a risk of asphyxiation to personnel. Lockout valves and olfactory additives help protect persons in the event of an inadvertent release during maintenance. Olfactory additives offer additional protection from leaks from a protected space to adjacent spaces and help alert personnel when CO_2 has been released. By requiring these features on carbon dioxide systems and making a wider range of fire suppression systems available, the proposed amendments would advance the Coast Guard's missions of promoting maritime safety and mobility.

U.S. flag vessel owners are expected to incur costs associated with this proposed rule. Vessel owners with existing CO_2 fire suppression systems would be required to add the lockout valves and olfactory units within five years of the publication of the final rule. This would allow enough time for vessel owners to add these features during scheduled vessel maintenance periods and would reduce the cost of compliance for vessel owners. For purposes of this regulatory assessment, we assume an equal proportion of systems will be retrofitted each year for five years. New vessel owners will incur the costs as systems are incorporated into new ships at construction.

Affected Population

Vessels with CO_2 fire suppression systems that are not in compliance with the proposed regulation would be required to install lockout valves at entrances to all spaces greater than 6,000 cubic feet in volume where personnel may enter, as well as, in spaces with 6,000 cubic feet in volume or less that do not have a horizontal escape for quick escape. Vessels equipped with existing CO_2 fire suppression systems would incur a cost for retrofitting valves to the systems. Newly constructed vessels installing new fire CO_2 suppression systems in similar spaces would also incur a cost for installation of lockout valves, although at a lower cost than retrofitting systems on existing vessels because installations during vessel construction are typically less costly.

Based on Coast Guard Marine Investigation Security and Law Enforcement (MISLE) data, we estimate

there are potentially 1,702 existing vessels with a total of 3,204 CO_2 fire suppression systems that would require lockout valves. The 3,204 existing systems consist of 1,054 larger systems that would require more expensive lockout valves and 2,150 smaller systems that would require less expensive lockout valves. Using MILSE data, we estimate there are potentially 22 small systems and 12 large systems installed each year on new vessels, which would be required to have lockout valves.

The population of affected vessels that would need to install olfactory additives (odorizers) includes all existing and new vessels with CO_2 systems. All existing vessels with CO_2 systems would require a retrofit for each protected space. Based on MISLE data, we estimate there are potentially 7,815 systems on 3,567 vessels that would be required to install odorizers.[1] Each new vessel with CO_2 systems would also require an odorizer for compartments of all sizes. Of the new vessels constructed annually, we estimate the 46 new systems/year installed would require odorizers.

Costs

Based on industry data, we estimate that average 2008 industry prices for installed retrofit large and small lockout valves are $3,513 and $1,475, respectively. Systems that handle more than 2,450 pounds of CO_2 require a valve larger than 2 inches. Of the 3,204 existing systems affected by this proposed rule, 1,054 would require the larger, more expensive lockout valves, while 2,150 systems require the smaller valves for a total undiscounted cost of about $6,873,425. The annual undiscounted cost for owners of vessels with existing systems to meet the lockout valve requirement of this proposed rule would be approximately $1,374,685 for each year of the five-year phase-in period.

Vessel owners wishing to install a new CO_2 fire suppression system would be required to have the lockout valves included in the installation. We estimate that the annual undiscounted industry cost for adding lockout valves to new CO_2 fire suppression systems to be $65,932 per year (based on installed costs on new systems of $1,258 for small valves and $3,188 for large valves). Industry would incur this cost for each year over the ten-year period of analysis.

As for odorizers, we estimate that the retrofit installed costs, including three warning signs, are $551/unit based on industry information. This is about $35 more than the estimated cost for new odorizers installed. With a five-year phase-in for all 7,815 systems, 1,563 systems will be retrofitted on average each year. We estimate the total annual undiscounted cost of the retrofit will be $861,213. For new systems using the lockout valve, we estimate the total annual undiscounted cost to be about $17,558 for all 34 protected areas. For the remaining systems not required to have a lockout valve, the cost for installing odorizers in 12 areas will be about $6,197. The total cost per vessel would be dependent on the number of areas protected by CO_2.

We estimated the total cost of this rulemaking over a ten-year period to be $12.1 million (*see* Table 2). For the first five years, we estimated the undiscounted costs to be $2,325,584/year for both retrofits and new installations.

TABLE 2—TOTAL COST OF ADDING LOCKOUT VALVES AND ODORIZERS TO CO_2 SYSTEMS

Year	Lockout valves	Odorizers	Total	Total 7% discount	Total 3% discount
2011	$1,440,617	$884,967	$2,325,584	$2,173,443	$2,257,849
2012	1,440,617	884,967	2,325,584	2,031,255	2,192,086
2013	1,440,617	884,967	2,325,584	1,898,370	2,128,239
2014	1,440,617	884,967	2,325,584	1,774,177	2,066,252
2015	1,440,617	884,967	2,325,584	1,658,110	2,006,070
2016	65,932	23,754	89,686	59,762	75,111
2017	65,932	23,754	89,686	55,582	72,923
2018	65,932	23,754	89,686	52,198	70,799
2019	65,932	23,754	89,686	48,783	68,737
2020	65,932	23,754	89,686	45,592	66,735
Total	7,532,745	4,543,609	12,076,354	9,797,543	11,004,801
Annualized Costs	.....	.....	.....	1,394,950	1,290,198

Source: USCG Calculations.
Note: Totals may not add due to rounding.

For the remaining years, the undiscounted costs are $89,686/year due to the new installations only. We discounted the annual costs at 3 percent and 7 percent and also annualized the total costs at the same rates. The total 10-year cost of the proposed rule is $9.8 million at a 7 percent discount rate and $11 million at 3 percent.

This proposed regulation would clarify Coast Guard acceptance of alternatives to using CO_2 systems. We do not believe that these provisions would have a cost impact because the Coast Guard has been approving alternative systems on an ad hoc basis. We believe these approved installed alternative systems would be compliant with the requirements for alternative systems proposed in this rulemaking.

With regard to alternative fire suppression systems, the use of halocarbon (only one of a number of alternatives) fire suppression systems has been increasing in recent years (2006–2008). Our records indicate that industry installed an average of 21 halocarbon fire suppression systems compared to an average of 34 CO_2 fire suppression systems with capacity over 6,000 cubic feet during this period.

Benefits

The primary benefit associated with this proposed rule is the reduction in risk of injuries and fatalities related to CO_2 exposure. CO_2 exposure has long been recognized as a potential hazard to human health. The National Institute of Occupational Safety and Health (NIOSH), in its publication NIOSH 76–194, "Criteria for a Recommended

[1] The difference in the vessel populations and system counts (lockout valve vs. odorizers) is reflective of the large number of extremely small sized systems that need odorizers, but do not need lockout valves (the balance of 7,815 − 3,204 or 4,611).

Standard—Occupational Exposure to Carbon Dioxide," available at *http://www.cdc.gov/niosh/76-194.html,* has set criteria for a standard for limits of exposure to CO_2 in workplace settings.

Other Federal and industry agencies and associations have also recently concluded that CO_2 fire suppression systems could pose a risk. For example, the National Fire Prevention Association (NFPA) guidance in its 2005 Edition for CO_2 fire suppression systems located on land states that "total flooding CO_2 suppression systems shall not be used in normally occupied enclosures". In addition, the EPA, in its 2000 report, "Carbon Dioxide as a Fire Suppressant: Examining the Risk," has suggested that clarifying maritime regulation would be beneficial to reducing accidental exposure.

The Regulatory Analysis available in the docket has additional detail on the assessment of the benefits and costs of this rulemaking. The assessment also contains details and analysis of the alternatives considered for this rulemaking.

B. Small Entities

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

A combined Regulatory Assessment and Initial Regulatory Flexibility Analysis discussing the impact of this proposed rule on small entities is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble.

Our data shows that there are 489 known entities that owned vessels with CO_2 fire suppression systems onboard in 2008. Of the 489, 26 are government entities with populations of more than 50,000 that we excluded from the small business analysis. Of the remaining 463 entities, we were able to find revenue and employment information for 100 entities. Of the 100, we confirmed that 37 were small as defined by Small Business Administration (SBA) size standards.

We assumed the remaining 363 entities to be small because we were unable to find revenue or employment information. Given that assumption of size, we concluded that small entities likely comprise 400 (363 + 37) or 81.8% of the total affected population.

Of the small entities with revenue and employee size data, we determined that 83.8% would have an annual revenue impact of less than 1 percent. Further, we estimated that the impact on 97.3% of these small entities would be less than 3% of annual revenue.

Therefore, the Coast Guard certifies under 5 U.S.C. § 605(b) that this rulemaking would not have a significant economic impact on a substantial number of small entities. We are interested in the potential impacts from this proposed rule on small businesses and we request public comment on these potential impacts. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rulemaking would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under the "Public Participation and Request for Comments" section of this preamble. In your comment, explain why, how, and to what degree you think this rule would have an economic impact on you.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding the proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant Commander Suzanne Hemann, CG–5214, U.S. Coast Guard, telephone 202–372–1356 or send her an e-mail at *suzanne.e.hemann@uscg.mil.* 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.

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).

D. Collection of Information

This proposed rule would require no new collection of information (COI) under the Paperwork Reduction Act (44 U.S.C. 3501–3520). The U.S. Coast Guard has been approving alternatives to CO_2 systems for a number of years and accounting for it in COI document "OMB Control Number 1625–0035". This rulemaking would not require any new recordkeeping or reporting requirements. Satisfactory lockout valve and olfactory installation will be confirmed by normal future Coast Guard inspections.

E. Federalism

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

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

This proposed rule would 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.

H. Civil Justice Reform

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

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to

safety that might disproportionately affect children.

J. Indian Tribal Governments

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

K. Energy Effects

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

L. 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 standard bodies.

This proposed rule uses the following consensus standards: Underwriters Laboratories (UL) standards UL 2127 entitled "Standard for Inert Gas Clean Agent Extinguishing System Units," UL 2166 entitled "Standard for Halocarbon Clean Agent Extinguishing System Units," and National Fire Protection Association (NFPA) 2001 entitled "Standard on Clean Agent Fire Extinguishing Systems." The proposed sections that reference these standards and the locations where these standards are available are listed in the proposed regulatory text for 46 CFR 34.01–15, 147.7, and 162.161–2.

This proposed rule also uses technical standards other than voluntary consensus standards. The test described in the regulatory text proposed for 46 CFR 162.161–6 is in accordance with requirements of the International Maritime Organization, IMO MSC/Circ.848 entitled "Revised Guidelines for the Approval of Equivalent Fixed Gas Fire-Extinguishing Systems, as referred to in chapter II–2 of SOLAS 74, for machinery spaces and cargo pump-rooms" and IMO MSC.1/Circ. 1267 entitled "Amendments to the Revised Guidelines for the Approval of Equivalent Fixed Gas Fire-Extinguishing Systems, as referred to in chapter II–2 of SOLAS 74, for machinery spaces and cargo pump-rooms (MSC/Circ. 848)". The remaining requirements and tests were developed by the Coast Guard and used to evaluate currently-approved carbon dioxide-alternative fire suppression systems. These requirements are described throughout the proposed regulations. They are used because we did not find voluntary consensus standards that are applicable to this rule. If you disagree with our analysis of the voluntary consensus standards listed above or are aware of voluntary consensus standards that might apply, but are not listed, please send a comment to the docket using one of the methods under **ADDRESSES**. In your comment, please explain why you disagree with our analysis and/or identify voluntary consensus standards we have not listed that might apply.

M. Environment

We have analyzed this proposed 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 made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. This rule involves amending the current regulations for carbon dioxide fire suppression systems on several classes of commercial vessels. Exclusion under paragraphs (34)(d) of Figure 2.1 of the Instruction and section 6(a) of the **Federal Register,** Vol. 67, No. 141, Tuesday July 23, 2002, page 48243 apply because this rule pertains to regulations concerning the equipping of vessels, as well as equipment approval. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 27

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 28

Alaska, Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 34

Cargo vessels, Fire prevention, Marine safety.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 62

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 76

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 95

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety.

46 CFR Part 97

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 108

Fire prevention, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 112

Vessels.

46 CFR Part 115

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 118

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 119

Marine safety, Passenger vessels.

46 CFR Part 122

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 131

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 132

Cargo vessels, Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 147

Hazardous materials transportation, Incorporation by reference, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

46 CFR Part 162

Fire prevention, Incorporation by reference, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 176

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 181

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 182

Marine safety, Passenger vessels.

46 CFR Part 185

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 190

Fire prevention, Marine safety, Occupational safety and health, Oceanographic research vessels.

46 CFR Part 193

Fire prevention, Marine safety, Oceanographic research vessels.

46 CFR Part 194

Explosives, Hazardous materials transportation, Marine safety, Oceanographic research vessels.

46 CFR Part 196

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

For the reasons listed in the preamble, the Coast Guard proposes to amend 46 CFR parts 25, 27, 28, 31, 34, 35, 62, 71, 76, 78, 91, 95, 97, 107, 108, 112, 115, 118, 119, 122, 131, 132, 147, 162, 167, 169, 176, 181, 182, 185, 189, 190, 193, 194, and 196 as follows:

PART 25—REQUIREMENTS

1. The authority citation for Part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4102, 4302; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 25.30–15 to read as follows:

§ 25.30–15 Fixed fire-extinguishing systems.

When a fixed fire-extinguishing system is installed, it must be a type approved or accepted by the Commandant (CG–5214) or the Commanding Officer, U.S. Coast Guard Marine Safety Center.

PART 27—TOWING VESSELS

3. The authority citation for Part 27 continues to read as follows:

Authority: 46 U.S.C. 3306, 4102 (as amended by Pub. L. 104–324, 110 Stat. 3901); Department of Homeland Security Delegation No. 0170.1.

4. In § 27.101, in the definition of "Fixed fire-extinguishing system", revise paragraphs (1) and (3), and add a new paragraph (4), to read as follows:

§ 27.101 Definitions.

* * * * *

Fixed fire-extinguishing system means:

(1) A carbon dioxide system that satisfies 46 CFR 76.15 and the system labeling requirements in 46 CFR 78.47–7 and 78.47–11 and that is approved by the Commandant;

* * * * *

(3) A manually-operated water-mist system that satisfies NFPA 750 (incorporated by reference; see 46 CFR 27.102) and that is approved by the Commandant; or

(4) A clean agent system that satisfies 46 CFR 95.16 and the labeling requirements of 46 CFR 97.37–9 and 97.37–11 and that is approved by the Commandant.

* * * * *

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

5. The authority citation for Part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; Department of Homeland Security Delegation No. 0170.1.

6. Revise § 28.825(b)(2)(iv) to read as follows:

§ 28.825 Excess fire detection and protection equipment.

* * * * *

(b) * * *

(2) * * *

(iv) The control cabinets or spaces containing valves or manifolds for the various fire extinguishing systems must be distinctly marked in conspicuous red letters at least 2 inches high: "[CARBON DIOXIDE/FOAM/CLEAN AGENT—as appropriate] FIRE SYSTEM."

* * * * *

PART 31—INSPECTION AND CERTIFICATION

7. The authority citation for Part 31 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1. Section

31.10–21 also issued under the authority of Sect. 4109, Pub. L. 101–380, 104 Stat. 515.

8. In § 31.10–18, revise Table 31.10–18(c) and paragraph (f) to read as follows:

§ 31.10–18 Firefighting equipment: General—TB/ALL.

* * * * *

(c) * * *

TABLE 31.10–18(c)

Type system	Test
Foam	Systems utilizing a soda solution must have that solution replaced. In all cases, ascertain that powder is not caked.
Carbon dioxide	Weigh cylinders. Recharge cylinder if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide systems must be tested or renewed, as required by 46 CFR 147.60 and 147.65.
Halon 1301 and halocarbon	Recharge or replace if weight loss exceeds 5% of weight of charge, or, if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10%, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections to Halon 1301 and halocarbon cylinders must be tested or renewed, as required by 46 CFR 147.60 and 147.65 or 147.67. NOTE: Halon 1301 system approvals have expired, but existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.
Inert gas	Recharge or replace cylinder if cylinder pressure loss exceeds 5% of specified gauge pressure, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed inert extinguishers must be tested or renewed, as required by 46 CFR 147.60 and 147.66.
Water mist	Maintain system in accordance with the maintenance instructions in the system manufacturer's design, installation, operation, and maintenance manual.

* * * * *

(f) The marine inspector must check all fire extinguishing system piping, controls, valves, and alarms to ascertain that the system is in good operating condition. For carbon dioxide or clean agent systems as described in 46 CFR subpart 95.16, the marine inspector must:

(1) Verify that flow is continuous and that the piping and nozzles are unobstructed; and

(2) Verify that any discharge delays and pre-discharge alarms function properly during the flow test.

* * * * *

PART 34—FIREFIGHTING EQUIPMENT

9. The authority citation for Part 34 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

10. Revise § 34.01–15 to read as follows:

§ 34.01–15 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and make the material available to the public. All approved material is on file at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–521), 2100 2nd Street, SW., Stop 7126, Washington, DC 20593–7126 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* All material is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are:

(1) American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

(2) ASTM F 1121–87 (Reapproved 1993), Standard Specification for International Shore Connections for Marine Fire Applications, 1987.

(c) National Fire Protection Association (NFPA) 1 Batterymarch Park, Quincy, MA 02269–9101.

(1) NFPA 13–1996, Standard for the Installation of Sprinkler Systems—34.30–1.

(2) NFPA 2001–2008, Standard on Clean Agent Fire Extinguishing Systems—34.05–5(a)(4).

11. In § 34.05–5, revise the section heading and paragraphs (a)(3) through (7) to read as follows:

§ 34.05–5 Fire extinguishing systems—T/ALL.

(a) * * *

(3) *Lamp and paint lockers and similar spaces.* A carbon dioxide or clean agent system as described in 46 CFR subpart 95.16 or a water spray system must be installed in all lamp and paint lockers, oil rooms, and similar spaces.

(4) *Pump rooms.* A carbon dioxide or clean agent system as described in 46 CFR subpart 95.16, a foam spray system, or water spray system must be installed for the protection of all pump rooms. If a clean agent system is installed for the pump room of a tank ship carrying chemical cargos, the amount of extinguishing agent must be determined by using the agent design concentration determined by the cup burner method, described in NFPA 2001 (incorporated by reference; *see* 46 CFR 34.01–15) for the cargo requiring the greatest amount of agent.

(5) *Boiler rooms.* On tankships contracted for on or after November 19, 1952, a carbon dioxide or clean agent system as described in 46 CFR subpart 95.16 or a foam system must be installed to protect any space containing a main or auxiliary oil fired boiler, the boiler fuel oil service pump, or any fuel oil units such as heaters, strainers, valves, manifolds, *etc.,* that are subject to the discharge pressure of the fuel oil service pumps.

(6) *Machinery spaces.* A carbon dioxide or clean agent system as described in 46 CFR subpart 95.16 must be installed to protect any machinery space containing an internal combustion-propelling engine that uses fuel having a flashpoint of less than 110 degrees Fahrenheit.

(7) *Internal combustion installations.* A fire extinguishing system must be provided for an internal combustion installation and:

(i) The system must be a carbon dioxide or clean agent system as described in 46 CFR subpart 95.16;

(ii) On vessels of 1,000 gross tons and over on an international voyage, the construction or conversion of which is contracted for on or after May 26, 1965, a carbon dioxide or clean agent system as described in 46 CFR subpart 95.16 must be installed in any space containing internal combustion or gas turbine main propulsion machinery, auxiliaries with an aggregate power of 1,000 b.h.p. or greater, or their fuel oil units, including purifiers, valves, and manifolds; and

(iii) On vessels of 1,000 gross tons and over, the construction, conversion or automation of which is contracted for on or after January 1, 1968, a carbon dioxide or clean agent system as described in 46 CFR subpart 95.16 must be installed in any space containing internal combustion or gas turbine main propulsion machinery, auxiliaries with an aggregate power of 1,000 b.h.p. or greater, or their fuel oil units, including purifiers, valves and manifolds.

* * * * *

12. Add a new § 34.15–50 to read as follows:

§ 34.15–50 Lockout valves—T/ALL.

(a) A lockout valve must be provided on any carbon dioxide extinguishing system protecting a space over 6,000 cubic feet in volume or a space 6,000 cubic feet or less in volume that does not have a horizontal escape.

(b) The lockout valve must be a manually operated valve located in the discharge manifold prior to the stop valve or selector valves. When in the closed position, the lockout valve must provide complete isolation of the system from the protected space or spaces, making it impossible for carbon dioxide to discharge in the event of equipment failure during maintenance.

(c) The lockout valve design or locking mechanism must make it obvious whether the valve is open or closed.

(d) A valve is considered a lockout valve if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it.

(e) The lockout valve must be locked in the closed position whenever maintenance is performed on the extinguishing system. The master must ensure that the lockout valve is locked in the open position when maintenance is complete and the system is returned to operable condition.

(f) Lockout valves added to existing systems must be approved by the Commandant for use in the system.

(g) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the lockout valve requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

13. Add new § 34.15–60 to read as follows:

§ 34.15–60 Olfactory additives—T/ALL.

(a) Each carbon dioxide extinguishing system must have an approved odorizing unit to produce the scent of wintergreen, the detection of which will serve as an indication that carbon dioxide gas is present in a protected area and any other area into which the carbon dioxide may migrate.

(b) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

PART 35—OPERATIONS

14. The authority citation for Part 35 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

15. Revise § 35.40–7 to read as follows:

§ 35.40–7 Carbon dioxide and clean agent alarms—T/ALL.

Each carbon dioxide or clean agent fire extinguishing alarm installed after November 19, 1952, must be conspicuously marked: "WHEN ALARM SOUNDS VACATE AT ONCE. CARBON DIOXIDE OR CLEAN AGENT BEING RELEASED."

16. Add a new § 35.40–8 to read as follows:

§ 35.40–8 Carbon dioxide olfactory warning signs—T/ALL.

Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(a) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(b) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK-OUT SYSTEM WHEN SERVICING."

(c) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

17. Revise § 35.40–10 to read as follows:

§ 35.40–10 Steam, foam, carbon dioxide, or clean agent fire smothering apparatus—TB/ALL.

Each steam, foam, carbon dioxide, or clean agent fire fighting apparatus must be marked "[CARBON DIOXIDE/STEAM/FOAM/CLEAN AGENT—as appropriate] FIRE APPARATUS," in red letters at least 2 inches high. Branch pipe valves leading to the several compartments must be distinctly marked to indicate the compartments or parts of the vessel to which they lead.

PART 62—VITAL SYSTEM AUTOMATION

18. The authority citation for Part 62 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

19. Revise § 62.25–20(d)(1)(ii) to read as follows:

§ 62.25–20 Instrumentation, alarms, and centralized stations.

* * * * *

(d) * * *

(1) * * *

(ii) Fire, general alarm, carbon dioxide/Halon 1301/clean agent, vital machinery, flooding, engineers' assistance-needed, and non-vital alarms.

* * * * *

PART 71—INSPECTION AND CERTIFICATION

20. The authority citation for Part 71 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 3306, 3307; E.O. 12234, 45 FR

58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

21. Revise § 71.20–20(b) to read as follows:

§ 71.20–20 Specific tests and inspections.

* * * * *

(b) Installation of carbon dioxide or clean agent extinguishing piping in accordance with 46 CFR 76.15–15 and 46 CFR subpart 95.16.

* * * * *

22. In § 71.25–20, revise the section heading and Table 71.25–20(a)(2) to read as follows:

§ 71.25–20 Fire detecting and extinguishing equipment.

(a) * * *

(2) * * *

TABLE 71.25–20(a)(2)

Type system	Test
Foam	Systems utilizing a soda solution must have that solution replaced. In all cases, ascertain that powder is not caked.
Carbon dioxide	Weigh cylinders. Recharge cylinder if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide systems must be tested or renewed, as required by 46 CFR 147.60 and 147.65.
Halon 1301 and halocarbon	Recharge or replace if weight loss exceeds 5% of weight of charge or if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10%, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections to Halon 1301 and halocarbon cylinders must be tested or renewed, as required by 46 CFR 147.60 and 147.65 or 147.67. NOTE: Halon 1301 system approvals have expired, but existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.
Inert gas	Recharge or replace cylinder if cylinder pressure loss exceeds 5%of specified gauge pressure, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed inert extinguishers must be tested or renewed, as required by 46 CFR 147.60 and 147.66.
Water mist	Maintain system in accordance with the maintenance instructions in the system manufacturer's design, installation, operation, and maintenance manual.

* * * * *

23. Revise § 71.65–5(d)(6) to read as follows:

§ 71.65–5 Plans and specifications required for new construction.

* * * * *

(d) * * *

(6) Extinguishing systems, including fire main, carbon dioxide, clean agent, foam, and sprinkling systems.

* * * * *

PART 76—FIRE PROTECTION EQUIPMENT

24. The authority citation for Part 76 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

25. Revise § 76.05–1 to read as follows:

§ 76.05–1 Fire detecting systems.

(a) On the following vessels, approved fire detecting systems must be installed in the locations indicated by Table 76.05–1(a):

(1) Any vessel on an international voyage;

(2) Any vessel of more than 150 feet in length having sleeping accommodations for passengers; and

(3) Any vessel of 150 feet or less in length that has sleeping accommodations for 50 or more passengers. Vessels that are not on an international voyage are not required to have a detecting system in the cargo spaces.

TABLE 76.05–1(a)

Space	Detecting systems	Fixed extinguishing systems
Safety areas		
Wheelhouse or fire-control room	None required [1]	None required.[1]
Stairway and elevator enclosures	None required [1]	None required.[1]
Communication corridors	None required [1]	None required.[1]
Lifeboat embarkation and lowering stations	None required [1]	None required.[1]
Radio room	None required [1]	None required.[1]
Accommodations		
Staterooms, toilet spaces, isolated pantries, etc	None required [1]	None required.[1]
Offices, lockers, and isolated storerooms	Electric, pneumatic, or automatic sprinkling [1]	None required.[1]
Public spaces	None required with 20-minute patrol. Electric, pneumatic, or automatic sprinkling with 1 hour patrol.[1]	None required.[1]

TABLE 76.05–1(a)—Continued

Space	Detecting systems	Fixed extinguishing systems
Open decks or enclosed promenades	None required	None required.
Service spaces		
Galleys	None required [1]	None required.[1]
Main pantries	None required [1]	None required.[1]
Motion picture booths and film lockers	Electric, pneumatic, or automatic sprinkling [1 2]	None required.[1]
Paint and lamp rooms	Smoke detecting [2]	Carbon dioxide [3] system or carbon dioxide-alternative system as described in 46 CFR subpart 95.16.
Inaccessible baggage, mail, and specie rooms and storerooms.	Smoke detecting [2]	Carbon dioxide.[3]
Accessible baggage, mail, and specie rooms and storerooms.	Electric, pneumatic, or automatic sprinkling	None required.[1]
Refrigerated storerooms	None required	None required.
Carpenter, valet, photographic, and printing shops, sales rooms, etc.	Electric, pneumatic, or automatic sprinkling	None required.[1]
Machinery spaces		
Coal fired boilers: Bunker and boiler space	None required	None required.[1]
Oil fired boilers: Spaces containing oil fired boilers either main or auxiliary, their fuel oil service pumps, and/or such other fuel oil units as the heaters, strainers, valves, manifolds, etc., that are subject to the discharge pressure of the fuel oil service pumps, together with adjacent spaces to which oil can drain.	None required	Carbon dioxide system or carbon dioxide-alternative system as described in 46 CFR subpart 95.16 or foam.[4]
Internal combustion or gas turbine propelling machinery spaces.	None required	Carbon dioxide system or carbon dioxide-alternative system as described in 46 CFR subpart 95.16.[5]
Electric propulsive motors or generators of open type.	None required	None required.
Enclosed ventilating systems for motors and generators of electric propelling machinery.	None required	Carbon dioxide system or carbon dioxide-alternative system as described in 46 CFR subpart 95.16 (in ventilating system).[7]
Auxiliary spaces, internal combustion, or gas turbine.	None required	Carbon dioxide system or carbon dioxide-alternative system as described in 46 CFR subpart 95.16.[7]
Auxiliary spaces, electric motors, or generators	None required	None required.
Auxiliary spaces, steam	None required	None required.
Trunks to machinery spaces	None required	None required.
Fuel tanks	None required	None required.[8]
Cargo spaces		
Inaccessible during voyage (combustible cargo), including trunks (excluding tanks).	Smoke detecting	Carbon dioxide.[3]
Accessible during voyage (combustible cargo)	Smoke detecting, electric, pneumatic or automatic sprinkling.	Automatic or manual sprinkling.
Vehicular deck (except where no overhead deck is 30 feet in length or less).	None required	Manual sprinkling.
Cargo oil tanks	None required	Carbon dioxide or foam.[3]
Specially suitable for vehicles	Smoke detecting, electric, pneumatic or automatic sprinkling.	Carbon dioxide, automatic or manual sprinkling.

Notes to Table 76.05–1(a)

[1] Vessels of 100 gross tons and over contracted for, on, or before May 27, 1936, and having combustible joiner work must be fitted with an automatic sprinkling system, except in relatively incombustible spaces.

[2] On vessels contracted for prior to November 19, 1952, electric or pneumatic detecting may be substituted.

[3] On vessels contracted for prior to January 1, 1962, a steam smothering system may be accepted. However, although existing steam smothering systems may be repaired, replaced, or extended, no new system contracted for on or after January 1, 1962, will be permitted.

[4] Protection of auxiliary boilers, fuel oil units, valves, and manifolds are not required on vessels contracted for prior to November 19, 1952.

[5] Not required on vessels less than 300 gross tons (except on an international voyage) using fuel with a flashpoint higher than 110° F., where the space is normally manned.

[6] Not required on vessels contracted for prior to November 19, 1952.

[7] Not required on vessels less than 300 gross tons nor on vessels contracted for prior to November 19, 1952, except when fuel, including starting fuel, has a flashpoint of 110 °F. or less.

[8] When fuel with a flashpoint of 110 °F. or lower is used, the space containing the fuel tanks must be protected by a carbon dioxide system or carbon dioxide-alternative system as described in 46 CFR subpart 95.16.

(b) The arrangements and details of the fire detecting systems must meet the requirements in subparts 76.25 through 76.33 of this part.

26. Revise § 76.10–5(h) to read as follows:

§ 76.10–5 Fire pumps.

* * * * *

(h) If a vessel uses main or auxiliary oil fired boilers or internal combustion propulsion machinery, when two fire pumps are required, this equipment must be located in separate spaces and the arrangement of pumps, sea connections, and sources of power must be arranged to ensure that a fire in any one space will not put all of the fire pumps out of operation. However, in vessels of less than 300 feet in length, when it is shown to the satisfaction of the Commandant that it is unreasonable or impracticable to meet this requirement due to the size or arrangement of the vessel, or for other reasons, the installation of a total flooding carbon dioxide or clean agent extinguishing system may be accepted as an alternate method of extinguishing any fire that affects the powering and operation of at least one of the required fire pumps.

27. Add a new § 76.15–50 to read as follows:

§ 76.15–50 Lockout valves.

(a) A lockout valve must be provided on any carbon dioxide extinguishing system protecting a space over 6,000 cubic feet in volume or a space 6,000 cubic feet or less in volume that does not have a horizontal escape.

(b) The lockout valve must be a manually operated valve located in the discharge manifold prior to the stop valve or selector valves. When in the closed position, the lockout valve must provide complete isolation of the system from the protected space or spaces, making it impossible for carbon dioxide to discharge in the event of equipment failure during maintenance.

(c) The lockout valve design or locking mechanism must make it obvious whether the valve is open or closed.

(d) A valve is considered a lockout valve if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it.

(e) The lockout valve must be locked in the closed position whenever maintenance is performed on the extinguishing system. The master must ensure that the lockout valve is locked in the open position when maintenance is complete and the system is returned to operable condition.

(f) Lockout valves added to existing systems must be included in the system Type Approval or acceptable to the Marine Safety Center

(g) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the lockout valve requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

28. Add a new § 76.15–60 to read as follows:

§ 76.15–60 Olfactory additives.

(a) Each carbon dioxide extinguishing system must have an approved odorizing unit to produce the scent of wintergreen, the detection of which will serve as an indication that carbon dioxide gas is present in a protected area and any other area into which the carbon dioxide may migrate.

(b) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

PART 78—-OPERATIONS

29. The authority citation for Part 78 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

30. Revise § 78.47–9 to read as follows:

§ 78.47–9 Carbon dioxide and clean agent alarms.

Each carbon dioxide or clean agent fire extinguishing alarm must be conspicuously marked: "WHEN ALARM SOUNDS VACATE AT ONCE. CARBON DIOXIDE OR CLEAN AGENT BEING RELEASED."

31. Add a new § 78.47–11 to read as follows:

§ 78.47–11 Carbon dioxide olfactory warning signs.

Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(a) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(b) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK–OUT SYSTEM WHEN SERVICING."

(c) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

32. Revise § 78.47–17 to read as follows:

§ 78.47–17 Fire extinguishing system controls.

Each control cabinet or space containing valves or manifolds for a fire extinguishing system must be distinctly marked in conspicuous red letters at least 2 inches high: "[CARBON DIOXIDE/STEAM/FOAM/WATER SPRAY/MANUAL SPRINKLING/ AUTOMATIC SPRINKLING/CLEAN AGENT—as appropriate] FIRE SYSTEM."

PART 91—INSPECTION AND CERTIFICATION

33. The authority citation for Part 91 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307; 46 U.S.C. Chapter 701; Executive Order 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; Executive Order 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

34. Revise § 91.20–20(b) to read as follows:

§ 91.20–20 Specific tests and inspections.

* * * * *

(b) For installation of carbon dioxide fire extinguishing system piping, see 46 CFR 95.15–15. For clean agent fire extinguishing piping, see 46 CFR 95.16–15.

* * * * *

35. In § 91.25–20, revise the section heading and Table 91.25–20(a)(2) to read as follows:

§ 91.25–20 Fire extinguishing equipment.

(a) * * *

(2) * * *

TABLE 91.25–20(a)(2)

Type system	Test
Foam	Systems utilizing a soda solution must have that solution replaced. In all cases, ascertain that powder is not caked.
Carbon dioxide	Weigh cylinders. Recharge cylinder if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide systems must be tested or renewed, as required by 46 CFR 147.60 and 147.65.
Halon 1301 and halocarbon	Recharge or replace if weight loss exceeds 5% of weight of charge or if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10%, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections to Halon 1301 and halocarbon cylinders must be tested or renewed, as required by 46 CFR 147.60 and 147.65 or 147.67. NOTE: Halon 1301 system approvals have expired, but existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.
Inert gas	Recharge or replace cylinder if cylinder pressure loss exceeds 5% of specified gauge pressure, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed inert extinguishers must be tested or renewed, as required by 46 CFR 147.60 and 147.66.
Water mist	Maintain system in accordance with the maintenance instructions in the system manufacturer's design, installation, operation, and maintenance manual.

* * * * *

36. Revise § 91.55–5(d)(4) to read as follows:

§ 91.55–5 Plans and specifications required for new construction.

* * * * *

(d) * * *

(4) Details of extinguishing systems, including fire mains, carbon dioxide, clean agent, foam, and sprinkling systems.

* * * * *

PART 95—FIRE PROTECTION EQUIPMENT

37. The authority citation for Part 95 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

38. Revise § 95.05–10(e)(3)(ii) to read as follows:

§ 95.05–10 Fixed fire extinguishing systems.

* * * * *

(e) * * *

(3) * * *

(ii) On vessels of 1,000 gross tons and greater, a fixed carbon dioxide or clean agent system as described in subpart 95.16 of this part must be installed in any space that contains internal combustion or gas turbine main propulsion machinery, or auxiliary machinery with an aggregate power of 1,000 b.h.p. or greater, or the fuel oil units of such machinery, including purifiers, valves, and manifolds.

* * * * *

39. In § 95.10–5(h), revise the second sentence to read as follows:

§ 95.10–5 Fire pumps.

* * * * *

(h) * * * However, when it is shown to the satisfaction of the Commandant that it is unreasonable or impracticable to meet this requirement due to the size or arrangement of the vessel, or for other reasons, the installation of a total flooding carbon dioxide or clean agent system may be accepted as an alternate method of extinguishing any fire that could affect the powering and operation of at least one of the required fire pumps.

40. Revise § 95.15–5(e)(2) to read as follows:

§ 95.15–5 Quantity, pipe sizes, and discharge rates.

* * * * *

(e) * * *

(2) The valves must be arranged so that the required quantity of carbon dioxide is discharged into any "tight" space. The discharge of two thirds of the required quantity of carbon dioxide must be completed within 10 minutes. Any faster discharge rate is also acceptable.

* * * * *

41. Revise § 95.15–30 to read as follows:

§ 95.15–30 Alarms.

(a) A protected space must be fitted with an approved audible alarm if:

(1) The space is normally accessible to persons onboard while the vessel is being navigated; and

(2) Is not a paint locker or similar small space.

(b) The alarm must:

(1) Sound automatically and audibly for at least 20 seconds before carbon dioxide is discharged into the space;

(2) Be conspicuously and centrally located and be marked as required by 46 CFR 97.37–9; and

(3) Use stored gas power provided by the extinguishing agent, gas from pilot cylinders, or gas from cylinders specifically provided to power the alarms.

(c) For systems installed on or after July 1, 1957, alarms are mandatory only for systems required to be fitted with a delayed discharge.

42. Add a new § 95.15–50 to read as follows:

§ 95.15–50 Lockout valves.

(a) A lockout valve must be provided on any carbon dioxide extinguishing system protecting a space over 6,000 cubic feet in volume or a space 6,000 cubic feet or less in volume that does not have a horizontal escape.

(b) The lockout valve must be a manually operated valve located in the discharge manifold prior to the stop valve or selector valves. When in the closed position, the lockout valve must provide complete isolation of the system from the protected space or spaces, making it impossible for carbon dioxide to discharge in the event of equipment failure during maintenance.

(c) The lockout valve design or locking mechanism must make it obvious whether the valve is open or closed.

(d) A valve is considered a lockout valve if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it.

(e) The lockout valve must be locked in the closed position whenever maintenance is performed on the extinguishing system. The master must ensure that the lockout valve is locked in the open position when maintenance is complete and the system is returned to operable condition.

(f) Lockout valves added to existing systems must be approved by the Commandant for use in the system.

(g) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the lockout valve requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

43. Add a new § 95.15–60 to read as follows:

§ 95.15–60 Olfactory warnings.

(a) Each carbon dioxide extinguishing system must have an approved odorizing unit to produce the scent of wintergreen, the detection of which will serve as an indication that carbon dioxide gas is present in a protected area and any other area into which the carbon dioxide may migrate.

(b) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

44. Add a new subpart 95.16 to read as follows:

Subpart 95.16—Fixed Clean Agent Gas Extinguishing Systems, Details

Sec.

95.16–1 Application.
95.16–5 Controls.
95.16–10 Piping, fittings, valves, nozzles.
95.16–15 Extinguishing agent: quantity.
95.16–20 Extinguishing agent: cylinder storage.
95.16–25 Manifold and cylinder arrangements.
95.16–30 Enclosure openings.
95.16–35 Pressure relief.
95.16–40 Locked spaces.
95.16–45 Discharge delays and alarms.
95.16–50 Instructions.
95.16–60 System piping installation testing.
95.16–90 Installations contracted for prior to [EFFECTIVE DATE OF THIS RULE].

Subpart 95.16—Fixed Clean Agent Gas Extinguishing Systems, Details

§ 95.16–1 Application.

(a) "Clean agent" means a halocarbon or inert gas used as a fire extinguishing agent.

(b) A clean agent extinguishing system must comply with this part. Systems contracted for prior to [THE EFFECTIVE DATE OF THIS RULE] may, as an alternative, comply with 46 CFR 95.16–90.

(c) Each clean agent system must:

(1) Be of a total flooding type to protect against Class B and Class C hazards as defined in 46 CFR 95.50–5;

(2) Address and minimize any hazard to personnel created by the effects of extinguishing agent decomposition products and combustion products, especially the effects of decomposition product hydrogen fluoride (HF), if applicable;

(3) Be accompanied by an approved manufacturer's design, installation, operation, and maintenance manual that provides safety and remedial instructions;

(4) Be used only to protect enclosed spaces;

(5) Not employ electric power for system actuation, controls, or alarms; and

(6) Not use any source of power for alarms in protected spaces, other than the extinguishing agent, gas from pilot cylinders, or gas from cylinders specifically provided to power the alarms.

§ 95.16–5 Controls.

(a) At least one releasing station must be installed near the main entrance/exit to the protected space.

(b) System controls must be of an approved type and be suitably protected from damage and located outside the protected space.

(c) Systems must have releasing stations consisting of one control to operate the stop valve to the protected space and a second control to release at least the required amount of agent. These two controls must be located in a box or other enclosure clearly identified for the particular space.

(d) Systems protecting a single space not exceeding 6,000 cubic feet in gross volume may be installed without a stop valve if a suitable horizontal means of escape from the space exists.

(e) Controls may not be located in any space that could be cut off from the operator in the event of fire in the protected space.

(f) Where the extinguishing agent can be released by remote control, the system must have a manual local control at the cylinders.

(g) A pneumatic releasing control must have a local mechanical manual override feature.

(h) Automatic discharge arrangements may be used for spaces having a volume less than 6,000 cubic feet. However, automatic discharge is required for spaces having a volume less than 6,000 cubic feet where the agent is stored in the protected space, as allowed by 46 CFR 95.16–20.

(i) A system designed to use gas pressure from one or more agent storage cylinders and provide pilot pressure to actuate the release of extinguishing agent from other storage cylinders that contains three or more total storage cylinders must be equipped with at least two designated pilot cylinders, each of which is capable of manual control at the pilot cylinder.

§ 95.16–10 Piping, fittings, valves, nozzles.

(a) Piping, fittings, and valves must be:

(1) In accordance with the manufacturer's approved design, installation, operation, and maintenance manual;

(2) Securely supported and when necessary protected against damage;

(3) Protected inside and out against corrosion; and

(4) Equipped with:

(i) Dead end lines (dirt traps) that extend at least 2 inches beyond the last nozzle of each distribution line and that are closed with a cap or plug; and

(ii) Drains and dirt traps, fitted where necessary to prevent dirt or moisture accumulation and located in accessible locations where possible.

(b) *Piping requirements.* Piping must be:

(1) Used exclusively for extinguishing system purposes;

(2) Protected by a pressure relief valve or equivalent in sections where gas pressure can be trapped between closed valves; and

(3) Welded if it passes through living quarters.

(c) *Piping prohibitions.* Piping must not:

(1) Use rolled groove or cut groove ends; or

(2) Be fitted with drains or other openings if it passes through living quarters.

(d) *Valve requirements.* Valves for system operation must be:

(1) Outside the protected space, and

(2) Marked, if serving a branch line, to indicate the space the branch line serves.

(e) *Valve prohibitions.* Valves may not be located in any space that could be cut off from the operator in the event of fire in the protected space.

§ 95.16–15 Extinguishing agent: quantity.

A separate supply need not be provided for each space protected, but the total available supply must be at least sufficient for the space requiring the greatest amount.

§ 95.16–20 Extinguishing agent: cylinder storage.

(a) Unless installed as required in paragraph (b) of this section, the agent must be stored outside of the protected space. Common bulkheads and decks located between the cylinder storage room and the protected spaces must meet the insulation criteria for Class A–60, as defined in 46 CFR 72.05–10.

(b) The cylinders may be stored inside the protected space, if:

(1) The space does not exceed 6,000 cubic feet gross volume; and

(2) The system can be automatically operated by a pneumatic heat actuator as well as a remote manual control.

(c) The cylinder storage space must be properly ventilated and designed to preclude an anticipated ambient temperature in excess of 130° Fahrenheit.

(d) The cylinders must be securely fastened and supported as directed in the manufacturer's approved design, installation, operation, and maintenance manual, and where necessary protected against damage.

(e) The cylinders must be mounted so they are readily accessible and capable of easy removal for recharging and inspection and for weighing in the case of halocarbon system cylinders.

(f) The cylinders must be installed to provide a space of at least 2 inches between the deck and the bottom of the cylinders.

(g) The cylinders must be mounted upright, unless otherwise specified in the instruction manual.

(h) All cylinder storage room doors must open outward.

§ 95.16–25 Manifold and cylinder arrangements.

(a) A check valve must be provided between each cylinder and manifold or distribution piping. The valve must be permanently marked to indicate the direction of flow.

(b) If the same cylinder is used to protect more than one space, normally, closed stop valves must be provided to direct the agent into each protected space.

(c) Each cylinder must be fabricated, tested, and marked in accordance with 46 CFR 147.60(b) and 49 CFR Part 180.

(d) The cylinders in a common manifold must be:

(1) Of the same size;

(2) Filled with the same amount of agent; and

(3) Pressurized to the same working pressure.

§ 95.16–30 Enclosure openings.

(a) If mechanical ventilation is provided for in a protected space, the ventilation system must automatically shut down prior to discharge of the system to that space.

(b) If natural ventilation is provided for in a space protected by a clean agent extinguishing system, the ventilation must be capable of being easily and effectively closed off.

(c) All other openings to a protected space must be capable of being closed. Doors, shutters, or dampers must be installed for openings in the lower portion of the space. Openings in the upper portion of the space must be capable of being closed off either by permanently installed means or by the use of canvas or other material normally carried on the vessel.

§ 95.16–35 Pressure relief.

Tight compartments like refrigeration spaces and paint lockers must have a way to relieve the accumulation of excessive pressure within the compartment when the extinguishing agent is injected.

§ 95.16–40 Locked spaces.

If a space or enclosure containing extinguishing agent supply or controls is lockable, a key to the space or enclosure must be in a break glass type box conspicuously located adjacent to the opening.

§ 95.16–45 Discharge delays and alarms.

(a) Each system protecting a space with greater than 6,000 cubic feet gross volume or a space less than 6,000 cubic feet gross volume without a suitable horizontal escape route must have a pneumatic pre-discharge alarm and time delay.

(1) The time delay period must:

(i) Last at least 20 seconds;

(ii) Be approved by the Officer in Charge, Marine Inspection during system installation; and

(iii) Provide enough time for one person to walk from the farthest area of the protected space to the primary exit.

(2) The time delay device must be pneumatically operated and have an accuracy of −0/+20% of the rated time delay period throughout the operating temperature range and range of delay settings.

(b) The pre-discharge alarm must:

(1) Sound for the duration of the time delay;

(2) Be conspicuously and centrally located and marked as required by 46 CFR 97.37–9;

(3) Depend on the extinguishing agent, gas from a pilot cylinder, or a nitrogen cylinder specifically provided to power the alarm for its source of power; and

(4) Be audible over running machinery.

§ 95.16–50 Instructions.

(a) Simple, complete operating instructions must be conspicuously located at or near any release station and in the extinguishing agent cylinder storage room.

(b) On a system in which extinguishing agent cylinders are stored outside the protected space, operating instructions must also:

(1) Include a schematic diagram of the system; and

(2) Describe alternate methods of discharging the extinguishing agent into protected spaces should the manual releases or stop valve controls fail to operate.

§ 95.16–60 System piping installation testing.

(a) *Halocarbon systems.* A pressure test using the extinguishing agent, air or inert gas, must be conducted on halocarbon system discharge piping on completion of piping installation and before extinguishing agent cylinders are connected.

(1) Except as otherwise specified in this section:

(i) Piping from the cylinders to the stop valves or selector valves must be subjected to a pressure of 1½ times the cylinder charging pressure at 70° Fahrenheit; and

(ii) The leakage during a 2-minute period must not exceed a pressure drop of 10 percent.

(2) Individual branch lines to a protected space must be tested as described in paragraph (a)(1) of this section, except that:

(i) The pressure must be 150 pounds per square inch; and

(ii) Distribution piping must be capped within the protected space at the first joint upstream of the nozzles.

(3) Pneumatic actuation piping must be tested as described in paragraph (a)(1) of this section.

(b) *Inert gas systems.* A pressure test using air or inert gas must be conducted on each inert gas system's piping on completion of piping installation and before extinguishing agent cylinders are connected.

(1) Except as otherwise specified in this section:

(i) Piping from the cylinders to the stop valves or selector valves must be subjected to a pressure of 1,000 pounds per square inch at 70° Fahrenheit; and

(ii) The leakage during a 2-minute period must not exceed a pressure drop of 10 percent.

(2) Individual branch lines to a protected space must be tested as described in paragraph (b)(1) of this section, except that:

(i) The pressure must be 600 pounds per square inch; and

(ii) Distribution piping must be capped within the protected space at the first joint upstream of the nozzles.

(3) Pneumatic actuation piping must be tested as described in paragraph (b)(1) of this section.

(c) *Small independent systems.* In lieu of test requirements in paragraphs (a) or (b) of this section, a small independent halocarbon or inert gas system, like those found in emergency generator rooms and paint lockers, may be tested by blowing out the piping with air pressure of at least 100 pounds per square inch, if:

(1) There are no valves in the system discharge piping; and

(2) There is not more than one change in direction between the agent container and the discharge nozzle.

§ 95.16–90 Installations contracted for prior to [EFFECTIVE DATE OF THIS RULE].

Installations contracted for prior to [EFFECTIVE DATE OF THIS RULE] must meet the requirements of this subpart unless previously approved existing arrangements, materials, and facilities are:

(a) Maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection; and

(b) Subjected to no more than minor repairs or alterations implemented to the same standards as the original installation.

PART 97—OPERATIONS

45. The authority citation for Part 97 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

46. Revise § 97.37–9 to read as follows:

§ 97.37–9 Carbon dioxide and clean agent alarms.

Each carbon dioxide or clean agent fire extinguishing alarm must be conspicuously marked: "WHEN ALARM SOUNDS VACATE AT ONCE. CARBON DIOXIDE OR CLEAN AGENT BEING RELEASED."

47. Add a new § 97.37–11 to read as follows:

§ 97.37–11 Carbon dioxide warnings.

Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(a) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(b) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK-OUT SYSTEM WHEN SERVICING."

(c) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

48. Revise § 97.37–13 to read as follows:

§ 97.37–13 Fire extinguishing system controls.

The control cabinets or spaces containing valves or manifolds for the various fire extinguishing systems must be distinctly marked in conspicuous red letters at least 2 inches high: "[STEAM/CARBON DIOXIDE/CLEAN AGENT/FOAM/WATER SPRAY—as appropriate] FIRE APPARATUS."

PART 107—INSPECTION AND CERTIFICATION

49. The authority citation for Part 107 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3307; 46 U.S.C. 3316; Department of Homeland Security Delegation No. 0170.1; § 107.05 also issued under the authority of 44 U.S.C. 3507.

50. Add § 107.231(w) to read as follows:

§ 107.231 Inspection for certification.

* * * * *

(w) Piping for each halocarbon and inert gas extinguishing system must be tested in accordance with 46 CFR 95.16–60.

* * * * *

51. In § 107.235, revise paragraph (b) and add paragraph (c) to read as set out below, and remove the note at the end of the section.

§ 107.235 Servicing of hand portable fire extinguishers, semi-portable fire extinguishers and fixed fire-extinguishing systems.

* * * * *

(b) Each fixed fire extinguishing system must be examined for excessive corrosion and general condition and checked and serviced as indicated, depending on the extinguishing agent used by the system.

(1) *Carbon dioxide:* Weigh cylinders. Recharge cylinder if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide systems must be tested or renewed, as required by 46 CFR 147.60 and 147.65.

(2) *Halon 1301 or Halocarbon:* Recharge or replace if weight loss exceeds 5% of weight of charge or, if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10%, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible Halon 1301 and halocarbon cylinders must be tested or renewed as required by 46 CFR 147.60 and 147.65 or 147.67. Note that Halon 1301 system approvals have expired, but that existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.

(3) *Inert gas:* Recharge or replace cylinder if cylinder pressure loss exceeds 5% of specified gauge pressure, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed inert extinguishers must be tested or renewed as required by 46 CFR 147.60 and 147.66.

(4) *Foam, except premix systems:* Discharge foam for approximately 15 seconds from a nozzle designated by the marine inspector, by:

(i) Discharging water from all other lines and nozzles; and

(ii) Submitting a sample of the foam liquid to the manufacturer or its authorized representative for determination of specific gravity, pH, percentage of water dilution, and solid content and for certification as a suitable firefighting foam.

(5) *Premix aqueous film forming foam:* Remove the pressure cartridge and replace the cartridge if the seal is

punctured, sampling the premix solution in accordance with the manufacturer's instructions, and replacing any cylinders that are discharged.

(c) Fire extinguishing equipment must be tested and marked as indicated, depending on the extinguishing agent used by the system —

(1) *Carbon dioxide and Halon 1301, semi-portable systems:* Cylinders and discharge hoses in accordance with 46 CFR 147.60 and 147.65; or

(2) *Halocarbon and inert gas:* Cylinders and flexible connectors in accordance with 46 CFR 147.66 and 147.67.

PART 108—DESIGN AND EQUIPMENT

52. The authority citation for Part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306; Department of Homeland Security Delegation No. 0170.1.

53. Add new § 108.444 to read as follows:

§ 108.444 Lockout valves.

(a) A lockout valve must be provided on any carbon dioxide extinguishing system protecting a space over 6,000 cubic feet in volume or a space 6,000 cubic feet or less in volume that does not have a horizontal escape.

(b) The lockout valve must be a manually operated valve located in the discharge manifold prior to the stop valve or selector valves. When in the closed position, the lockout valve must provide complete isolation of the system from the protected space or spaces, making it impossible for carbon dioxide to discharge in the event of equipment failure during maintenance.

(c) The lockout valve design or locking mechanism must make it obvious whether the valve is open or closed.

(d) A valve is considered a lockout valve if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it.

(e) The lockout valve must be locked in the closed position whenever maintenance is performed on the extinguishing system. The master must ensure that the lockout valve is locked in the open position when maintenance is complete and the system is returned to operable condition.

(f) Lockout valves added to existing systems must be approved by the Commandant for use in the system.

(g) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the lockout valve requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

54. Add a new § 108.446 to read as follows:

§ 108.446 Olfactory additives.

(a) Each carbon dioxide extinguishing system must have an approved odorizing unit to produce the scent of wintergreen, the detection of which will serve as an indication that carbon dioxide gas is present in a protected area and any other area into which the carbon dioxide may migrate.

(b) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

55. Add a new § 108.626 to read as follows:

§ 108.626 Carbon dioxide olfactory warning signs.

Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(a) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(b) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK-OUT SYSTEM WHEN SERVICING."

(c) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

56. Revise the section heading to § 108.627 to read as follows:

§ 108.627 Carbon dioxide and clean agent alarms.

* * * * *

57. Revise § 108.631(a) to read as follows:

§ 108.631 Fixed fire extinguishing system controls.

(a) Each cabinet or space that contains a valve, control, or manifold of a fixed fire extinguishing system must be marked in conspicuous red letters at least 2 inches high: "[CARBON DIOXIDE/CLEAN AGENT/FOAM/WATER SPRAY—as appropriate] FIRE APPARATUS."

* * * * *

PART 112—EMERGENCY LIGHTING AND POWER SYSTEMS

58. The authority citation for Part 112 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Department of Homeland Security Delegation No. 0170.1.

59. Revise § 112.15–5(v) to read as follows:

§ 112.15–5 Final emergency loads.

* * * * *

(v) Each smoke extraction fan, not including smoke detector sampling, and carbon dioxide or clean agent exhaust fans for spaces.

PART 115—INSPECTION AND CERTIFICATION

60. The authority citation for Part 115 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1

61. In § 115.810, revise Table 115.810(b) to read as follows:

§ 115.810 Fire protection.

* * * * *

(b) * * *

TABLE 115.810(b)—SEMIPORTABLE AND FIXED FIRE EXTINGUISHING SYSTEMS

Type system	Test
Carbon dioxide	Weigh cylinders. Recharge cylinder if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide systems must be tested or renewed, as required by 46 CFR 147.60 and 147.65.

TABLE 115.810(b)—SEMIPORTABLE AND FIXED FIRE EXTINGUISHING SYSTEMS—Continued

Type system	Test
Halon 1301 and halocarbon	Recharge or replace if weight loss exceeds 5% of weight of charge or if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10%, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections to Halon 1301 and halocarbon cylinders must be tested or renewed, as required by 46 CFR 147.60 and 147.65 or 147.67. Note that Halon 1301 system approvals have expired, but that existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.
Dry chemical (cartridge operated).	Examine pressure cartridge and replace if end is punctured, has leaked, or is otherwise unsuitable. Inspect hose and nozzle to see if they are clear. Insert charged cartridge. Ensure dry chemical is free flowing, not caked, and extinguisher contains full charge.
Dry chemical (stored pressure).	See that pressure gauge is in operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with dry chemical. Recharge cylinder if pressure is low or if dry chemical is needed.
Foam (stored pressure)	See that any pressure gauge is in the operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with foam. Recharge cylinder if pressure is low or if foam is needed. Replace premixed agent every 3 years.
Inert gas	Recharge or replace cylinder if cylinder pressure loss exceeds 5% of specified gauge pressure, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed inert extinguishers must be tested or renewed as required by 46 CFR 147.60 and 147.66.
Water mist	Maintain system in accordance with maintenance instructions in system manufacturer's design, installation, operation, and maintenance manual.

* * * * *

PART 118—FIRE PROTECTION EQUIPMENT

62. The authority citation for Part 118 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

63. In § 118.410, add new paragraphs (f)(7) through (f)(13) and add new paragraph (h) to read as follows:

§ 118.410 Fixed gas fire extinguishing systems.

* * * * *

(f) * * *

(7) A lockout valve must be provided on any carbon dioxide extinguishing system protecting a space over 6,000 cubic feet in volume or a space 6,000 cubic feet or less in volume that does not have a horizontal escape.

(8) The lockout valve must be a manually operated valve located in the discharge manifold prior to the stop valve or selector valves. When in the closed position, the lockout valve must provide complete isolation of the system from the protected space or spaces, making it impossible for carbon dioxide to discharge in the event of equipment failure during maintenance.

(9) The lockout valve design or locking mechanism must make it obvious whether the valve is open or closed.

(10) A valve is considered a lockout valve if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it.

(11) The lockout valve must be locked in the closed position whenever maintenance is performed on the extinguishing system. The master must ensure that the lockout valve is locked in the open position when maintenance is complete and the system is returned to operable condition.

(12) Lockout valves added to existing systems must be approved by the Commandant for use in the system.

(13) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the lockout valve requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

* * * * *

(h) *Olfactory additives.* (1) Each carbon dioxide extinguishing system must have an approved odorizing unit to produce the scent of wintergreen, the detection of which will serve as an indication that carbon dioxide gas is present in a protected area and any other area into which the carbon dioxide may migrate.

(2) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

PART 119—MACHINERY INSTALLATION

64. The authority citation for Part 119 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

65. Revise § 119.710(a)(3) to read as follows:

§ 119.710 Piping for vital systems.

(a) * * *

(3) Carbon dioxide, Halon 1301, and clean agent systems;

* * * * *

PART 122—OPERATIONS

66. The authority citation for Part 122 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

67. In § 122.612, add new paragraph (i) to read as follows:

§ 122.612 Fire protection equipment.

* * * * *

(i) *Carbon dioxide olfactory warning signs.* Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(1) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(2) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK-OUT SYSTEM WHEN SERVICING."

(3) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

PART 131—OPERATIONS

68. The authority citation for Part 131 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 10104; E.O. 12234, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

69. Revise § 131.815 to read as follows:

§ 131.815 Carbon dioxide and clean agent alarms.

Each carbon dioxide or clean agent fire extinguishing alarm must be conspicuously marked: "WHEN ALARM SOUNDS VACATE AT ONCE. CARBON DIOXIDE OR CLEAN AGENT BEING RELEASED."

70. Add a new § 131.817 to read as follows:

§ 131.817 Carbon dioxide olfactory warning signs.

Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(a) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(b) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK-OUT SYSTEM WHEN SERVICING."

(c) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

71. Revise § 131.825 to read as follows:

§ 131.825 Fixed fire extinguishing system controls.

Each control cabinet or space containing a valve or manifold for a fire extinguishing system must be distinctly marked in conspicuous red letters at least 2 inches high: "[CARBON DIOXIDE/HALON/CLEAN AGENT] FIRE APPARATUS", as appropriate.

PART 132—FIRE-PROTECTION EQUIPMENT

72. The authority citation for Part 132 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307; Department of Homeland Security Delegation No. 0170.1.

73. In § 132.350, revise Table 132.350 to read as follows:

§ 132.350 Tests and inspections of fire-extinguishing equipment.

* * * * *

TABLE 132.350—TESTS OF SEMIPORTABLE AND FIXED FIRE-EXTINGUISHING SYSTEMS

Type of system	Test
Carbon dioxide	Weigh cylinders. Recharge cylinder if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide systems must be tested or renewed, as required by 46 CFR 147.60 and 147.65.
Halon 1301 and halocarbon	Recharge or replace if weight loss exceeds 5% of weight of charge or if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10%, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections to Halon 1301 and halocarbon cylinders must be tested or renewed, as required by 46 CFR 147.60 and 147.65 or 147.67. Note that Halon 1301 system approvals have expired, but that existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.
Dry chemical (cartridge-operated).	Examine pressure cartridge and replace if end is punctured or if cartridge has leaked or is otherwise unsuitable. Inspect hose and nozzle to see that they are clear. Insert charged cartridge. Ensure that dry chemical is free-flowing (not caked) and that extinguisher contains full charge.
Dry chemical (stored pressure).	See that pressure gauge is in operating range. If not, or if seal is broken, weigh or otherwise determine that extinguisher is fully charged with dry chemical. Recharge if pressure is low or if dry chemical is needed.
Foam (stored pressure)	See that any pressure gauge is in operating range. If it is not, or if seal is broken, weigh or otherwise determine that extinguisher is fully charged with foam. Recharge if pressure is low or if foam is needed. Replace premixed agent every 3 years.
Inert gas	Recharge or replace cylinder if cylinder pressure loss exceeds 5% of specified gauge pressure, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed inert extinguishers must be tested or renewed as required by 46 CFR 147.60 and 147.66.
Water mist	Maintain system in accordance with the maintenance instructions in the system manufacturer's design, installation, operation, and maintenance manual.

* * * * *

PART 147—HAZARDOUS SHIPS' STORES

74. The authority citation for Part 147 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

75. Revise § 147.7 to read as follows:

§ 147.7 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than that specified below, the Coast Guard must publish notice of change in the **Federal Register** and make the material available to the public. All approved material is on file at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–521), 2100 2nd Street, SW., Stop 7126, Washington, DC 20593–7126 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* All material is available from the sources indicated below.

(b) American Boat and Yacht Council, Inc. (ABYC), 3069 Solomons Island Road, Edgewater, MD 21037.

(1) ABYC H–25–81—Portable Fuel Systems and Portable Containers for Flammable Liquids, May 12, 1981: 147.45.

(2) [Reserved].

(c) American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. (ASHRAE), Publication Sales Department, 1791 Tullie Circle, NE, Atlanta, GA 30329.

(1) ANSI/ASHRAE 34–78—Number Designation of Refrigerants, approved 1978: 147.90.

(2) [Reserved].

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269–9101.

(1) NFPA 2001, "Standard on Clean Agent Fire Extinguishing Systems" 2008 Edition: 147.66, 147.67.

(2) [Reserved].

(e) Public Health Service, Department of Health and Human Services (DHHS), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(1) DHHS Publication No. (PHS) 84–2024—The Ship's Medicine Chest and Medical Aid at Sea, revised 1984: 147.105.

(2) [Reserved].

(f) Underwriters Laboratories, Inc. (UL), 333 Pfingsten Road, Northbrook, IL 60062.

(1) UL 30—Standard for Metal Safety Cans, 7th Ed., March 11, 1985, revised March 12, 1985 and March 3, 1987: 147.45.

(2) UL 1185—Standard for Portable Marine Fuel Tanks, Second Edition, March 13, 1978, revised July 6, 1984: 147.45.

(3) UL 1313—Standard for Nonmetallic Safety Cans for Petroleum Products, 1st Ed., March 15, 1982, revised January 3, 1984 and March 22, 1985: 147.45.

(4) UL 1314—Standard for Special-Propose Containers, 1st Ed., July 7, 1983, revised February 7, 1984 and September 23, 1986: 147.45.

76. Revise § 147.45(f)(4), (5), and (6) to read as follows:

§ 147.45 Flammable and combustible liquids.

* * * * *

(f) * * *

(4) A portable outboard fuel tank meeting the specifications of ABYC H–25–81 (incorporated by reference, see 46 CFR 147.7) or one identified by Underwriters Laboratories as meeting the specifications of UL 1185 (incorporated by reference, see 46 CFR 147.7);

(5) A portable safety container identified by Underwriters Laboratories as meeting the specifications of UL 30 or UL 1313 (both incorporated by reference, see 46 CFR 147.7); or

(6) A portable safety container identified by Underwriters Laboratories as meeting the requirements of UL 1314 (incorporated by reference, *see* 46 CFR 147.7).

* * * * *

77. Revise § 147.60(a)(4) to read as follows:

§ 147.60 Compressed gases.

(a) * * *

(4) Except as provided in 46 CFR 147.65, 147.66, and 147.67, maintained and retested in accordance with 49 CFR 180.

* * * * *

78. Add a new § 147.66 to read as follows:

§ 147.66 Inert gas fire extinguishing systems.

(a) Inert gas cylinders forming part of a clean agent fixed fire extinguishing system must be retested every five years, except that cylinders with a water capacity of 125 pounds or less may be retested every 10 years in accordance with 49 CFR 180.209(b).

(b) An inert gas cylinder must be removed from service if it:

(1) Leaks;

(2) Is dented, bulging, severely corroded, or otherwise weakened;

(3) Has lost more than five percent of its tare weight; or

(4) Has been involved in a fire.

(c) Flexible connections between cylinders and discharge piping for fixed inert gas fire extinguishing systems must be renewed or retested in accordance with § 7.3 of NFPA 2001 (incorporated by reference, *see* 46 CFR 147.7).

79. Add new § 147.67 to read as follows:

§ 147.67 Halocarbon fire extinguishing systems.

(a) Each halocarbon cylinder forming part of a clean agent fixed fire extinguishing system must be:

(1) Retested at least once every 12 years and before recharging if it has been discharged and more than five years have elapsed since the last test; or

(2) As an alternative, a cylinder conforming to the requirements of 49 CFR 180.209(g) may be given the complete external visual inspection in lieu of hydrostatic testing provided for by that section.

(b) A halocarbon cylinder must be removed from service if it:

(1) Leaks;

(2) Is dented, bulging, severely corroded, or otherwise weakened;

(3) Has lost more than five percent of its tare weight; or

(4) Has been involved in a fire.

(c) Flexible connections between cylinders and discharge piping for halocarbon fire extinguishing systems must be renewed or retested in accordance with section 7.3 of NFPA 2001 (incorporated by reference, *see* 46 CFR 147.7).

PART 162—ENGINEERING EQUIPMENT

80. The authority citation for Part 162 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1.

81. Add a new subpart 162.161 to read as follows:

Subpart 162.161—Fixed Clean Agent Fire Extinguishing Systems

Sec.

162.161–1 Scope.

162.161–2 Incorporation by reference.

162.161–3 Materials.
162.161–4 Construction.
162.161–5 Instruction manual for design, installation, operation, and maintenance.
162.161–6 Tests for approval.
162.161–7 Inspections at production.
162.161–8 Marking.
162.161–9 Procedure for approval.

Subpart 162.161—Fixed Clean Agent Fire Extinguishing Systems

§ 162.161–1 Scope.

(a) This subpart applies to each engineered fixed fire extinguishing system using a halocarbon or an inert gas as agent. It does not apply to pre-engineered systems.

(b) Each system must be designed for protection against fires in both Class B flammable liquids and Class C energized electrical equipment, as those hazard classes are defined in NFPA 2001 (incorporated by reference, *see* 46 CFR 162.161–2).

(c) Each system must meet the requirements of this subpart, be listed or approved by an independent laboratory approved by the Coast Guard and listed at *http://cgmix.uscg.mil/,* bear the mark of the laboratory, and be approved by the Coast Guard under 46 CFR 159.005–13.

§ 162.161–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than that specified below, the Coast Guard must publish notice of change in the **Federal Register** and make the material available to the public. All approved material is on file at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–521), 2100 2nd Street, SW., Stop 7126, Washington, DC 20593–7126 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* All material is available from the sources indicated below.

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269–9101.

(1) NFPA 2001, "Standard on Clean Agent Fire Extinguishing Systems" 2008 Edition: 162.161–1, 162.161–3.

(2) [Reserved]

(c) Underwriters Laboratories, Inc. (UL), 333 Pfingsten Road, Northbrook, IL 60062.

(1) UL 2127, "Standard for Inert Gas Clean Agent Extinguishing System Units" 1999 Edition: 162.161–5, 162.161–6, 162.161–7.

(2) UL 2166, "Standard for Halocarbon Clean Agent Extinguishing System Units" 1999 Edition: 162.161–5, 162.161–6, 162.161–7.

(d) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom:

(1) MSC/Circ. 848, "Revised Guidelines for The Approval of Equivalent Fixed Gas Fire-Extinguishing Systems, as Referred to in Chapter II–2 of SOLAS 74, for Machinery Spaces and Cargo Pump-Rooms" 1998 Edition: 162.161–6.

(2) MSC.1/Circ. 1267, "Amendments to Revised Guidelines for The Approval of Equivalent Fixed Gas Fire-Extinguishing Systems, as Referred to in SOLAS 74, for Machinery Spaces and Cargo Pump-Rooms (MSC/Circ. 848)" 2008 Edition: 162.161–6.

§ 162.161–3 Materials.

(a) All system components must meet the requirements of NFPA 2001 (incorporated by reference, see 46 CFR 162.161–2) and be made of metal, except for bushings, o-rings, and gaskets. Aluminum or aluminum alloys may not be used.

(b) Metal components must:

(1) Have a solidus melting point of at least 1700° Fahrenheit;

(2) Be corrosion resistant; and

(3) Be galvanically compatible with each adjoining metal component, or if galvanically incompatible, be separated by a bushing, o-ring, gasket, or similar device. (c) Each extinguishing agent must be:

(1) Listed as an acceptable total flooding agent for occupied areas on the Environmental Protection Agency's Significant New Alternative Products (SNAP) list, 40 CFR part 82, subpart G, Appendix A; and

(2) Identified as an extinguishing agent in NFPA 2001 (incorporated by reference, *see* 46 CFR 162.161–2).

(d) The design concentration of extinguishing agent required for each system must be determined by the cup burner method, described in NFPA 2001, for the specific fuel requiring the highest extinguishing concentration.

(e) The quantity of agent required for each protected space must be calculated using a safety factor of 1.3 times the design concentration. The quantity must be calculated at the minimum expected ambient temperature using the design concentration based on either:

(1) Gross volume, including the casing, bilge, and free air contained in air receivers; or

(2) Net volume, calculated as shown in NFPA 2001 (incorporated by reference, *see* 46 CFR 162.161–2), including the casing, bilge, and free air contained in air receivers, if one of the following is satisfactorily performed:

(i) Full discharge test; or

(ii) Enclosure integrity procedure in accordance with Annex C of NFPA 2001; for discharge or enclosure integrity tests, the minimum concentration hold time must be 15 minutes, and the extinguishing agent concentration at the end of the hold time must be at least 85% of the design concentration.

(f) If fuel can drain from the compartment being protected to an adjacent compartment or if the compartments are not entirely separate, the quantity must be sufficient for both compartments.

§ 162.161–4 Construction.

(a) Each pressure vessel must comply with 46 CFR 147.60(a) and (b).

(b) Each system must be capable of operation without an external power source.

(c) Manual actuation for the system must be by mechanical or pneumatic means.

(d) Automatically actuated systems must be released by pneumatic or fusible element detection systems.

(e) Each system installed with the extinguishing agent cylinders stored inside a protected space of 6,000 cubic feet or less must use automatic actuation as the primary means of actuation and have a remote backup manual mechanical actuator.

(f) Each container charged with nitrogen must have a pressure gauge.

§ 162.161–5 Instruction manual for design, installation, operation, and maintenance.

(a) The manufacturer must prepare a system instruction manual for design, installation, operation, and maintenance of the system. The manual must be reviewed and accepted by an independent laboratory listed in 46 CFR 162.161–10 and be approved by the Coast Guard under 46 CFR 159.005–13.

(b) The manual must include:

(1) The design information as required in the Design Manual as detailed in UL 2166 (incorporated by reference, *see* 46 CFR 162.161–2) for halocarbon systems and UL 2127 (incorporated by reference, *see* 46 CFR 162.161–2) for inert gas systems;

(2) Installation, operation, and maintenance instructions as required in the Installation, Operation, and Maintenance Instruction Manual detailed in UL 2166 for halocarbon systems and UL 2127 for inert gas systems;

(3) Identification of the computer program listed or approved by the

independent laboratory for designing the system;

(4) A sample diagram and calculation for a marine system for a large inspected vessel with several spaces to be protected by the same system;

(5) The approval number issued by the Coast Guard for the system under 46 CFR 159.005–13;

(6) A parts list with manufacturer's parts numbers and description of each system component;

(7) An index of chapters; and

(8) Issue and revision dates for each page.

(c) The manufacturer of each system must provide at least one copy of the system manual with each system.

§ 162.161–6 Tests for approval.

Prior to approval by an independent laboratory each system must:

(a) Satisfy the test method of MSC/Circ. 848 as amended by MSC.1/Circ. 1267 (both incorporated by reference, *see* § 162.161–2), except that:

(1) The Fire Type A (Tell tale) test must be conducted when the charged system cylinders have been conditioned for 24 hours at 32° Fahrenheit or at the expected service temperature, if lower than 32° F.

(2) [Reserved]

(b) Satisfy the following test requirements as indicated in UL 2166 (incorporated by reference, see 46 CFR 162.161–2) for halocarbon systems or UL 2127 for inert gas systems (incorporated by reference, *see* 46 CFR 162.161–2):

(1) Nozzle distribution;

(2) Flow calculation method verification to determine that the manufacturer's calculation method accurately predicts the discharge time, nozzle pressure, and distribution of the extinguishing agent;

(3) Salt spray corrosion resistance for marine-type systems;

(4) Vibration resistance of installed components for marine-type systems; and

(5) Any additional tests contained in UL 2166 for halocarbon systems or UL 2127 for inert gas systems, as required for listing by the independent laboratory.

(c) Equivalent length of installed components must be identified and included in the test report in accordance with UL 2166 for halocarbon systems or UL 2127 for inert gas systems.

§ 162.161–7 Inspections at production.

(a) The system must be inspected in accordance with this section and 46 CFR 159.007–1 through 159.007–13, and tested using any additional tests that the Commandant (CG–5214) may deem necessary to maintain control of quality and to ensure compliance with this subpart.

(b) The manufacturer must:

(1) Institute procedures to maintain control over the materials used, over the manufacturing of the systems, and over finished systems;

(2) Admit the independent laboratory inspector and any representative of the Coast Guard to any place where work is being done on systems and any place where parts or complete systems are stored;

(3) Allow the independent laboratory inspector and any representative of the Coast Guard to take samples of systems for tests prescribed by this subpart; and

(4) Conduct a leakage test on each system cylinder-valve assembly in accordance with subsections 57.1 through 57.4.2 of UL 2166 (incorporated by reference, see 46 CFR 162.161–2) for halocarbon systems or subsection 55.4 of UL 2127 (incorporated by reference, *see* 46 CFR 162.161–2) for inert gas systems.

§ 162.161–8 Marking.

The following information must be displayed on a permanent metal or pressure-sensitive nameplate attached to each agent storage cylinder/valve assembly:

(a) Manufacturer's name, address, and telephone number;

(b) Coast Guard approval number assigned to the system under 46 CFR 159.005–13;

(c) Identifying mark of the laboratory;

(d) Reference to the laboratory's listing standard;

(e) Type extinguishing agent;

(f) Operating pressure at 70° Fahrenheit;

(g) Storage temperature range;

(h) Factory test pressure of the cylinder;

(i) Reference to the manufacturer's marine design, installation, operation, and maintenance manual;

(j) Weight of agent charge and gross weight of cylinder/valve assembly;

(k) Minimum maintenance instructions; and

(l) Any other information required by the laboratory or another government agency.

§ 162.161–9 Procedure for approval.

(a) Preapproval review is required as detailed in 46 CFR 159.005–5 and 159.005–7.

(b) Applications for approval must be submitted in accordance with 46 CFR 159.005–9 through 159.005–12 to the Commandant (CG–5214). In addition to the listed requirements:

(1) Evidence must be shown that an acceptable follow-up factory inspection program is in place in each factory location. This could be demonstrated by providing an original copy of the contract for a follow-up program between the manufacturer and the independent laboratory. The follow-up program must include provisions that prohibit changes to the approved equipment without review and approval by the independent laboratory.

(2) Two design, installation, operation and maintenance manuals must be submitted.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

82. The authority citation for Part 167 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

83. Amend § 167.45–1(a)(3), (a)(7), (a)(8), and (a)(9) to read as follows:

§ 167.45–1 Steam, carbon dioxide, Halon 1301, and clean agent fire extinguishing systems.

(a) * * *

(3) Cabinets, boxes, or casings enclosing manifolds or valves must be marked in conspicuous red letters at least 2 inches high: "[STEAM/CARBON DIOXIDE/HALON/CLEAN AGENT—as appropriate] FIRE APPARATUS."

* * * * *

(7) At annual inspections, each carbon dioxide cylinder, whether fixed or portable, each Halon 1301 cylinder, and each clean agent cylinder must be examined externally and replaced if excessive corrosion is found; and:

(i) Each carbon dioxide cylinder must be weighed and recharged if its weight loss exceeds 10% of the charge;

(ii) Each Halon 1301 and halocarbon cylinder must be weighed and checked, and recharged or replaced if weight loss exceeds 5% of required weight of charge or if cylinder pressure loss exceeds 10% of specified gauge pressure adjusted for temperature; and

(iii) Each inert gas cylinder must be checked and recharged or replaced if cylinder pressure loss exceeds 5% of specified gauge pressure adjusted for temperature.

(8) Carbon dioxide, Halon 1301, and clean agent cylinders carried on board nautical school ships must be tested and marked in accordance with the requirements of 46 CFR 147.60, 147.65, 147.66, and 147.67.

(9) On all systems test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction

manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed.

* * * * *

84. In § 167.45–45, add new paragraphs (d) and (e) to read as follows:

§ 167.45–45 Carbon dioxide fire extinguishing system requirements.

* * * * *

(d) *Lockout valve.* (1) A lockout valve must be provided on any carbon dioxide extinguishing system protecting a space over 6,000 cubic feet in volume or a space 6,000 cubic feet or less in volume that does not have a horizontal escape.

(2) The lockout valve must be a manually operated valve located in the discharge manifold prior to the stop valve or selector valves. When in the closed position, the lockout valve must provide complete isolation of the system from the protected space or spaces, making it impossible for carbon dioxide to discharge in the event of equipment failure during maintenance.

(3) The lockout valve design or locking mechanism must make it obvious whether the valve is open or closed.

(4) A valve is considered a lockout valve if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it.

(5) The lockout valve must be locked in the closed position whenever maintenance is performed on the extinguishing system. The master must ensure that the lockout valve is locked in the open position when maintenance is complete and the system is returned to operable condition.

(6) Lockout valves added to existing systems must be approved by the Commandant for use in the system.

(7) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the lockout valve requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

(e)(1) Each carbon dioxide extinguishing system must have an approved odorizing unit to produce the scent of wintergreen, the detection of which will serve as an indication that carbon dioxide gas is present in a protected area and any other area into which the carbon dioxide may migrate.

(2) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

85. Revise § 167.55–5(c) to read as follows:

§ 167.55–5 Marking of fire and emergency equipment.

* * * * *

(c)(1) *Steam, foam, carbon dioxide, Halon, or clean agent fire smothering apparatus.* Steam, foam, carbon dioxide, Halon, or clean agent fire smothering apparatus must be marked "[STEAM/FOAM/CARBON DIOXIDE/HALON/CLEAN AGENT—as appropriate] FIRE APPARATUS," in red letters at least 2 inches high, and the valves of all branch piping leading to the several compartments must be distinctly marked to indicate the compartments or parts of the nautical school ship to which they lead.

(2) Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(i) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(ii) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK-OUT SYSTEM WHEN SERVICING."

(iii) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

* * * * *

PART 169—SAILING SCHOOL VESSELS

86. The authority citation for Part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; Pub. L. 103–206, 107 Stat. 2439; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1; § 169.117 also issued under the authority of 44 U.S.C. 3507.

87. In § 169.247, revise Table 169.247(a)(2) and add and reserve paragraph (b) to read as follows:

§ 169.247 Firefighting equipment.

* * * * *

TABLE 169.247(a)(2)—FIXED SYSTEMS

Type system	Test
Carbon dioxide	Weigh cylinders. Recharge cylinder if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide systems must be tested or renewed, as required by 46 CFR 147.60 and 147.65.
Halon 1301 or halocarbon	Recharge or replace if weight loss exceeds 5% of weight of charge or if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10%, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections to Halon 1301 and halocarbon cylinders must be tested or renewed, as required by 46 CFR 147.60 and 147.65 or 147.67. Note that Halon 1301 system approvals have expired, but that existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.
Inert gas	Recharge or replace recharge or replace cylinder if cylinder pressure loss exceeds 5% of specified gauge pressure, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed inert extinguishers must be tested or renewed as required by 46 CFR 147.60 and 147.66.
Water mist	Maintain system in accordance with the maintenance instructions in the system manufacturer's design, installation, operation, and maintenance manual.

(b) [Reserved].

88. Revise § 169.564 to read as follows:

§ 169.564 Fixed extinguishing system, general.

(a) A fixed carbon dioxide, Halon 1301, or clean agent extinguishing system must be installed to protect the following spaces:

(1) Any vessel machinery or fuel tank space, except where the space is so open to the atmosphere as to make the use of a fixed system ineffective;

(2) Any paint or oil room or similar hazardous space; and

(3) Any galley stove area on a vessel greater than 90 feet in length and certificated for exposed or partially protected water service.

(b) Each fixed extinguishing system must be of an approved carbon dioxide, Halon 1301, halogenated, or clean agent type and installed to the satisfaction of the Officer in Charge, Marine Inspection.

89. Add a new § 169.570 to read as follows:

§ 169.570 Lockout valves.

(a) A lockout valve must be provided on any carbon dioxide extinguishing system protecting a space over 6,000 cubic feet in volume or a space 6,000 cubic feet or less in volume that does not have a horizontal escape.

(b) The lockout valve must be a manually operated valve located in the discharge manifold prior to the stop valve or selector valves. When in the closed position, the lockout valve must provide complete isolation of the system from the protected space or spaces, making it impossible for carbon dioxide to discharge in the event of equipment failure during maintenance.

(c) The lockout valve design or locking mechanism must make it obvious whether the valve is open or closed.

(d) A valve is considered a lockout valve if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it.

(e) The lockout valve must be locked in the closed position whenever maintenance is performed on the extinguishing system. The master must ensure that the lockout valve is locked in the open position when maintenance is complete and the system is returned to operable condition.

(f) Lockout valves added to existing systems must be approved by the Commandant for use in the system.

(g) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the lockout valve requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

90. Add a new § 169.571 to read as follows:

§ 169.571 Olfactory additives.

(a) Each carbon dioxide extinguishing system must have an approved odorizing unit to produce the scent of wintergreen, the detection of which will serve as an indication that carbon dioxide gas is present in a protected area and any other area into which the carbon dioxide may migrate.

(b) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

91. Revise § 169.732 to read as follows:

§ 169.732 Carbon dioxide and clean agent alarms.

(a) Each carbon dioxide or clean agent fire extinguishing alarm must be conspicuously marked: "WHEN ALARM SOUNDS VACATE AT ONCE. CARBON DIOXIDE OR CLEAN AGENT BEING RELEASED."

(b) Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(1) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(2) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK-OUT SYSTEM WHEN SERVICING."

(3) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

92. Revise § 169.734 to read as follows:

§ 169.734 Fire extinguishing system controls.

Each control cabinet or space containing valves or manifolds for the various fire extinguishing systems must be distinctly marked in conspicuous red letters at least 2 inches high: "CARBON DIOXIDE FIRE EXTINGUISHING SYSTEM," "HALON EXTINGUISHING SYSTEM," or "CLEAN AGENT EXTINGUISHING SYSTEM," as appropriate.

PART 176—INSPECTION AND CERTIFICATION

93. The authority citation for Part 176 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1

94. Revise § 176.810(b)(2) to read as follows:

§ 176.810 Fire protection.

* * * * *

(b) * * *

(2) For semiportable and fixed gas fire extinguishing systems, the inspections and tests required by Table 176.810(b)(2), in addition to the tests required by 46 CFR 147.60, 147.65, 147.66, and 147.67. The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any equipment or record has not been properly maintained, a qualified servicing facility may be required to perform the required inspections, maintenance procedures, and hydrostatic pressure tests.

TABLE 176.810(b)(2)—SEMIPORTABLE AND FIXED FIRE EXTINGUISHING SYSTEMS

Type system	Test
Carbon dioxide	Weigh cylinders. Recharge cylinder if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide systems must be tested or renewed, as required by 46 CFR 147.60 and 147.65.

TABLE 176.810(b)(2)—SEMIPORTABLE AND FIXED FIRE EXTINGUISHING SYSTEMS—Continued

Type system	Test
Halon 1301 and halocarbon	Recharge or replace if weight loss exceeds 5% of weight of charge or if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10%, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections to Halon 1301 and halocarbon cylinders must be tested or renewed, as required by 46 CFR 147.60 and 147.65 or 147.67. Note that Halon 1301 system approvals have expired, but that existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.
Dry chemical (cartridge operated).	Examine pressure cartridge and replace if end is punctured or if determined to have leaked or to be in unsuitable condition. Inspect hose and nozzle to see if they are clear. Insert charged cartridge. Ensure dry chemical is free flowing (not caked) and extinguisher contains full charge.
Dry chemical (stored pressure).	See that pressure gauge is in operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with dry chemical. Recharge if pressure is low or if dry chemical is needed.
Foam (stored pressure)	See that any pressure gauge is in the operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with foam. Recharge if pressure is low or if foam is needed. Replace premixed agent every 3 years.
Inert gas	Recharge or replace cylinder if cylinder pressure loss exceeds 5% of specified gauge pressure, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed inert extinguishers must be tested or renewed as required by 46 CFR 147.60 and 147.66.
Water mist	Maintain system in accordance with the maintenance instructions in the system manufacturer's design, installation, operation, and maintenance manual.

* * * * *

PART 181—FIRE PROTECTION EQUIPMENT

95. The authority citation for Part 181 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

96. Amend § 181.410, to revise paragraph (c)(7) and add paragraphs (f)(7) to (15) to read as follows:

§ 181.410 Fixed gas fire extinguishing systems.

* * * * *

(c) * * *

(7) A Halon 1301 storage cylinder must be stowed in an upright position unless otherwise listed by the independent laboratory. A carbon dioxide cylinder may not be inclined more than 30° from the vertical unless fitted with flexible or bent siphon tubes, in which case it may be inclined not more than 80° from the vertical. Cylinders for clean agent systems must be installed in an upright position unless otherwise specified in the system's instruction manual.

* * * * *

(f) * * *

(7) A lockout valve must be provided on any carbon dioxide extinguishing system protecting a space over 6,000 cubic feet in volume or a space 6,000 cubic feet or less in volume that does not have a horizontal escape.

(8) The lockout valve must be a manually operated valve located in the discharge manifold prior to the stop valve or selector valves. When in the closed position, the lockout valve must provide complete isolation of the system from the protected space or spaces, making it impossible for carbon dioxide to discharge in the event of equipment failure during maintenance.

(9) The lockout valve design or locking mechanism must make it obvious whether the valve is open or closed.

(10) A valve is considered a lockout valve if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it.

(11) The lockout valve must be locked in the closed position whenever maintenance is performed on the extinguishing system. The master must ensure that the lockout valve is locked in the open position when maintenance is complete and the system is returned to operable condition.

(12) Lockout valves added to existing systems must be approved by the Commandant for use in the system.

(13) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the lockout valve requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

(14) Each carbon dioxide extinguishing system must have an approved odorizing unit to produce the scent of wintergreen, the detection of which will serve as an indication that carbon dioxide gas is present in a protected area and any other area into which the carbon dioxide may migrate.

(15) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

* * * * *

PART 182—MACHINERY INSTALLATION

97. The authority citation for Part 182 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

98. Revise § 182.710(a)(3) to read as follows:

§ 182.710 Piping for vital systems.

(a) * * *

(3) Carbon dioxide, Halon 1301, and clean agent systems;

* * * * *

PART 185—OPERATIONS

99. The authority citation for Part 185 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

100. Amend § 185.612, to revise paragraph (f) and to add a paragraph (g) to read as follows:

§ 185.612 Fire protection equipment.

* * * * *

(f) The control cabinets or spaces containing valves, manifolds or controls for the various fire extinguishing

systems must be marked in conspicuous red letters at least 2 inches high: "[STEAM/CARBON DIOXIDE/CLEAN AGENT/FOAM/WATER SPRAY—as appropriate] FIRE APPARATUS."

(g) Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(1) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(2) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK-OUT SYSTEM WHEN SERVICING."

(3) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

PART 189—INSPECTION AND CERTIFICATION

101. The authority citation for Part 189 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306, 3307; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

102. In § 189.25–20, revise the section heading and Table 189.25–20(a)(2) to read as follows:

§ 189.25–20 Fire extinguishing equipment.

* * * * *

TABLE 189.25–20(a)(2)

Type system	Test
Foam	Systems utilizing a soda solution must have such solution replaced. In all cases, ascertain that powder is not caked.
Carbon dioxide	Weigh cylinders. Recharge cylinder if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide systems must be tested or renewed, as required by 46 CFR 147.60 and 147.65.
Halon 1301 or halocarbon	Recharge or replace if weight loss exceeds 5% of weight of charge or if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10%, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections to Halon 1301 and halocarbon cylinders must be tested or renewed, as required by 46 CFR 147.60 and 147.65 or 147.67. Note that Halon 1301 system approvals have expired, but that existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.
Inert gas	Recharge or replace cylinder if cylinder pressure loss exceeds 5% of specified gauge pressure, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections on fixed inert extinguishers must be tested or renewed as required by 46 CFR 147.60 and 147.66.
Water mist	Maintain system in accordance with the maintenance instructions in the system manufacturer's design, installation, operation, and maintenance manual.

* * * * *

103. Revise § 189.55–5(d)(4) to read as follows:

§ 189.55–5 Plans and specifications required for new construction.

* * * * *

(d) * * *

(4) Details of extinguishing systems, including fire mains, carbon dioxide, clean agent, foam, and sprinkling systems.

* * * * *

PART 190—CONSTRUCTION AND ARRANGEMENT

104. The authority citation for Part 190 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

105. Revise § 190.15–5(i) to read as follows:

§ 190.15–5 Vessels using fuel having a flashpoint of 110 °F or lower.

* * * * *

(i) Provisions must be made for closing all cowls or scoops when the fixed carbon dioxide or clean agent system is operated.

PART 193—FIRE PROTECTION EQUIPMENT

106. The authority citation for Part 193 continues to read as follows:

Authority: 46 U.S.C. 2213, 3102, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

107. Revise § 193.05–10 to read as follows:

§ 193.05–10 Fixed fire extinguishing systems.

(a) Approved fire extinguishing systems must be installed in all lamp and paint lockers, oil rooms, and similar spaces.

(b) A fixed carbon dioxide or clean agent fire extinguishing system complying with 46 CFR subparts 95.15 and 95.16 must be installed for:

(1) Internal combustion engine installations;

(2) Gas turbine installations;

(3) Enclosed spaces containing gasoline engines;

(4) Chemical storerooms;

(5) Any space containing auxiliaries with an aggregate power of 1,000 brake horsepower (b.h.p.) or greater, or their fuel oil units, including purifiers, valves, and manifolds, on vessels of 1,000 gross tons and over; and

(6) Enclosed ventilating systems installed for electric propulsion motors or generators.

(c) On vessels of 1,000 gross tons and over, a fixed carbon dioxide or clean agent fire extinguishing system complying with 46 CFR subparts 95.15 and 95.16 or a foam system complying with 46 CFR subpart 95.17 must be installed for any space containing main or auxiliary oil fired boilers or their associated fuel oil units, valves, or manifolds in the line between the settling tanks and the boilers.

(d) Systems for spaces containing explosives and other dangerous articles or substances must also comply with 46 CFR Part 194.

108. In § 193.10–5, revise the section heading and paragraph (h) to read as follows:

§ 193.10–5 Fire main system, details.

* * * * *

(h) On vessels with main or auxiliary oil fired boilers or vessels with internal combustion propulsion machinery, when two fire pumps are required, the boilers or machinery must be located in separate spaces, and the arrangement, pumps, sea connections, and sources of power must be such as to ensure that a fire in any one space will not put all of the fire pumps out of operation. However, when it is shown to the satisfaction of the Commandant that it is unreasonable or impracticable to meet this requirement due to the size or arrangement of the vessel, or for other reasons, the installation of a total flooding system using carbon dioxide or a clean agent complying with 46 CFR subpart 95.16 may be accepted as an alternate method of extinguishing any fire that could affect the powering and operation for the required fire pumps.

* * * * *

109. Revise the heading to subpart 193.15 to read as follows:

Subpart 193.15—Carbon Dioxide and Clean Agent Extinguishing Systems, Details

110. Add a new § 193.15–16 to read as follows:

§ 193.15–16 Lockout valves.

(a) A lockout valve must be provided on any carbon dioxide extinguishing system protecting a space over 6,000 cubic feet in volume or a space 6,000 cubic feet or less in volume that does not have a horizontal escape.

(b) The lockout valve must be a manually operated valve located in the discharge manifold prior to the stop valve or selector valves. When in the closed position, the lockout valve must provide complete isolation of the system from the protected space or spaces, making it impossible for carbon dioxide to discharge in the event of equipment failure during maintenance.

(c) The lockout valve design or locking mechanism must make it obvious whether the valve is open or closed.

(d) A valve is considered a lockout valve if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it.

(e) The lockout valve must be locked in the closed position whenever maintenance is performed on the extinguishing system. The master must ensure that the lockout valve is locked in the open position when maintenance is complete and the system is returned to operable condition.

(f) Lockout valves added to existing systems must be approved by the Commandant for use in the system.

(g) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the lockout valve requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

111. Add a new § 193.15–17 to read as follows:

§ 193.15–17 Olfactory additives.

(a) Each carbon dioxide extinguishing system must have an approved odorizing unit to produce the scent of wintergreen, the detection of which will serve as an indication that carbon dioxide gas is present in a protected area and any other area into which the carbon dioxide may migrate.

(b) Vessels in operation on [EFFECTIVE DATE OF RULE] must comply with the requirements of this section not later than [DATE 5 YEARS AFTER EFFECTIVE DATE OF RULE].

112. Add a new § 193.15–50 to read as follows:

§ 193.15–50 Clean agent systems.

A clean agent system complying with 46 CFR subpart 95.16 may be used as an alternative to a carbon dioxide fire extinguishing system.

PART 194—HANDLING, USE, AND CONTROL OF EXPLOSIVES AND OTHER HAZARDOUS MATERIALS

113. The authority citation for Part 194 continues to read as follows:

Authority: 46 U.S.C. 2103, 2113, 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

114. Revise § 194.20–7(a) to read as follows:

§ 194.20–7 Fire protection.

(a) Each chemical storeroom must be protected by a fixed automatic extinguishing system using carbon dioxide or a clean agent complying with 46 CFR subpart 95.16, installed in accordance with 46 CFR subpart 193.15.

* * * * *

PART 196—OPERATIONS

115. The authority citation for Part 196 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2213, 3306, 5115, 6101; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

116. Add a new § 196.37–8 to read as follows:

§ 196.37–8 Carbon dioxide warnings.

Each entrance to a space storing carbon dioxide cylinders, a space protected by carbon dioxide systems, or any space into which carbon dioxide might migrate must be conspicuously marked as follows:

(a) Spaces storing carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. VENTILATE THE AREA BEFORE ENTERING. A HIGH CONCENTRATION CAN OCCUR IN THIS AREA AND CAN CAUSE SUFFOCATION."

(b) Spaces protected by carbon dioxide—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED, DO NOT ENTER UNTIL VENTILATED. LOCK-OUT SYSTEM WHEN SERVICING."

(c) Spaces into which carbon dioxide might migrate—"CARBON DIOXIDE GAS CAN CAUSE INJURY OR DEATH. DISCHARGE INTO NEARBY SPACE CAN COLLECT HERE. WHEN ALARM OPERATES OR WINTERGREEN SCENT IS DETECTED VACATE IMMEDIATELY."

117. Revise § 196.37–9 to read as follows:

§ 196.37–9 Carbon dioxide and clean agent alarms.

Each extinguishing system using carbon dioxide or clean agent complying with 46 CFR subpart 95.16 must be conspicuously marked in an adjacent location: "WHEN ALARM SOUNDS VACATE AT ONCE. CARBON DIOXIDE OR CLEAN AGENT BEING RELEASED."

118. Revise § 196.37–13 to read as follows:

§ 196.37–13 Fire extinguishing system controls.

The control cabinets or spaces containing valves, manifolds or controls for the various fire extinguishing systems must be marked in conspicuous red letters at least 2 inches high: "[CARBON DIOXIDE/CLEAN AGENT/FOAM—as appropriate] FIRE APPARATUS."

Dated: February 12, 2010.

J.G. Lantz,

Director of Commercial Regulations and Standards.

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