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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 1980

RIN 0575–AC85

Guaranteed Single Family Housing Loans

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS) is amending its regulations to add new servicing options to the Single Family Housing Guaranteed Loan Program (SFHGLP) that lenders may utilize while still maintaining the SFHGLP loan guarantee. The Agency will allow lenders to extend loans for a term of up to 40 years from the date of modification. The Agency also will allow lenders to advance funds on behalf of borrowers in amounts necessary to bring defaulted loans current, up to 30 percent of the unpaid principal balance of the loan. Upon request, RHS will reimburse the lender for eligible advances. The intended effect is to reduce mortgage foreclosures among SFHGLP borrowers and help stabilize the national housing market. This amendment is being issued as a final rule pursuant to section 101(c)(1) of the Helping Families Save Their Homes Act of 2009, which authorizes RHS to promulgate this rule without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking.

DATES: *Effective Date:* This rule is effective September 24th, 2010.

FOR FURTHER INFORMATION CONTACT: Stuart Walden, Senior Loan Specialist, Section 502 Guaranteed Loan Program—STOP 0784 (Room 2241), U.S. Department of Agriculture, Rural Housing Service, 1400 Independence Ave., SW., Washington, DC 20250–0784. *Telephone:* 202–690–4507; 202–720–8795; *E-mail: stuart.walden@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been determined to be not significant and has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with the Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings in accordance with the regulations of the National Appeals Division of USDA at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA (2 U.S.C. 1532), RHS generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This final rule has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." Rural Development has determined that an environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial programs is categorically excluded in the Agency's National Environmental Policy Act of 1969 (NEPA) regulation found at 7 CFR 1940.310(e)(3). Thus, in accordance with NEPA (42 U.S.C. 4321–4347), Rural Development has determined that this regulation does not constitute a major action significantly affecting the quality of the human environment.

Furthermore, individual awards under this rule are hereby classified as categorical exclusions according to 7 CFR 1940.310(e)(2) (loan-closing and servicing activities, transfers, assumptions, subordinations, construction management activities and amendments and revisions to approved projects, including the provision of additional financial assistance that do not alter the purpose, operation, location, or design of the project as originally approved) and thus do not require any additional documentation.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose a substantial direct compliance cost on State and local governments. Therefore, consultation with the States is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule will not have a significant impact on a substantial number of small entities. Program requirements for the guaranteed single family housing program are the same for all approved

lenders regardless of their size. Borrowers are low to moderate income individual homebuyers, not entities.

Intergovernmental Consultation

This program/activity is excluded from the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials.

Programs Affected

The program affected is listed in the Catalog of Federal Domestic Assistance as 10.410, Very Low to Moderate Income Housing Loans.

Paperwork Reduction Act of 1995

Section 101(c)(1)(C) of the Helping Families Save Their Homes Act of 2009 authorizes RHS to promulgate this rule without regard to the Paperwork Reduction Act.

E-Government Act Compliance

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

Non-Discrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice), or (202) 720–6382 (TDD). "USDA is an equal opportunity provider, employer, and lender."

Background Information

The Helping Families Save Their Homes Act of 2009 was signed into law on May 20, 2009. Section 101 of this law amended section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)), which authorizes the RHS Section 502 Guaranteed Loan Program. The amendments gave RHS the authority to approve the modification of guaranteed single family housing loans that are in default or facing imminent default with terms extended up to 40 years from the date of modification (section 502(h)(14) of the Housing Act). The amendments also gave RHS the authority to establish a program for the payment of partial claims to mortgagees (approved guaranteed lenders) who agree to apply the claim amount to the payment of a loan in default or facing imminent default (section 502(h)(14) of the Housing Act). This rule adds 7 CFR 1980.373 to allow lenders to modify mortgages by reducing the interest rate to a level at or below a maximum allowable interest rate and extending the term of the loan up to 40 years from the date of loan modification ("extended-term loan modification"). RHS also will reimburse lenders for certain advances made on behalf of borrowers in default or facing imminent default ("mortgage recovery advances") (together with extended-term loan modification, "special loan servicing"). Lenders must receive written approval from RHS prior to servicing a borrower's account with special loan servicing. As with other authorized servicing options, the Lender must submit a servicing plan to RHS pursuant to 7 CFR 1980.374 when a borrower's account is 90 days delinquent and a method other than foreclosure is recommended to resolve the delinquency. Use of special loan servicing does not change the terms of the loan note guarantee. The Agency hopes that the additional servicing authorities will help to stabilize the current housing market. This rule also amends 7 CFR 1980.302, "Definitions and Abbreviations," to include the terms introduced in 7 CFR 1980.373.

Pursuant to section 1980.373(b), special loan servicing shall be used to bring the borrower's mortgage payment to income ratio as close as possible to, but not less than, 31 percent. The mortgage payment to income ratio is defined as the monthly mortgage payment (principal, interest, taxes, and insurance) for the modified mortgage divided by the borrower's gross monthly income. RHS chose to target 31 percent of a borrower's gross monthly income because 31 percent is consistent with the industry standard and is reasonable for determining a monthly mortgage payment that the borrower can afford. The U.S. Treasury Department's Home Affordable Modification Program (HAMP) requires servicers to reduce the borrower's monthly mortgage payment to 31 percent of the borrower's total pre-tax monthly income. The Federal Housing Administration (FHA) and Department of Veterans Affairs (VA) also use a 31 percent target in their HAMP-related loan modification programs. The following Web sites provide additional information about *HAMP: www.hmpadmin.com* (for servicers) and *http://makinghomeaffordable.gov/* (for borrowers). Please note that while HAMP is a temporary program (currently set to expire on December 31, 2012), the provisions of this final rule have no expiration date.

Section 1980.373(b) also requires the Lender to verify the borrower's income prior to servicing the borrower's account with special loan servicing. For borrowers who are employed by a private or public organization, the Lender shall examine documents such as the borrower's current pay stub and most recent Internal Revenue Service Form W–2. For borrowers who are self-employed, the Lender shall examine documents such as the borrower's profit and loss statements (for the year to date and the previous year) and the borrower's signed tax return for the previous year. These verification measures are designed to ensure accuracy.

Pursuant to section 1980.373(c), the Lender must consider traditional servicing options before considering special loan servicing. Specifically, the Lender must consider the borrower for a repayment agreement, special forbearance agreement, and loan modification plan with a term not to exceed 30 years from the date of the original loan. These traditional servicing options are detailed in the Loss Mitigation Guide that RHS distributes to all approved lenders servicing SFHGLP loans. If the targeted mortgage payment to income ratio cannot be achieved using traditional servicing options, then the Lender may consider an extended-term loan modification. If the targeted mortgage payment to income ratio cannot be achieved using an extended-term loan modification, then the Lender may consider a mortgage recovery advance in addition to the extended-term loan modification. Before considering a mortgage recovery advance, the Lender must reduce the interest rate to the maximum allowable interest rate and extend the repayment term for 30 years from the date of loan modification. The Lender may reduce the interest rate further and/or extend the term of the loan for up to 40 years from the date of loan modification at the Lender's option, but the Lender shall not be required to do so before utilizing a mortgage recovery advance. This sequence gives lenders some flexibility while encouraging lenders to achieve

the targeted mortgage payment to income ratio using the servicing option(s) that will be least expensive for the government. Use of the mortgage recovery advance is limited because the mortgage recovery advance will be most expensive for the government. By imposing these restrictions, RHS will promote the reduction of mortgage foreclosures in a cost-effective manner.

Section 1980.373(d) describes eligibility requirements that apply to all special loan servicing.

First, in order for a borrower to be eligible, the borrower must be in default or facing imminent default. A borrower is "facing imminent default" if that borrower is current or less than 30 days past due on the mortgage obligation and is experiencing a significant reduction in income or some other hardship that will prevent him or her from making the next required payment on the mortgage during the month in which it is due. Section 502(h)(14) of the Housing Act of 1949 authorizes RHS to allow loan modifications and payment of partial claims with respect to mortgages that are in default or facing imminent default. RHS believes that establishing early contact with borrowers having difficulty making their mortgage payments increases the likelihood that such borrowers will be able to retain homeownership.

Second, in order for a borrower to be eligible, the borrower's total debt to income ratio following special loan servicing must not exceed 55 percent. Total debt to income ratio is defined as the borrower's monthly mortgage payment plus all recurring monthly debt divided by the borrower's gross monthly income. This requirement exists to control costs for the government. Repayment ability is substantially impaired when a borrower's total debt to income ratio exceeds 55 percent. FHA uses the same eligibility standard in its HAMP-related loan modification program. In connection with this requirement, section 1980.373(d) requires the Lender to verify the borrower's income and total debt prior to servicing the borrower's account with special loan servicing. For borrowers who are employed by a private or public organization, the Lender shall verify the borrower's income by examining documents such as the borrower's current pay stub and most recent Internal Revenue Service Form W–2. For borrowers who are self-employed, the Lender shall verify the borrower's income by examining documents such as the borrower's profit and loss statements (for the year to date and the previous year) and the borrower's signed tax return for the previous year. The Lender shall verify the borrower's total debt by ordering and examining the borrower's credit report. These verification measures are designed to ensure accuracy.

Third, in order for a borrower to be eligible, the borrower must successfully complete a trial payment plan to demonstrate that the borrower will be able to make regularly scheduled payments as modified by the special loan servicing. For borrowers who are in default when special loan servicing is initiated, the trial payment plan shall be three months in length. For borrowers facing imminent default when special loan servicing is initiated, the trial payment plan shall be four months in length. The borrower's monthly payment during the trial payment plan shall equal the monthly payment that would be owed by the borrower following the special loan servicing. A three-month trial period is the industry standard and a key element of HAMP. The trial period allows the government to verify that the proposed servicing plan will succeed in helping the borrower afford their home. Three months is sufficient time for a borrower to demonstrate that the new payment can be maintained. Borrowers facing imminent default must complete a four-month trial period. FHA also requires a four-month trial period for borrowers facing imminent default in its HAMP-related loan modification program. During this trial period, the Lender shall service the mortgage in the same manner as it would service a mortgage under a special forbearance agreement, i.e., the Lender shall review the status of the plan each month and take appropriate action if the borrower is not complying with the terms of the plan. If the borrower does not successfully complete the trial payment plan by making each of the monthly payments on time, the borrower is not eligible for special loan servicing. If the borrower begins but does not successfully complete a trial payment plan, the Lender should consider the borrower for voluntary liquidation and deed in lieu of foreclosure before proceeding to foreclosure. This provision is included to minimize loss to the government.

Finally, in order for a borrower to be eligible for special loan servicing, the borrower must occupy the property as the borrower's primary residence at the time of the special loan servicing and intend to continue occupying the property as such. This requirement is consistent with existing SFHGLP regulations. It is also consistent with the purpose of the program—to assist eligible households in having adequate but modest, decent, safe, and sanitary dwellings for their own use.

Section 1980.373(e) states that in an extended-term loan modification, the Lender shall reduce the interest rate to a level at or below the maximum allowable interest rate and extend the repayment term up to 40 years from the date of loan modification. Pursuant to section 1980.373(e), the interest rate must be fixed. Using a fixed interest rate makes the loan terms easy for the borrower to understand and reduces the administrative burden on the government. RHS may establish the maximum allowable interest rate by publishing a notice in the **Federal Register** describing how to calculate the rate. This will allow RHS to adapt to industry standards and market conditions. If the maximum allowable interest rate has not been established by notice in the **Federal Register**, the maximum allowable interest rate shall be 50 basis points greater than the most recent Freddie Mac Weekly Primary Mortgage Market Survey (PMMS) rate for 30-year fixed-rate mortgages (U.S. average), rounded to the nearest one-eighth of one percent (0.125%), as of the date the loan modification is executed. Weekly PMMS rates are published on the Freddie Mac Web site, and the Federal Reserve Board includes the average 30-year PMMS rate in the list of Selected Interest Rates that it publishes weekly in its Statistical Release H.15. This default maximum allowable interest rate is determined using the same formula used by FHA in its HAMP-related loan modification program. Section 1980.373(e) also requires that the term of the loan be extended only as long as is necessary to achieve the targeted mortgage payment to income ratio (but no longer than 40 years) after the interest rate has been fixed at a level at or below the maximum allowable rate. This requirement ensures that the program goals are met in a cost-effective manner. As required by section 502(h)(14) of the Housing Act of 1949, expenses related to special loan servicing shall not be charged to the borrower. Such expenses include title search fees and recording fees, but not legal fees and costs related to a cancelled foreclosure initiated prior to special loan servicing. Legal fees and costs related to a cancelled foreclosure may be capitalized into the modified principal balance provided that such foreclosure costs reflect work actually completed prior to the date of the foreclosure cancellation. Late fees should not be capitalized into the modified loan.

Pursuant to section 1980.373(f), the maximum mortgage recovery advance

consists of the sum of arrearages not to exceed 12 months of principal, interest, taxes, and insurance; legal fees and foreclosure costs related to a cancelled foreclosure action; and principal reduction. The maximum mortgage recovery advance is 30 percent of the unpaid principal balance as of the date of default. Section 502(h)(14) of the Housing Act of 1949 limits the amount of the partial claim to no more than 30 percent of the unpaid principal balance of the mortgage plus any costs that are approved by the Secretary. RHS has decided not to take any costs into account in order to streamline the calculation of the maximum mortgage recovery advance. The principal deferment on the modified mortgage is determined by multiplying the unpaid principal balance by 30 percent and then reducing that amount by arrearages advanced to cure the default and any foreclosure costs incurred to that point. The principal deferment amount for a specific case shall be limited to the amount that will bring the borrower's total monthly mortgage payment to 31 percent of gross monthly income. Limiting the amount of deferred principal in this way ensures that the program goals are met in a cost-effective manner. As required by section 502(h)(14) of the Housing Act of 1949, expenses related to special loan servicing shall not be charged to the borrower. Such expenses include title search fees and recording fees, but not legal fees and costs related to a cancelled foreclosure initiated prior to special loan servicing. Legal fees and foreclosure costs related to a cancelled foreclosure action may be included in the mortgage recovery advance provided that such foreclosure costs reflect work actually completed prior to the date of the foreclosure cancellation. Late fees should not be included in a mortgage recovery advance.

Section 1980.373(f) also addresses other issues relating to mortgage recovery advances. Pursuant to section 1980.373(f)(1), the Lender must have the borrower execute a promissory note payable to RHS and a mortgage or deed-of-trust in recordable form perfecting a lien naming RHS as the secured party for the amount of the mortgage recovery advance. The Lender shall properly record the mortgage or deed-of-trust in the appropriate local real estate records and provide the original promissory note to RHS. The Lender may file a claim pursuant to 7 CFR 1980.376 for reimbursement of up to $250 for a title search and/or recording fees in connection with this promissory note and mortgage or deed-of-trust. RHS used similar procedures successfully in its Mortgage Recovery Advance Program for SFHGLP borrowers in default on their housing loans due to damage caused by certain hurricanes in 2005. Pursuant to section 1980.373(f)(2), prior to making a mortgage recovery advance, the Lender must perform an escrow analysis to ensure that the payment made on behalf of the borrower accurately reflects the escrow amount required for taxes and insurance.

Section 1980.373(f)(3) discusses repayment of mortgage recovery advances. First, the mortgage recovery advance note and subordinate mortgage or deed-of-trust shall be interest-free. Second, borrowers are not required to make any monthly or periodic payments on the mortgage recovery advance note; however, borrowers may voluntarily submit partial payments without incurring any prepayment penalty. Third, the due date for the mortgage recovery advance note shall be the due date of the guaranteed note held by the Lender, as modified by the special loan servicing. Prior to the due date on the mortgage recovery advance note, payment in full under the note is due at the earlier of the following: When the first lien mortgage and the guaranteed note are paid off, or when the borrower transfers title to the property by voluntary or involuntary means. These provisions reflect industry practice under HAMP, which mandates that interest not accrue on deferred principal and that deferred principal is not due until the borrower pays off the loan, refinances, or sells the house. Fourth, repayment of all or part of the mortgage recovery advance must be remitted directly to RHS by the borrower. Finally, RHS will collect this Federal debt from the borrower by any available means if the mortgage recovery advance is not repaid based on the terms outlined in the promissory note and mortgage or deed-of-trust.

Section 1980.373(f)(4) discusses how a Lender files a claim with RHS for reimbursement of a mortgage recovery advance. First, a claim for reimbursement must be submitted to RHS within 60 days of the advance being executed by the borrower through his or her signature on the promissory note. Second, when filing the claim for reimbursement with RHS, the Lender must: Submit the original promissory note and a copy of the filed mortgage or deed-of-trust; include a summary of the amount of the funds advanced, including the monthly principal, interest, taxes, insurance, and principal deferment (if applicable), and other account information indicating the borrower's arrearage before the advance, as well as the present status of the account as of the date of the advance; provide the name, address, and tax ID number for the Lender; and provide the name, address, and phone number of a contact person for the Lender who can answer questions about the reimbursement request. These requirements allow RHS to exercise oversight and verify proper use of government funds for this servicing option.

Pursuant to section 1980.373(f)(5), if a borrower defaults on his or her loan after receiving a mortgage recovery advance and a loss claim is filed by the Lender due to the default, any Agency reimbursement issued for the mortgage recovery advance to the Lender on behalf of the borrower will be credited toward the maximum loan guarantee amount payable by the Agency under the guarantee. RHS followed this policy successfully in its mortgage recovery advance Program for SFHGLP borrowers in default on their housing loans due to damage caused by certain hurricanes in 2005. This credit or reduction in the ultimate loss claim payment is necessary since the mortgage recovery advance is a partial claim under the guarantee.

List of Subjects in 7 CFR Part 1980

Home improvement, Loan programs—Housing and community development, Mortgage insurance, Mortgages, Rural areas.

■ For the reasons stated in the preamble, chapter XVIII, title 7 of the Code of Federal Regulations, is amended as follows:

PART 1980—GENERAL

■ 1. The authority citation for part 1980 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart D—Rural Housing Loans

■ 2. Section 1980.302(a) is amended by adding in alphabetical order the definitions for "Extended-term loan modification," "Maximum allowable interest rate," "Mortgage payment to income ratio," "Mortgage recovery advance," and "Total debt to income ratio," to read as follows:

§ 1980.302 Definitions and abbreviations.

(a) * * *

Extended-term loan modification. A loan modification in which the Lender reduces the interest rate to a level at or below the maximum allowable interest rate and then extends the repayment term up to a maximum of 40 years from the date of loan modification, but only

as long as is necessary to achieve the targeted mortgage payment to income ratio.

* * * * *

Maximum allowable interest rate. RHS may establish the maximum allowable interest rate in an extended-term loan modification by publishing a notice in the **Federal Register** describing how to calculate the maximum allowable interest rate. If the maximum allowable interest rate has not been established by notice in the **Federal Register**, the maximum allowable interest rate shall be 50 basis points greater than the most recent Freddie Mac Weekly Primary Mortgage Market Survey (PMMS) rate for 30-year fixed-rate mortgages (U.S. average), rounded to the nearest one-eighth of one percent (0.125%), as of the date the loan modification is executed. Weekly PMMS rates are published on the Freddie Mac Web site, and the Federal Reserve Board includes the average 30-year PMMS rate in the list of Selected Interest Rates that it publishes weekly in its Statistical Release H.15.

* * * * *

Mortgage payment to income ratio. This ratio is defined as the monthly mortgage payment (principal, interest, taxes, and insurance) divided by the borrower's gross monthly income.

* * * * *

Mortgage recovery advance. A mortgage recovery advance is funds advanced by the Lender on behalf of a borrower to satisfy the borrower's arrearage, pay legal fees and foreclosure costs related to a cancelled foreclosure action, and reduce principal. Upon request, RHS will reimburse the Lender for eligible mortgage recovery advances. The maximum mortgage recovery advance consists of the sum of:

(i) Arrearages not to exceed 12 months of principal, interest, taxes, and insurance;

(ii) legal fees and foreclosure costs related to a cancelled foreclosure action; and

(iii) principal reduction.

The maximum mortgage recovery advance is 30 percent of the unpaid principal balance as of the date of default.

* * * * *

Total debt to income ratio. Total debt to income ratio is defined as the borrower's monthly mortgage payment plus all recurring monthly debt divided by the borrower's gross monthly income.

* * * * *

■ 3. Section 1980.373 is added to read as follows:

§ 1980.373 Special loan servicing.

(a) *General.* As specified in this section, the Lender may reduce the interest rate to a level at or below the maximum allowable interest rate and extend the term of the loan up to 40 years from the date of loan modification ("extended-term loan modification") and, if necessary, advance funds on behalf of a borrower to satisfy the borrower's arrearage, pay legal fees and foreclosure costs related to a cancelled foreclosure action, and reduce principal ("mortgage recovery advance") (collectively, "special loan servicing"). Upon request, RHS will reimburse the Lender for eligible mortgage recovery advances under the partial loss claim procedures of this section. Lenders must receive written approval from RHS prior to servicing a borrower's account with special loan servicing. The Lender must submit a servicing plan to RHS pursuant to § 1980.374 when a borrower's account is 90 days delinquent and a method other than foreclosure is recommended to resolve the delinquency. Use of special loan servicing does not change the terms of the loan note guarantee.

(b) *Mortgage payment to income ratio.* This ratio is defined as the monthly mortgage payment (principal, interest, taxes, and insurance (PITI)) for the modified mortgage divided by the borrower's gross monthly income. The servicing options in this section shall be used in the order established in paragraph (c) of this section to bring the borrower's mortgage payment to income ratio as close as possible to, but not less than, 31 percent. Prior to servicing a borrower's account with special loan servicing, the Lender must verify the borrower's income. For borrowers who are employed by a private or public organization, the Lender shall verify the borrower's income by examining documents such as the borrower's current pay stub and most recent Internal Revenue Service Form W–2. For borrowers who are self-employed, the Lender shall verify the borrower's income by examining documents such as the borrower's profit and loss statements (for the year to date and the previous year) and the borrower's signed tax return for the previous year.

(c) *Special loan servicing steps.* The Lender must consider loan servicing options in the order established by this paragraph (c).

(1) The Lender must consider the following traditional servicing options before considering special loan servicing.

(i) *Repayment agreement.* A repayment agreement is an informal forbearance plan lasting three months or less. An informal forbearance plan is the best means to ensure that a 30-or 60-day delinquency does not escalate beyond the borrower's ability to cure.

(ii) *Special forbearance agreement.* A special forbearance plan is structured so that it leads to a current loan, either by gradually increasing monthly payments in an amount sufficient to repay the arrearage over time, or (if the borrower is at least three months delinquent) through resumption of normal payments for a period (generally three or more months) followed by a loan modification. The maximum arrearage under a special forbearance plan must never exceed the equivalent of 12 months of PITI.

(iii) *Loan modification plan with a term not to exceed 30 years from the date of the original loan.* A loan modification is a permanent change in one or more of the terms of a loan that results in a payment the borrower can afford and allows the loan to be brought current. Loan modifications may include a reduction in the interest rate, even below the market rate if necessary; capitalization of all or a portion of the arrearage (PITI); and/or reamortization of the balance due. The term of the loan modification may not exceed 30 years from the date of the original loan. The terms of the SFHGLP loan note guarantee do not change. The loan note guarantee is in effect only for 30 years from the date of the original loan.

(2) If the targeted mortgage payment to income ratio cannot be achieved using traditional servicing options, then the Lender may consider an extended-term loan modification.

(3) If the targeted mortgage payment to income ratio cannot be achieved using an extended-term loan modification, then the Lender may consider a mortgage recovery advance in addition to the extended-term loan modification. Before considering a mortgage recovery advance, the Lender must reduce the interest rate to the maximum allowable interest rate and extend the repayment term for 30 years from the date of loan modification. The Lender may reduce the interest rate further and/or extend the term of the loan for up to 40 years from the date of loan modification at the Lender's option, but the Lender shall not be required to do so before utilizing a mortgage recovery advance.

(d) *Eligibility.* The following eligibility requirements apply to all special loan servicing.

(1) The borrower must be in default or facing imminent default. A borrower is "facing imminent default" if that borrower is current or less than 30 days past due on the mortgage obligation and

is experiencing a significant reduction in income or some other hardship that will prevent him or her from making the next required payment on the mortgage during the month in which it is due. The borrower must be able to document the cause of the imminent default, which may include, but is not limited to, one or more of the following types of hardship:

(i) A reduction in or loss of income that was supporting the mortgage loan, *e.g.,* unemployment, reduced job hours, reduced pay, or a decline in self-employed business earnings. A scheduled temporary shutdown of the employer (such as for a scheduled vacation) would not in and by itself be adequate to support an imminent default.

(ii) A change in household financial circumstances, *e.g.,* death in family, serious or chronic illness, permanent or short-term disability.

(2) The borrower's total debt to income ratio following the special loan servicing must not exceed 55 percent. Total debt to income ratio is defined as the borrower's monthly mortgage payment plus all recurring monthly debt divided by the borrower's gross monthly income. Prior to servicing a borrower's account with special loan servicing, the Lender must verify the borrower's income and total debt. For borrowers who are employed by a private or public organization, the Lender shall verify the borrower's income by examining documents such as the borrower's current pay stub and most recent Internal Revenue Service Form W–2. For borrowers who are self-employed, the Lender shall verify the borrower's income by examining documents such as the borrower's profit and loss statements (for the year to date and the previous year) and the borrower's signed tax return for the previous year. The Lender shall verify the borrower's total debt by ordering and examining the borrower's credit report.

(3) The borrower must successfully complete a trial payment plan to demonstrate that the borrower will be able to make regularly scheduled payments as modified by the special loan servicing. For borrowers who are in default when special loan servicing is initiated, the trial payment plan shall be three months in length. For borrowers facing imminent default when special loan servicing is initiated, the trial payment plan shall be four months in length. The borrower's monthly payment during the trial payment plan shall equal the monthly payment that would be owed by the borrower following the special loan servicing. During this trial period, the Lender shall service the mortgage in the same manner as it would service a mortgage under a special forbearance agreement (i.e., the Lender shall review the status of the plan each month and take appropriate action if the borrower is not complying with the terms of the plan). If the borrower does not successfully complete the trial payment plan by making each of the monthly payments on time, the borrower is not eligible for special loan servicing. If the borrower begins but does not successfully complete a trial payment plan, the Lender should consider the borrower for voluntary liquidation and deed in lieu of foreclosure before proceeding to foreclosure.

(4) At the time of the special loan servicing, the borrower must occupy the property as the borrower's primary residence and intend to continue occupying the property as such.

(e) *Extended-term loan modification.* The Lender may modify the loan by reducing the interest rate to a level at or below the maximum allowable interest rate and extending the repayment term up to a maximum of 40 years from the date of loan modification. The interest rate must be fixed. RHS may establish the maximum allowable interest rate by publishing a notice in the **Federal Register** describing how to calculate the rate. If the maximum allowable interest rate has not been established by notice in the **Federal Register**, the maximum allowable interest rate shall be 50 basis points greater than the most recent Freddie Mac Weekly Primary Mortgage Market Survey (PMMS) rate for 30-year fixed-rate mortgages (U.S. average), rounded to the nearest one-eighth of one percent (0.125%), as of the date the loan modification is executed. Weekly PMMS rates are published on the Freddie Mac Web site, and the Federal Reserve Board includes the average 30-year PMMS rate in the list of Selected Interest Rates that it publishes weekly in its Statistical Release H.15. The term shall be extended only as long as is necessary to achieve the targeted mortgage payment to income ratio after the interest rate has been fixed at a level at or below the maximum allowable rate. Expenses related to special loan servicing shall not be charged to the borrower. Such expenses include title search fees and recording fees, but not legal fees and costs related to a cancelled foreclosure initiated prior to special loan servicing. Legal fees and costs related to a cancelled foreclosure may be capitalized into the modified principal balance provided that such foreclosure costs reflect work actually completed prior to the date of the foreclosure cancellation. Late fees should not be capitalized into the modified loan.

(f) *Mortgage recovery advance.* The maximum mortgage recovery advance consists of the sum of arrearages not to exceed 12 months of PITI; legal fees and foreclosure costs related to a cancelled foreclosure action; and principal reduction. The maximum mortgage recovery advance is 30 percent of the unpaid principal balance as of the date of default. The principal deferment on the modified mortgage is determined by multiplying the unpaid principal balance by 30 percent and then reducing that amount by arrearages advanced to cure the default and any foreclosure costs incurred to that point. The principal deferment amount for a specific case shall be limited to the amount that will bring the borrower's total monthly mortgage payment to 31 percent of gross monthly income. Expenses related to special loan servicing shall not be charged to the borrower. Such expenses include title search fees and recording fees, but not legal fees and costs related to a cancelled foreclosure initiated prior to special loan servicing. Legal fees and foreclosure costs related to a cancelled foreclosure action may be included in the mortgage recovery advance provided that such foreclosure costs reflect work actually completed prior to the date of the foreclosure cancellation. Late fees should not be included in a mortgage recovery advance.

(1) The Lender must have the borrower execute a promissory note payable to RHS and a mortgage or deed-of-trust in recordable form perfecting a lien naming RHS as the secured party for the amount of the mortgage recovery advance. The Lender shall properly record the mortgage or deed-of-trust in the appropriate local real estate records and provide the original promissory note to RHS. The Lender may file a claim pursuant to § 1980.376 of this subpart for reimbursement of up to $250 for a title search and/or recording fees in connection with this promissory note and mortgage or deed-of-trust.

(2) Prior to making a mortgage recovery advance, the Lender must perform an escrow analysis to ensure that the payment made on behalf of the borrower accurately reflects the escrow amount required for taxes and insurance.

(3) The following terms apply to the repayment of mortgage recovery advances:

(i) The mortgage recovery advance note and subordinate mortgage or deed-of-trust shall be interest-free.

(ii) Borrowers are not required to make any monthly or periodic payments

on the mortgage recovery advance note; however, borrowers may voluntarily submit partial payments without incurring any prepayment penalty.

(iii) The due date for the mortgage recovery advance note shall be the due date of the guaranteed note held by the Lender, as modified by the special loan servicing. Prior to the due date on the mortgage recovery advance note, payment in full under the note is due at the earlier of the following:

(A) When the first lien mortgage and the guaranteed note are paid off; or

(B) When the borrower transfers title to the property by voluntary or involuntary means.

(iv) Repayment of all or part of the mortgage recovery advance must be remitted directly to RHS by the borrower.

(v) RHS will collect this Federal debt from the borrower by any available means if the mortgage recovery advance is not repaid based on the terms outlined in the promissory note and mortgage or deed-of-trust.

(4) The following provisions apply when a Lender files a claim with RHS for reimbursement of a mortgage recovery advance:

(i) A claim for reimbursement in a form acceptable to RHS must be submitted to RHS within 60 days of the advance being executed by the borrower through his or her signature on the promissory note.

(ii) When filing the claim for reimbursement with RHS, the Lender must:

(A) Submit the original promissory note and a copy of the filed mortgage or deed-of-trust;

(B) Include a summary of the amount of the funds advanced, including the monthly PITI and principal deferment (if applicable), and other account information indicating the borrower's arrearage before the advance, as well as the present status of the account as of the date of the advance;

(C) Provide the name, address, and tax ID number for the Lender; and

(D) Provide the name, address, and phone number of a contact person for the Lender who can answer questions about the reimbursement request.

(5) If a borrower defaults on his or her loan after receiving a mortgage recovery advance and a loss claim is filed by the Lender due to the default, any Agency reimbursement issued for the mortgage recovery advance to the Lender on behalf of the borrower will be credited toward the maximum loan guarantee amount payable by the Agency under the guarantee.

Dated: August 18, 2010.

Tammye Treviño,

Administrator Rural Housing Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0860; Directorate Identifier 2010–NE–28–AD; Amendment 39–16422; AD 2010–18–09]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada (P&WC) PW530A, PW545A, and PW545B Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

There have been reports of engine surge, lack of response to Power Lever input and crew commanded engine shutdown on PW530A/PW545A/PW545B engines powered aeroplanes. Investigation revealed engine intercompressor bleed valve/servo valve malfunction as the cause of the above problems, and that this problem is limited to engines fitted with low time (new or overhauled) bleed valve servo valves with either SB 30343 or 30404 incorporated.

We are issuing this AD to prevent inflight loss of power of one or both of the engines and possible loss of control of the airplane.

DATES: This AD becomes effective September 10, 2010.

We must receive comments on this AD by September 27, 2010. The Director of the Federal Register approved the incorporation by reference of P&WC Alert Service Bulletin PW500–72–A30421, dated June 29, 2010, listed in the AD as of September 10, 2010.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: james.lawrence@faa.gov;* telephone (781) 238–7176; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada, which is the aviation authority for Canada, has issued Canada Airworthiness Directive CF–2010–19, dated July 7, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

There have been reports of engine surge, lack of response to Power Lever input and crew commanded engine shutdown on PW530A/PW545A/PW545B engines powered aeroplanes. Investigation revealed engine intercompressor bleed valve/servo valve malfunction as the cause of the above problems, and that this problem is limited to engines fitted with low time (new or overhauled) bleed valve servo valves with either SB 30343 or 30404 incorporated.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

P&WC has issued Alert Service Bulletin (ASB) PW500–72–A30421, dated June 29, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of Canada, and is approved for operation in the United

States. Pursuant to our bilateral agreement with Canada, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by Canada and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

The MCAI compliance requires action on at least one engine of the airplane. The FAA AD will require action on both engines within the defined compliance time and will not state "on at least one engine per airplane."

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the unsafe condition is such that a possible twin engine, nonrecoverable surge could occur. There is insufficient time to issue an NPRM for public comment. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0860; Directorate Identifier 2010–NE–28–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2010–18–09 Pratt & Whitney Canada: Amendment 39–16422; Docket No. FAA–2010–0860; Directorate Identifier 2010–NE–28–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 10, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Pratt & Whitney Canada (P&WC) PW530A, PW545A, and PW545B turbofan engines that incorporate either P&WC Service Bulletin (SB) PW500–72–30343 or PW500–72–30404. These engines are installed on, but not limited to, Cessna Aircraft Company model 550 (Citation Bravo) and model 560 (Citation Excel and XLS) airplanes.

Reason

(d) There have been reports of engine surge, lack of response to Power Lever input and crew commanded engine shutdown on PW530A/PW545A/PW545B engines powered aeroplanes. Investigation revealed engine intercompressor bleed valve/servo valve malfunction as the cause of the above problems, and that this problem is limited to engines fitted with low time (new or overhauled) bleed valve servo valves with either SB 30343 or 30404 incorporated.

We are issuing this AD to prevent inflight loss of power of one or both of the engines and possible loss of control of the airplane.

Actions and Compliance

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

(1) For engines that have an intercompressor bleed valve (BOV) servo valve with 250 or more hours time-in-service (TIS) since new or overhaul on the effective date of this AD, no further action is required.

Remove Intercompressor Bleed Valve/Servo Valve

(2) For engines that have a BOV servo valve with fewer than 50 hours TIS since new or overhaul on the effective date of this AD, remove the BOV servo valve from service as specified in Table 1 of this AD.

TABLE 1—BOV SERVO VALVE REMOVAL BY ENGINE MODEL AND SERVICE BULLETIN

Engine model	Remove from service . . .
PW530A and PW545A	Within 15 hours TIS after the effective date of this AD.
PW545B engines before incorporation of SB PW500–72–30311	Within 15 hours TIS after the effective date of this AD.
PW545B engines after incorporation of SB PW500–72–30311	Within 35 hours TIS after the effective date of this AD.

Engine Testing

(3) For engines that have a BOV servo valve with 50 hours or more TIS and fewer than 250 hours TIS since new or overhaul on the effective date of this AD, test the engine as specified in P&WC Alert Service Bulletin (ASB) PW500–72–A30421, dated June 29, 2010. Use the compliance times specified in Table 2 of this AD.

TABLE 2—ENGINE TESTING BY ENGINE MODEL AND SERVICE BULLETIN

Engine model	Perform test . . .
PW530A and PW545A	Within 15 hours TIS after the effective date of this AD.
PW545B engines before incorporation of SB PW500–72–30311	Within 15 hours TIS after the effective date of this AD.
PW545B engines after incorporation of SB PW500–72–30311	Within 35 hours TIS after the effective date of this AD.

(4) Thereafter, test the engine as specified in P&WC ASB PW500–72–A30421, dated June 29, 2010. Use the compliance times specified in Table 3 of this AD.

TABLE 3—REPETITIVE ENGINE TESTING BY BOV TIS

Time on BOV servo valve	Repeat test
Fewer than 100 hours TIS since new	Within 25 hours TIS since last inspection.
100 or more hours TIS since new, but fewer than 250 hours TIS since new	Within 50 hours TIS since last inspection.
250 or more hours TIS since new	No repetitive tests required.

Optional Terminating Action

(f) Replacing the BOV servo valve with a BOV servo valve that is not subject of this AD is terminating action to the testing requirements of paragraphs (e)(3) and (e)(4) of this AD.

FAA AD Differences

(g) This AD differs from the Mandatory Continuing Airworthiness Information (MCAI) in that while the MCAI requires initial mandatory action on only one engine per airplane with follow-on action to the second engine at a later compliance time, this AD requires initial action on both engines of the airplane at the same compliance time.

Other FAA AD Provisions

(h) *Alternative Methods of Compliance (AMOCs):* The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(i) Refer to MCAI Transport Canada Airworthiness Directive CF–2010–19, dated July 7, 2010.

(j) Contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: james.lawrence@faa.gov;* telephone (781) 238–7176; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(k) You must use Pratt & Whitney Canada Alert Service Bulletin PW500–72–A30421, dated June 29, 2010, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; telephone 800–268–8000; fax 450–647–2888; *Web site: http://www.pwc.ca.*

(3) You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; 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/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on August 19, 2010.

Peter A. White,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2010–21331 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No.30742; Amdt. No. 489]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective Date:* 0901 UTC, September 23, 2010.

FOR FURTHER INFORMATION CONTACT: Harry Hodges, Flight Procedure Standards Branch (AMCAFS–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 amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment 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 95

Airspace, Navigation (air).

Issued in Washington, DC.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, September 23, 2010.

■ 1. The authority citation for part 95 continues to read as follows:

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

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS

[Amendment 489 Effective Date September 23, 2010]

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3269 RNAV Route T269 Is Amended To Read in Part			
ANNETTE ISLAND, AK VOR/DME 17500	TOKEE, AK FIX	5700	
TOKEE, AK FIX	FLIPS, AK FIX	6300	17500
FLIPS, AK FIX	BIORKA ISLAND, AK VORTAC	6000	17500
BIORKA ISLAND, AK VORTAC	SALIS, AK FIX	5100	17500
SALIS, AK FIX	CENTA, AK FIX	*6200	17500
*2000—MOCA.			
CENTA, AK FIX	YAKUTAT, AK VOR/DME	2000	17500
YAKUTAT, AK VOR/DME	MALAS, AK FIX	2400	17500
MALAS, AK FIX	KATAT, AK FIX	*9000	17500
*5300—MOCA.			
KATAT, AK FIX	CASEL, AK FIX	*7000	17500
*3400—MOCA.			
CASEL, AK FIX	*JOHNSTONE POINT, AK VOR/DME	4800	17500
*4800—MCA JOHNSTONE POINT, AK VOR/DME, E BND.			
JOHNSTONE POINT, AK VOR/DME	*FIMIB, AK FIX	3200	17500
*4500—MCA FIMIB, AK FIX, W BND.			
FIMIB, AK FIX	ANCHORAGE, AK VOR/DME	8200	17500
ANCHORAGE, AK VOR/DME	YONEK, AK FIX	3000	17500
YONEK, AK FIX	TORTE, AK FIX	4200	17500
*10000—MCA TORTE, AK FIX, W BND.			
TORTE, AK FIX	VEILL, AK FIX	10600	17500
*10000—MCA VEILL, AK FIX, E BND.			
VEILL, AK FIX	SPARREVOHN, AK VOR/DME	6000	17500
SPARREVOHN, AK VOR/DME	ACRAN, AK FIX	5200	17500
ACRAN, AK FIX	VIDDA, AK FIX	6000	17500
VIDDA, AK FIX	BETHEL, AK VORTAC	2100	17500
§ 95.3280 RNAV Route T280 Is Amended To Read in Part			
FLIPS, AK FIX	LEVEL ISLAND, AK VOR/DME	*7000	17500
*6300—MOCA.			

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—Continued

[Amendment 489 Effective Date September 23, 2010]

From	To	MEA	MAA
§ 95.4000 High Altitude RNAV Routes			
§ 95.4026 RNAV Route Q26 Is Amended To Read in Part			
WALNUT RIDGE, AR VORTAC *18000—GNSS MEA. *DME/DME/IRU MEA.	DEVAC, AL FIX	*20000	33000

From	To	MEA
§ 95.6001 Victor Routes-U.S.		
§ 95.6003 VOR Federal Airway V3 Is Amended To Read in Part		
GORDONSVILLE, VA VORTAC	LURAY, VA FIX	6100
LURAY, VA FIX *7000—MRA. **5000—MOCA.	*KERRE, VA FIX	**6000
*KERRE, VA FIX *7000—MRA. **5000—MOCA.	MARTINSBURG, WV VORTAC	**6000
§ 95.6005 VOR Federal Airway V5 Is Amended To Read in Part		
VIENNA, GA VORTAC	DUBLIN, GA VORTAC	2100
§ 95.6006 VOR Federal Airway V6 Is Amended To Read in Part		
LEECS, IL FIX *2700—GNSS MEA.	DUPAGE, IL VOR/DME	*4000
§ 95.6008 VOR Federal Airway V8 Is Amended To Read in Part		
MOLINE, IL VORTAC	TRIDE, IL FIX	3300
BRIGGS, OH VOR/DME *3100—MOCA. *3100—GNSS MEA.	ATWOO, OH FIX	*4000
§ 95.6012 VOR Federal Airway V12 Is Amended To Read in Part		
PANHANDLE, TX VORTAC *5000—MOCA.	MITBEE, OK VORTAC	*5500
§ 95.6017 VOR Federal Airway V17 Is Amended To Read in Part		
ARDMORE, OK VORTAC	WILL ROGERS, OK VORTAC	3100
§ 95.6029 VOR Federal Airway V29 Is Amended To Read in Part		
SNOW HILL, MD VORTAC *5000—MCA SALISBURY, MD VORTAC, N BND. **1500—MOCA.	*SALISBURY, MD VORTAC	**2000
SALISBURY, MD VORTAC *7000—MCA EZIZI, DE FIX, N BND.	*EZIZI, DE FIX	5000
EZIZI, DE FIX *7000—MCA LAFLN, DE FIX, S BND. **5000—GNSS MEA.	*LAFLN, DE FIX	**7000
LAFLN, DE FIX	SMYRNA, DE VORTAC	1800
SMYRNA, DE VORTAC *1800—GNSS MEA. #DUPONT R–181 UNUSABLE BELOW 10000.	#DUPONT, DE VORTAC	*10000
§ 95.6036 VOR Federal Airway V36 Is Amended To Read in Part		
#ELMIRA, NY VOR/DME *GNSS MEA. #ELMIRA R–122 UNUSABLE BELOW FL180.	HAWLY, PA FIX	*4500
§ 95.6037 VOR Federal Airway V37 Is Amended To Read in Part		
COLUMBIA, SC VORTAC *2400—MOCA. *2400—GNSS MEA.	RICHE, SC FIX	*4000

From	To	MEA
#CLARKSBURG, WV VOR/DME *3200—MOCA. #CLARKSBURG R–033 UNUSABLE BYD 23NM.	TEDDS, WV FIX	*4000
TEDDS, WV FIX *4000—GNSS MEA.	AKSAR, PA FIX	*4000
AKSAR, PA FIX *3200—MOCA.	ELLWOOD CITY, PA VORTAC	*4000
§ 95.6038 VOR Federal Airway V38 Is Amended To Read in Part		
MOLINE, IL VORTAC	TRIDE, IL FIX	3300
§ 95.6039 VOR Federal Airway V39 Is Amended To Read in Part		
GORDONSVILLE, VA VORTAC	LURAY, VA FIX	6100
LURAY, VA FIX *7000—MRA. **5000—MOCA.	*KERRE, VA FIX	**6000
*KERRE, VA FIX *7000—MRA. **5000—MOCA.	MARTINSBURG, WV VORTAC	**6000
§ 95.6041 VOR Federal Airway V41 Is Amended To Read in Part		
CUTTA, OH FIX *3600—GNSS MEA.	YOUNGSTOWN, OH VORTAC	*5000
§ 95.6043 VOR Federal Airway V43 Is Amended To Read in Part		
YOUNGSTOWN, OH VORTAC *3000—GNSS MEA.	ERIE, PA VORTAC	*5000
§ 95.6054 VOR Federal Airway V54 Is Amended To Read in Part		
RAEFO, NC FIX *2400—GNSS MEA.	FAYETTEVILLE, NC VOR/DME	*5000
§ 95.6063 VOR Federal Airway V63 Is Amended To Read in Part		
#JANESVILLE, WI VOR/DME *10000—MRA. **3000—GNSS MEA. #JANESVILLE R–044 UNUSABLE, USE BADGER R–226.	*DEBOW, WI FIX	**4000
*DEBOW, WI FIX *10000—MRA. **4000—GNSS MEA.	RASTT, WI FIX	**4000
RASTT, WI FIX *3000—GNSS MEA.	BADGER, WI VORTAC	*3000
OSHKOSH, WI VORTAC *3000—MOCA. *3000—GNSS MEA. #WAUSAU R–171 UNUSABLE BYD 8 NM, USE STEVENS POINT R–354.	#STEVENS POINT, WI VORTAC	*4000
STEVENS POINT, WI VORTAC	TAYUY, WI FIX	3100
TAYUY, WI FIX #WAUSAU R–171 UNUSABLE BYD 8 NM, USE STEVENS POINT R–354.	#WAUSAU, WI VORTAC	3100
§ 95.6070 VOR Federal Airway V70 Is Amended To Read in Part		
VIENNA, GA VORTAC *3000—MRA. **2100—MOCA.	*OCONE, GA FIX	**3000
§ 95.6075 VOR Federal Airway V75 Is Amended To Read in Part		
ATWOO, OH FIX *3100—MOCA. *3100—GNSS MEA.	BRIGGS, OH VOR/DME	*4000
§ 95.6081 VOR Federal Airway V81 Is Amended To Read in Part		
#BLACK FOREST, CO VORTAC *9500—MRA. **GNSS MEA.	*HOHUM, CO FIX	**10000

From	To	MEA
#BLACK FOREST R–325 UNUSABLE.		
§ 95.6082 VOR Federal Airway V82 Is Amended To Read in Part		
BAUDETTE, MN VOR/DME *3400—MOCA. *3500—GNSS MEA.	BRAINERD, MN VORTAC	*7000
§ 95.6086 VOR Federal Airway V86 Is Amended To Read in Part		
SHERIDAN, WY VORTAC *7000—MOCA. *7000—GNSS MEA. #MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.	WETON, WY FIX	#*10900
§ 95.6116 VOR Federal Airway V116 Is Amended To Read in Part		
U.S. CANADIAN BORDER *11000—MRA. **1900—MOCA.	*TRACE, OH FIX	**7000
§ 95.6117 VOR Federal Airway V117 Is Amended To Read in Part		
BELLAIRE, OH VOR/DME	WISKE, WV FIX	3300
§ 95.6127 VOR Federal Airway V127 Is Amended To Read in Part		
BRADFORD, IL VORTAC *3300—MRA.	*WYNET, IL FIX	2700
§ 95.6136 VOR Federal Airway V136 Is Amended To Read in Part		
SOUTH BOSTON, VA VORTAC *3000—MRA.	*ALDAN, NC FIX	2600
*ALDAN, NC FIX *3000—MRA.	RALEIGH/DURHAM, NC VORTAC	2600
§ 95.6139 VOR Federal Airway V139 Is Amended To Read in Part		
CAPE CHARLES, VA VORTAC	SNOW HILL, MD VORTAC	2000
§ 95.6140 VOR Federal Airway V140 Is Amended To Read in Part		
MONTEBELLO, VA VOR/DME	HOODE, VA FIX	6100
HOODE, VA FIX	CASANOVA, VA VORTAC	3200
§ 95.6143 VOR Federal Airway V143 Is Amended To Read in Part		
LYNCHBURG, VA VORTAC	*ELLON, VA FIX.	
	N BND	5000
	S BND	3200
*4100—MCA ELLON, VA FIX, N BND.		
ELLON, VA FIX	*CLYFF, VA FIX	4600
*6000—MCA CLYFF, VA FIX, N BND.		
CLYFF, VA FIX	MONTEBELLO, VA VOR/DME	6400
MONTEBELLO, VA VOR/DME	LURAY, VA FIX	6000
LURAY, VA FIX *7000—MRA. **5000—MOCA.	*KERRE, VA FIX	**6000
*KERRE, VA FIX *7000—MRA. **5000—MOCA.	MARTINSBURG, WV VORTAC	**6000
§ 95.6144 VOR Federal Airway V144 Is Amended To Read in Part		
MORGANTOWN, WV VORTAC	KESSEL, WV VOR/DME	5700
§ 95.6155 VOR Federal Airway V155 Is Amended To Read in Part		
WIPER, NC FIX *2000—MOCA. *2300—GNSS MEA.	LAWRENCEVILLE, VA VORTAC	*9000

From	To	MEA
§ 95.6157 VOR Federal Airway V157 Is Amended To Read in Part		
TAR RIVER, NC VORTAC *2500—MOCA. #LAWRENCEVILLE R–177 UNUSABLE BELOW 6000, USE TAR RIVER R–354.	#LAWRENCEVILLE, VA VORTAC	*4500
§ 95.6159 VOR Federal Airway V159 Is Amended To Read in Part		
VERO BEACH, FL VORTAC *2500—MRA.	*PRESK, FL FIX	3000
*PRESK, FL FIX *2500—MRA.	ORLANDO, FL VORTAC	2000
§ 95.6175 VOR Federal Airway V175 Is Amended To Read in Part		
PARK RAPIDS, MN VOR/DME	BLUOX, MN FIX.	
	S BND	3500
	NW BND	7000
BLUOX, MN FIX *2800—MOCA. *3300—GNSS MEA.	ROSEAU, MN VOR/DME	*7000
§ 95.6177 VOR Federal Airway V177 Is Amended To Read in Part		
#STEVENS POINT, WI VORTAC #WAUSAU R–171 UNUSABLE BYD 8 NM, USE STEVENS POINT R–354.	TAYUY, WI FIX	#3100
TAYUY, WI FIX #WAUSAU R–171 UNUSABLE BYD 8 NM, USE STEVENS POINT R–354.	#WAUSAU, WI VORTAC	3100
§ 95.6190 VOR Federal Airway V190 Is Amended To Read in Part		
BARTLESVILLE, OK VOR/DME	OSWEGO, KS VORTAC	2500
§ 95.6191 VOR Federal Airway V191 Is Amended To Delete		
GRAND RAPIDS, MN VOR/DME	LAKE BEMIDJI, MN VORTAC	3400
LAKE BEMIDJI, MN VORTAC	THIEF RIVER FALLS, MN VOR/DME	3000
THIEF RIVER FALLS, MN VOR/DME	GRAND FORKS, ND VOR/DME	2800
§ 95.6225 VOR Federal Airway V225 Is Amended To Read in Part		
KEY WEST, FL VORTAC	RIGOR, FL FIX	1700
RIGOR, FL FIX *1400—MOCA. *1700—GNSS MEA.	MARCI, FL FIX	*4000
§ 95.6266 VOR Federal Airway V266 Is Amended To Read in Part		
SOUTH BOSTON, VA VORTAC *2000—MOCA. *2300—GNSS MEA. #LAWRENCEVILLE R–269 UNUSABLE BELOW 9000.	#LAWRENCEVILLE, VA VORTAC	*3000
#LAWRENCEVILLE, VA VORTAC #LAWRENCEVILLE R–106 UNSUABLE BELOW 7500.	FRANKLIN, VA VORTAC	2000
FRANKLIN, VA VORTAC *1500—MOCA.	SUNNS, NC FIX	*2000
§ 95.6269 VOR Federal Airway V269 Is Amended To Read in Part		
WELLS, NV VOR *7500—MCA TWIN FALLS, ID VORTAC, S BND. **11000—MOCA. **11000—GNSS MEA.	*TWIN FALLS, ID VORTAC	**13000
§ 95.6280 VOR Federal Airway V280 Is Amended To Read in Part		
PANHANDLE, TX VORTAC *5000—MOCA.	MITBEE, OK VORTAC	*5500
§ 95.6291 VOR Federal Airway V291 Is Amended To Read in Part		
WINSLOW, AZ VORTAC	FLAGSTAFF, AZ VOR/DME	*10100

From	To	MEA
*10100—MOCA.		
§ 95.6296 VOR Federal Airway V296 Is Amended To Read in Part		
RAEFO, NC FIX *2400—GNSS MEA.	FAYETTEVILLE, NC VOR/DME	*5000
§ 95.6369 VOR Federal Airway V369 Is Amended To Read in Part		
NAVASOTA, TX VORTAC	GROESBECK, TX VOR/DME	2300
§ 95.6393 VOR Federal Airway V393 Is Amended To Read in Part		
NOGALES, AZ VOR/DME *8800—MOCA.	U.S. MEXICAN BORDER	*13000
§ 95.6426 VOR Federal Airway V426 Is Amended To Read in Part		
CARLETON, MI VORTAC *4000—MRA. **3000—GNSS MEA.	*AMRST, OH FIX	**4000
§ 95.6427 VOR Federal Airway V427 Is Amended To Read in Part		
MONROE, LA VORTAC *2800—MRA. **1900—MOCA. **2000—GNSS MEA.	*PECKS, MS FIX	**5000
*PECKS, MS FIX *2800—MRA. #JACKSON R–281 UNUSABLE BEYOND 40 NM.	#JACKSON, MS VORTAC	2000
§ 95.6430 VOR Federal Airway V430 Is Amended To Read in Part		
GRAND FORKS, ND VOR/DME	THIEF RIVER FALLS, MN VOR/DME	2900
THIEF RIVER FALLS, MN VOR/DME *3400—GNSS MEA.	GRAND RAPIDS, MN VOR/DME	*7000
§ 95.6443 VOR Federal Airway V443 Is Amended To Read in Part		
WISKE, WV FIX	NEWCOMERSTOWN, OH VOR/DME	3300
§ 95.6454 VOR Federal Airway V454 Is Amended To Read in Part		
#LAWRENCEVILLE, VA VORTAC *1900—MOCA. *2000—GNSS MEA. #LAWRENCEVILLE R–059 UNUSABLE, USE HOPEWELL R–237.	JUNKI, VA FIX	*6000
JUNKI, VA FIX	HOPEWELL, VA VORTAC	2000
§ 95.6469 VOR Federal Airway V469 Is Amended To Read in Part		
LYNCHBURG, VA VORTAC	RADIA, VA FIX	4600
RADIA, VA FIX	RELEE, VA FIX	6000
RELEE, VA FIX *5100—MOCA. *5200—GNSS MEA.	EXRAS, VA FIX	*8000
EXRAS, VA FIX *6900—MOCA. *6900—GNSS MEA.	BOIER, WV FIX	*10000
BOIER, WV FIX	ELKINS, WV VORTAC	6800
#JOHNSTOWN, PA VORTAC *5000—GNSS MEA. #JOHNSTOWN R–125 UNUSABLE.	ST THOMAS, PA VORTAC	*5000
§ 95.6507 VOR Federal Airway V507 Is Amended To Read in Part		
ARDMORE, OK VORTAC	WILL ROGERS, OK VORTAC	3100
§ 95.6523 VOR Federal Airway V523 Is Amended To Read in Part		
YOUNGSTOWN, OH VORTAC *3000—GNSS MEA.	ERIE, PA VORTAC	*5000

From	To	MEA
§ 95.6537 VOR Federal Airway V537 Is Amended To Read in Part		
VERO BEACH, FL VORTAC *2500—MRA.	*PRESK, FL FIX	3000
§ 95.6573 VOR Federal Airway V573 Is Amended To Read in Part		
WILL ROGERS, OK VORTAC *7000—MRA.	*ALEXX, OK FIX	3100
§ 95.6611 VOR Federal Airway V611 Is Amended To Read in Part		
#BLACK FOREST, CO VORTAC *GNSS MEA. #BLACK FOREST R–023 UNUSABLE.	LUFSE, CO FIX	*10000
LUFSE, CO FIX *10500—MRA. #GNSS MEA.	*JEFEL, CO FIX	#10500
*JEFEL, CO FIX *10500—MRA. **9000—MRA.	**LIMEX, CO FIX	#8500
§ 95.6615 VOR Federal Airway V615 Is Amended To Read in Part		
DUFFI, NC FIX *2500—MOCA. *2500—GNSS MEA.	HOPEWELL, VA VORTAC	*5000
§ 95.6625 VOR Federal Airway V625 Is Added To Read		
U.S. MEXICAN BORDER *9500—MOCA.	NOGALES, AZ VOR/DME	*10000
§ 95.6311 ALASKA VOR Federal Airway V311 Is Amended To Read in Part		
TOKEE, AK FIX *6300—MOCA. #MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.	FLIPS, AK FIX	#*7500
§ 95.6319 ALASKA VOR Federal Airway V319 Is Amended To Read in Part		
YAKUTAT, AK VOR/DME	MALAS, AK FIX.	
	E BND	2400
	W BND	10000
MALAS, AK FIX *4300—MOCA. #MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.	KATAT, AK FIX	#*10000
KATAT, AK FIX *3400—MOCA.	CASEL, AK FIX	*7000
CASEL, AK FIX *4800—MCA JOHNSTONE POINT, AK VOR/DME, E BND.	*JOHNSTONE POINT, AK VOR/DME	4800
JOHNSTONE POINT, AK VOR/DME *8000—MCA EDELE, AK FIX, W BND.	*EDELE, AK FIX	4400
EDELE, AK FIX *7500—MOCA. *7500—GNSS MEA.	ANCHORAGE, AK VOR/DME	*13000
YONEK, AK FIX	*TORTE, AK FIX.	
	NW BND	**12000
	SE BND	**6000
*8100—MCA TORTE, AK FIX, W BND. **4100—MOCA.		
TORTE, AK FIX *10000—MCA VEILL, AK FIX, E BND. **10600—MOCA.	*VEILL, AK FIX	**12000
VEILL, AK FIX	SPARREVOHN, AK VOR/DME.	
	E BND	12000
	W BND	6200
SPARREVOHN, AK VOR/DME	ACRAN, AK FIX.	
	W BND	6000
	E BND	*5200
*5200—MOCA.		
VIDDA, AK FIX	WEEKE, AK FIX.	
	SW BND	*6000

From	To	MEA
	NE BND	*3000
*2100—MOCA.		
WEEKE, AK FIX	BETHEL, AK VORTAC	2000
§ 95.6428 ALASKA VOR Federal Airway V428 Is Amended To Read in Part		
HAINES, AK NDB	U.S. CANADIAN BORDER	*10000
*9600—MOCA.		
§ 95.6440 ALASKA VOR Federal Airway V440 Is Amended To Read in Part		
BIORKA ISLAND, AK VORTAC	SALIS, AK FIX.	
	SE BND	5100
	NW BND	9000
SALIS, AK FIX	CENTA, AK FIX	#*9000
*2000—MOCA.		
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.		
CENTA, AK FIX	YAKUTAT, AK VOR/DME.	
	SE BND	9000
	NW BND	2000
§ 95.6473 ALASKA VOR Federal Airway V473 Is Amended To Read in Part		
LEVEL ISLAND, AK VOR/DME	FLIPS, AK FIX	*7000
*6300—MOCA.		
FLIPS, AK FIX	BIORKA ISLAND, AK VORTAC	6000

From	To	MEA	MAA
§ 95.7001 Jet Routes **§ 95.7005 Jet Route J5 Is Amended To Read in Part**			
POWEL, OR FIX	SUMMA, WA FIX	26000	45000
§ 95.7032 Jet Route J32 Is Amended To Delete			
DULUTH, MN VORTAC	U.S. CANADIAN BORDER	18000	45000
§ 95.7038 Jet Route J38 Is Amended To Delete			
U.S. CANADIAN BORDER	DULUTH, MN VORTAC	18000	45000

From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Points Airway Segment Is Amended To Add **V12 Is Amended To Add Changeover Point**			
PANHANDLE, TX VORTAC	MITBEE, OK VORTAC	46	PANHANDLE.
V63 Is Amended To Add Changeover Point			
STEVENS POINT, WI VORTAC	WAUSAU, WI VORTAC	12	STEVENS POINT.
V139 Is Amended To Modify Changeover Point			
CAPE CHARLES, VA VORTAC	SNOW HILL, MD VORTAC	38	CAPE CHARLES.
V159 Is Amended To Delete Changeover Point			
VERO BEACH, FL VORTAC	ORLANDO, FL VORTAC	32	VERO BEACH.
V177 Is Amended To Add Changeover Point			
STEVENS POINT, WI VORTAC	WAUSAU, WI VORTAC	12	STEVENS POINT.
V280 Is Amended To Add Changeover Point			
PANHANDLE, TX VORTAC	MITBEE, OK VORTAC	46	PANHANDLE.
V467 Is Amended To Add Changeover Point			
RICHMOND, IN VORTAC	WATERVILLE, OH VOR/DME	56	RICHMOND.

From	To	Distance	From
ALASKA V428 Is Amended To Add Changeover Point			
HAINES, AK NDB	WHITEHORSE, CA VOR/DME	30	HAINES.
V86 Is Amended To Modify Changeover Point			
SHERIDAN, WY VORTAC	RAPID CITY, SD VORTAC	100	SHERIDAN.
§ 95.8005 Jet Routes Changeover Points Airway Segment Changeover Points			
J5 Is Amended To Modify Changeover Point			
LAKEVIEW, OR VORTAC	SEATTLE, WA VORTAC	156	LAKEVIEW.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Parts 4, 10, 12, 18, 101, 103, 118, 122, 141, 146, 159, 162, and 192

CBP Dec. 10–29; Technical Corrections to Customs and Border Protection Regulations

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Customs and Border Protection (CBP) periodically reviews its regulations to ensure that they are current, correct, and consistent. Through this review process, CBP discovered a number of discrepancies. This document amends various sections of title 19 of the Code of Federal Regulations to correct those discrepancies.

DATES: The final rule is effective August 26, 2010.

FOR FURTHER INFORMATION CONTACT: Robert Shervette, Regulations and Rulings, Office of International Trade, (202) 325–0274.

SUPPLEMENTARY INFORMATION:

Background

It is the policy of Customs and Border Protection (CBP) to periodically review title 19 of the Code of Federal Regulations to ensure that it is as accurate and up-to-date as possible so that the importing and general public are aware of CBP programs, requirements, and procedures regarding import-related activities. As part of this review policy, CBP has determined that certain corrections are necessary affecting parts 4, 10, 12, 18, 101, 103, 118, 122, 141, 146, 159, 162, and 192 of the CBP regulations (19 CFR parts 4, 10, 12, 18, 101, 103, 118, 122, 141, 146, 159, 162, and 192).

Discussion of Changes

Part 4

Section 4.12 of the CBP regulations (19 CFR 4.12), involving the process of notifying CBP of a manifest discrepancy, contains a typographical error in the designation of paragraph "(a)(5)(a)". The paragraph should properly read as "(a)(5)". Accordingly, this document amends § 4.12 by replacing the paragraph designation "(a)(5)(a)" with "(a)(5)".

Part 10

Section 10.31(g) of the CBP regulations (19 CFR 10.31(g)) provides for free entry of particular classes of products which have previously been entered if the "original entry was made on the basis of a clerical error, mistake of fact, or other inadvertence within the meaning of section 520(c)(1) of the Tariff Act of 1930, as amended." Section 520(c) of the Tariff Act of 1930 (19 U.S.C. 1520(c)), which was an exception to the finality of the liquidation of an entry under section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), was repealed by section 2105 of the Miscellaneous Trade and Technical Corrections Act of 2004 ("Trade Act of 2004") (Pub. L. 108–429, 118 Stat. 2598 (December 3, 2004)).

Section 2103(1)(A) of the Trade Act of 2004 also amended section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) to include clerical errors, mistakes of fact, and other inadvertence as bases of protest of CBP decisions. *See* Public Law 108–429, 118 Stat. 2597. Therefore, in order to reflect the inclusion of clerical error, mistake of fact, or other inadvertence as bases of protest in section 514(a) and the removal of section 520(c), § 10.31(g) is amended to replace the reference to section 520(c)(1) of the Tariff Act of 1930, as amended, with a reference to section 514(a) of the Tariff Act of 1930, as amended. In addition, § 10.31(g) is being amended by replacing outdated references to "Customs custody", "the Customs Service", and "Customs territory" with "CBP custody", "CBP", and "customs territory", respectively. This is consistent with the transfer of the legacy U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security (DHS) in 2003 and the subsequent renaming of the agency as U.S. Customs and Border Protection by DHS on March 31, 2007 (*see* 72 FR 20131, dated April 23, 2007). *See also* 75 FR 12445, dated March 16, 2010.

Section 10.36(b) of the CBP regulations (19 CFR 10.36(b)), pertaining to the temporary importation under bond of theatrical effects and other articles contains a reference to subheading 9813.00.65, Harmonized Tariff Schedule of the United States (HTSUS), 19 U.S.C. 1202. This tariff number was replaced on January 4, 1995, with subheading 9817.00.98, HTSUS, by Presidential Proclamation 6763 (December 23, 1994). Section 10.36(b) is amended to replace the outdated subheading with subheading 9817.00.98, HTSUS. Section 10.36 is also being amended to replace outdated nomenclature references to reflect the changes effected by the transfer of CBP to DHS.

Sections 10.191(b)(1) and 10.195(b)(1) of the CBP regulations (19 CFR 10.191(b)(1) and 10.195(b)(1)), involving regulations implementing the Caribbean Basin Economic Recovery Act (CBERA), are being amended to conform to amendments to the CBERA enacted in the 2005 Dominican Republic—Central America—United States Free Trade Agreement Implementation Act (CAFTA–DR Act) (Pub. L. 109–53, 119 Stat. 462). Section 402(a) and (c) of the CAFTA–DR Act amended sections 212(a)(1) and 213(a)(1), respectively, of the CBERA (19 U.S.C. 2702(a)(1) and 2703(a)(1)). As a result of these amendments, any cost or value of materials or direct costs of processing operations attributable to "former beneficiary countries" may be included

for purposes of satisfying the 35 percent value-content requirement under the CBERA (*see* 19 U.S.C. 2702(a)(1)(B)). "Former beneficiary countries" are defined in the 2005 CAFTA–DR Act as countries that are no longer designated beneficiary countries under the CBERA because they have become parties to a free trade agreement with the United States.

This document amends § 10.191(b)(1) by adding language stating that when the word "former" is used in conjunction with "beneficiary country" it means a country that ceases to be designated as a beneficiary country because the country has become a party to a separate free trade agreement with the United States. Section 10.191(b)(1) is also being amended in this document by adding references to General Notes 7(a) and 7(b)(i)(C), HTSUS, which list the CBERA beneficiary countries and former beneficiary countries, respectively. In addition, this document amends § 10.195(b)(1) by adding a reference to "former beneficiary country." Currently, "former beneficiary countries" consist of the 6 countries that are parties to the CAFTA–DR (other than the United States)—Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua.

Section 10.411(a)(2)(vi) of the CBP regulations (19 CFR 10.411(a)(2)(vi)), involving the certification of origin import requirements under the United States-Chile Free Trade Agreement (CFTA), contains an incorrect reference to § 10.411(e). The correct reference should be to § 10.411(f), which is the paragraph that lists the preference criteria that should be included on the certification of origin documentation. Section 10.411(e) has nothing to do with the "preference criterion" reference in § 10.411(a)(2)(vi). This document amends § 10.411(a)(2)(vi) by replacing the reference to "paragraph (e)" with "paragraph (f)".

Section 10.442(d)(1) of the CBP regulations (19 CFR 10.442(d)(1)) sets forth the circumstances under which CBP may deny post-importation duty refund claims under the CFTA. These circumstances include a determination by the port director that the imported good did not qualify as an originating good at the time of importation "following initiation of an origin verification". This document amends § 10.442(d)(1) by removing the potentially misleading words "initiation of" from the above-quoted phrase to more accurately reflect when determinations are made by CBP based upon the results of origin verifications.

Section 10.470(a) of the CBP regulations (19 CFR 10.470(a)), concerning verifications by CBP of CFTA preference claims, inadvertently omits any reference to post-importation duty refund claims made under § 10.442. This document amends the introductory text of § 10.470(a) to add a reference to "§ 10.442" immediately after the reference to "10.410" to clarify that the port director may initiate a verification with respect to both post-importation duty refund claims and preference claims made at the time of importation.

Section 10.809(d)(7) of the CBP regulations (19 CFR 10.809(d)(7)), involving terms that are defined for the purposes of the rules of origin under the United States-Bahrain Free Trade Agreement (BFTA), contains an incorrect reference to "paragraph (d)(5)". This does not accurately reflect section 202(i)(3)(G) of the United States-Bahrain Free Trade Agreement Implementation Act, Public Law 109–169, 119 Stat. 3581 (19 U.S.C. 3805 note). The correct reference should be to "paragraph (d)(6)". This document amends § 10.809(d)(7) by replacing the reference to "paragraph (d)(5)" with "paragraph (d)(6)".

In § 10.809(n) of the CBP regulations (19 CFR 10.809(n)), which defines "simple combining or packaging operations", the words "or packing or repacking" toward the end of the definition should read "and repacking and packaging" to be consistent with the implementing statute, section 202(i)(10) of the United States-Bahrain Free Trade Agreement Implementation Act. This document amends § 10.809(n) to replace the words "or packing or repacking" with the words "and repacking and packaging".

Section 10.811(a)(1) of the CBP regulations (19 CFR 10.811(a)(1)) sets forth the maximum percentage of the production weight of fibers and yarns not originating in Bahrain or the United States that may be used in the production of a textile or apparel good and still qualify the good for preferential tariff treatment under the BFTA. There is an omission in this paragraph with reference to the words "* * * the total weight of all such fibers is not more * * *". These words should read "* * * the total weight of all such fibers *or yarns* is not more * * *" (emphasis added). *See* section 202(h)(1)(A) of the United States-Bahrain Free Trade Agreement Implementation Act. This document amends § 10.811(a)(1) by adding the words "or yarns" following the words "all such fibers".

Part 12

Section 12.8 of the CBP regulations (19 CFR 12.8), involving the inspection, bonding, and release of meat and meat-food products, contains a reference to "section 306, Tariff Act of 1930". That provision was repealed by section 10418(a)(5) of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, 116 Stat. 507 (May 13, 2002)). Currently, the regulation of meat and meat-food products entering the United States is covered by the Animal Health Protection Act (7 U.S.C. 8301, *et seq.*). Accordingly, this document amends part 12 of the CBP regulations (19 CFR part 12) to remove the reference and reflect the correct authority citation in § 12.8. In addition, § 12.8 is being amended by replacing references to "Customs" with "CBP".

Section 12.74 of the CBP regulations (19 CFR 12.74), which relates to the documentation required for importation of nonroad and stationary engines relative to the emission standards set by the Environmental Protection Agency (EPA), contains inaccurate citations to the regulations of the EPA. The EPA published a final rule in the **Federal Register** on July 11, 2006 (71 FR 39154), which established new standards of performance for stationary compression ignition internal combustion engines, and was effective on September 11, 2006. Accordingly, this document amends part 12 of the CBP regulations (19 CFR part 12) to conform § 12.74 to the current EPA regulations.

Section 12.112(b) of the CBP regulations (19 CFR 12.112(b)) pertains to the importation of chemicals that can be used as pesticides, but are not imported for use as pesticides. This section contains an inaccurate reference to "the Abbreviated List of Pesticides compiled by the Environmental Protection Agency". This document amends § 112.12(b) to remove the incorrect reference and replace it with the correct title of the EPA Handbook which contains the listing of the pesticide products and a cite to that agency's website for the public's convenience.

Section 12.123(b) of the CBP regulations (19 CFR 12.123(b)) contains a reference to "Customs Form 7551, 7553, or 7595". These forms were abolished and replaced by CBP Form 301 in order to modernize the CBP bond structure and simplify the transactions between CBP and the importing community. *See* Treasury Decision (T.D.) 84–213, 49 FR 41171. This document amends § 12.123(b) to remove the outdated references to these forms and replace them with the correct reference to CBP Form 301.

Parts 12 and 141

Sections 12.1(a), 12.3(a), and 141.113(c) of the CBP regulations (19 CFR 12.1(a), 12.3(a), 141.113(c)) set forth, in part, joint regulations issued by the Food and Drug Administration (FDA), Department of Health and Human Services, and the Department of the Treasury concerning the admissibility of imported food, drugs, devices, and cosmetics pursuant to sections 701(b) and 801 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 371(b) and 381). On June 22, 2009, the Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31, 123 Stat. 1776) was signed by the President into law and amended the FFDCA to give the FDA the authority to regulate tobacco products, including imported tobacco products. Accordingly, this document amends §§ 12.1(a), 12.3(a), and 141.113(c) of the CBP regulations to reflect the addition of "tobacco products" to the list of imported products subject to regulation under the FFDCA.

Part 18

Section 18.11(e) of the CBP regulations (19 CFR 18.11(e)), involving entries for immediate transportation without appraisement, contains a typographical error in the first sentence. Section 18.11(e) employs the word "of" in the phrase "merchandise subject to detention *of* supervision" (emphasis added) when the word "or" should have been used. This document amends § 18.11(e) to correct the error to clarify that the entries for immediate transportation without appraisement are subject to *either* detention *or* supervision by any Federal agency. In addition, this document amends § 18.11(e) to remove the word "shall" in the first and third sentences and replace it with "must" in order to reflect the mandatory nature of these requirements.

Part 101

Section 101.3 of the CBP regulations (19 CFR 101.3), which contains a list of Ports of Entry and Service Ports, contains an incomplete CBP Decision number for the Port of Entry of Fargo, North Dakota. This document amends § 101.3 to include the correct reference to the decision which established Fargo, North Dakota as a Port of Entry: CBP Dec. No. 03–09, which was published in the **Federal Register** (68 FR 42587) on July 18, 2003.

Part 103

Section 103.31 of the CBP regulations (19 CFR 103.31) contains an outdated reference to the CBP Data Center. This document amends § 103.31(e)(2) to include the correct reference to the CBP Technology Support Center, with the correct telephone number.

Part 118

Section 118.3 of the CBP regulations (19 CFR 118.3), regarding the written agreements between CBP and Centralized Examination Station (CES) operators, is being amended to comply with the McNamara-O'Hara Service Contract Act of 1965 (SCA) (41 U.S.C. 351, *et seq.*). The SCA applies to every contract entered into by the United States or the District of Columbia in excess of $2,500, the principal purpose of which is to furnish services to the United States through the use of service employees. (41 U.S.C. 351(a)). The SCA applies to the written agreement between CBP and the operator of a CES because this agreement obligates the operator of a CES to perform the specific services listed in § 118.4 of the CBP regulations (19 CFR 118.4), and therefore the principal purpose of the agreements is the furnishing of services desired by the United States Government. Section 118.3 of the CBP regulations (19 CFR 118.3) currently provides that the duration of agreements with CES operators "will not be less than three years nor more than six years." The term "six years" is in conflict with § 353(d) of SCA, which mandates that contracts to which the SCA applies may not exceed five years. (41 U.S.C. 353(d)). Because the SCA requires that such agreements cannot exceed a term of five years, CBP is amending § 118.3 to reflect the proper time frame. CBP will honor existing agreements and will process future agreements with the revised term limits upon the effective date of this rule. Section 118.3 is also being amended in this document by replacing references to "Customs" with "CBP".

Part 122

Section 122.42(b)(2) of the CBP regulations (19 CFR 122.42(b)(2)) sets forth the requirement for aircraft making entry into the United States at other than an international airport. As written, § 122.42(b)(2) makes a reference to § 122.34, which no longer exists. Section 122.34 was redesignated as § 122.14 by a final rule published as Treasury Decision (T.D.) 92–90 in the **Federal Register** (57 FR 43395) on September 21, 1992.

Although T.D. 92–90 also amended § 122.33(a)(2) to change a reference to § 122.34 with § 122.14 to reflect the above redesignation, T.D. 92–90 failed to amend 122.42(b)(2) as well to reflect the change. Additionally, § 122.42(b)(2) should include a reference to the section in the regulations on user fee airports (§ 122.15) because § 122.42(b)(2) references airports other than international airports; and user fee airports are not international airports. Accordingly, this document amends § 122.42(b)(2) of the CBP regulations by replacing the reference to § 122.34 with § 122.14 and by adding a reference to § 122.15.

Part 141

Section 141.4 of the CBP regulations (19 CFR 141.4) sets forth exceptions to the requirement that imported merchandise must be entered. There is an incorrect reference in § 141.4(c) to "General Note 19(e)" which should reference "General Note 3(e)." General Note (GN) 19(e) was transferred to GN 3(e) pursuant to the implementation of the 2003 Singapore Free Trade Agreement (SFTA). This document amends § 141.4(c) to reflect the correct reference to General Note 3(e).

Part 146

Section 146.35 of the CBP regulations (19 CFR 146.35) pertains to the procedures for the temporary deposit of merchandise in a foreign trade zone (FTZ). Pursuant to section 146.35, CBP allows the temporary unlading of merchandise in an FTZ where the information or documentation necessary to complete CBP Form 214 ("Application for Foreign Trade Zone Admission and/or Status Designation") is not available at the time the merchandise arrives within the jurisdiction of the port. As currently written, § 146.35(e) requires that CBP Form 214 be submitted within five working days and allows the port director to grant an extension of this time period.

Sections 656 and 658 of the Customs Modernization Act provisions of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, Dec. 8, 1993) gave the Secretary of the Treasury the authority to prescribe the time by which CBP is to be notified of unladen merchandise for which entry has not been made. On September 25, 1998, CBP published in the **Federal Register** (63 FR 51283), Treasury Decision (T.D.) 98–74, amending §§ 4.37, 122.50, and 123.10, to require a carrier's obligated party to notify CBP within fifteen calendar days after unlading of the presence of unladen, unentered merchandise. On February 11, 1999, CBP published in the **Federal Register** (64 FR 6801) a correction to T.D. 98–74 noting that it had inadvertently omitted § 146.40(c)(3) (19 CFR 146.40(c)(3)) concerning the time period that merchandise be

admitted to an FTZ after arrival into the port from within five working days to fifteen calendar days, when it changed the regulations to reflect a fifteen calendar day period for unladen merchandise to be entered into general order. It has now come to CBP's attention that it also inadvertently omitted § 146.35(e) when it was changing the time frame for merchandise to be admitted into a zone. This document changes the time required to file CBP Form 214 from five working days to fifteen calendar days and eliminates the port director's discretion to grant an extension to make this provision consistent with the previous regulatory changes. Accordingly, the document amends § 146.35(e) to be consistent with the terms of §§ 4.37, 122.50, 123.10, and 146.40(c)(3) requiring the CBP Form 214 to be filed within the same time period.

Part 159

Section 159.11(b) of the CBP regulations (19 CFR 159.11(b)) sets forth the applicability of the provisions concerning the statutory time frame limit of one year for the liquidation of entries but excluded drawback entries in pending drawback claims from this time frame. However, section 1563(e) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Pub. L. 108–429, 118 Stat. 2434, Dec. 3, 2004) amended 19 U.S.C. 1504 to include the applicability of the one year deadline to the liquidation of drawback entries or claims for drawback. Congress made this correction because it found that without a time limitation, CBP was not liquidating drawback claims within a reasonable period of time and therefore, this resulted in an open-ended time period that a drawback claimant's claim remained subject to a challenge by CBP. By including drawback claims within the one year statutory time frame that applies to liquidation of entries, Congress removed the contingent liability of the drawback claimant having to reimburse the U.S. Treasury of any drawback monies paid to the claimant from when the claim was actually filed and money was paid to the drawback claimant under the accelerated drawback program until the claim liquidated. *See* Senate Report No. 108–28, at 114 (Mar. 20, 2003).

Accordingly, this document amends § 159.11(b) by removing the language that excluded drawback entries from falling under the statutory liquidation time limit of one year.

Part 162

Section 162.23 of the CBP regulations (19 CFR 162.23) pertains to seizures effectuated under section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)) (Act). The Act was amended by Pub. L. 109–177, Title III, § 311(d), 120 Stat. 192 (March 9, 2006), which added a new paragraph (d) that subjects merchandise exported contrary to law, proceeds thereof, and facilitating property to seizure and forfeiture. Accordingly, this document amends § 162.23 to conform the regulation to the Act. Section 162.23 is also being updated in this document by replacing references to "Customs" with "CBP".

Part 192

Section 192.14(d) of the CBP regulations (19 CFR 192.14(d)), which pertains to the electronic information that is required in advance of departure for outward cargo, contains an outdated reference to the exemptions from reporting requirements for export cargo located in title 15 of the CFR. On June 2, 2008, the Bureau of the Census announced amendments to its regulations to implement provisions in the Foreign Relations Authorization Act, which went into effect on September 30, 2008 (*see* 73 FR 31548). Since the implementation of these amendments, the citation in § 192.14(d) of the CBP regulations to the exemptions from reporting requirements contained in the Bureau of the Census' regulations are incorrect. Accordingly, this document amends § 192.14(d) by removing the incorrect reference to 15 CFR 30.50 through 30.58, which now pertain to import requirements, and adding the correct renumbered citation to the Census regulations, namely, 15 CFR 30.35 through 30.40.

Inapplicability of Notice and Delayed Effective Date

Because the technical corrections set forth in this document merely conform to existing law and regulation, CBP finds that good cause exists for dispensing with notice and public procedure as unnecessary under 5 U.S.C. 553(b)(B). For this same reason, pursuant to 5 U.S.C. 553(d)(3), CBP finds that good cause exists for dispensing with the requirement for a delayed effective date.

Regulatory Flexibility Act

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12866

These amendments do not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Signing Authority

This document is limited to technical corrections of the CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b)(1).

List of Subjects

19 CFR Part 4

Reporting and recordkeeping requirements.

19 CFR Part 10

Bonds, Customs duties and inspection, Entry, Reporting and recordkeeping requirements.

19 CFR Part 12

Air pollution control, Bonds, Customs duties and inspection, Meats, Pesticides, Reporting and recordkeeping requirements.

19 CFR Part 18

Bonds, Customs duties and inspection, Merchandise in transit, Reporting and recordkeeping requirements, Transportation in bond.

19 CFR Part 101

Administrative practice and procedure, Customs duties and inspection, Customs ports of entry, Customs service ports, Customs management centers, Harbors, Organization and functions (Government agencies), Reporting and recordkeeping requirements, User fee facilities.

19 CFR Part 103

Administrative practice and procedure, Computer technology, Confidential business information, Customs duties and inspection, Freedom of information, Privacy, Reporting and recordkeeping requirements.

19 CFR Part 118

Administrative practice and procedure, Customs duties and inspection, Examination stations, Exports, Imports, Licensing, Reporting and recordkeeping requirements.

19 CFR Part 122

Administrative practice and procedure, Customs duties and inspection, Penalties, Reporting and recordkeeping requirements.

19 CFR Part 141

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 146

Customs duties and inspections, Entry, Foreign trade zones, Imports, Reporting and recordkeeping requirements.

19 CFR Part 159

Customs duties and inspections, Liquidation of entries for merchandise.

19 CFR Part 162

Customs duties and inspection, Exports, Law enforcement, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise, Seizures and forfeitures.

19 CFR Part 192

Customs duties and inspection, Exports, Reporting and recordkeeping requirements.

Amendments to CBP Regulations

■ For the reasons set forth above, parts 4, 10, 12, 18, 101, 103, 118, 122, 141, 146, 159, 162, and 192 of the CBP regulations (19 CFR parts 4, 10, 12, 18, 101, 103, 118, 122, 141, 146, 159, 162, and 192) are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADE

■ 1. The general authority citation for part 4 and the specific authority citation for § 4.12 continue to read as follows:

Authority: 5. U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Section 4.12 also issued under 19 U.S.C. 1584;

* * * * *

§ 4.12 [Amended]

■ 2. Section 4.12 is amended by redesignating paragraph (a)(5)(a) as paragraph (a)(5).

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 3. The general authority citation for part 10 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

§ 10.31 [Amended]

■ 4. § 10.31(g):

■ a. The words "Customs custody" are removed each place that they appear and, in their place, is added the term "CBP custody";

■ b. The term "520(c)(1)" is removed and, in its place, is added the term "514(a)";

■ c. The words "the Customs Service" are removed and, in their place, is added the term "CBP"; and

■ d. The words "Customs territory" is removed and, in their place, are added the words "customs territory".

§ 10.36 [Amended]

■ 5. In § 10.36:

■ a. Paragraphs (a) and (c) are amended by removing the words "Customs invoice" each place that they appear and adding in their place, the term "CBP invoice";

■ b. Paragraph (b) is amended by removing the number "9813.00.65" and adding, in its place, the number "9817.00.98";

■ c. Paragraph (b) is further amended by removing the words, "U.S. Customs Service" and adding, in their place, the words, "U.S. Customs and Border Protection";

■ d. Paragraphs (b) and (c) are amended by removing the words "Customs territory" each place that they appear, and adding, in their place, the words "customs territory";

■ e. Paragraphs (b) and (c) are further amended by removing the words "Customs officers" and adding, in their place, the words "CBP officers", and

■ f. Paragraphs (b) and (c) are further amended by removing the words "through Customs" and adding, in their place, the words "through CBP".

■ 6. In § 10.191:

■ a. Paragraph (b)(1) is amended by adding three new sentences at the end of the paragraph;

■ b. Paragraph (b)(2)(iv) is amended by removing the words "Harmonized Tariff Schedule of the United States (HTSUS)" and adding in their place the term "HTSUS".

The revision reads as follows:

§ 10.191 General.

* * * * *

(b) * * *

(1) * * * *See* General Note 7(a), Harmonized Tariff Schedule of the United States (HTSUS). For purposes of this paragraph, when the word "former" is used in conjunction with the term "beneficiary country", it means a country that ceases to be designated as a beneficiary country under the CBERA because the country has become a party to a free trade agreement with the United States. *See* General Note 7(b)(i)(C), HTSUS.

* * * * *

§ 10.195 [Amended]

■ 7. Section 10.195(b) is amended:

■ a. By removing the words "and U.S. Virgin Islands" in the introductory paragraph heading and adding in their place the words ", U.S. Virgin Islands, and former beneficiary countries"; and

■ b. In paragraph (b)(1) by removing from the end of the first sentence the words "and the U.S. Virgin Islands" and adding in their place the words ", U.S. Virgin Islands, and any former beneficiary country" and in the middle of the second sentence by adding the words "or any former beneficiary country" immediately after the word "Islands".

§ 10.411 [Amended]

■ 8. Section 10.411(a)(2)(vi) is amended by removing the reference to "paragraph (e)" and adding in its place a reference to "paragraph (f)".

§ 10.442 [Amended]

■ 9. Section 10.442(d)(1) is amended by removing the words "initiation of".

§ 10.470 [Amended]

■ 10. The introductory text of § 10.470(a) is amended by adding a reference to "or § 10.442" immediately following the reference to "§ 10.410".

§ 10.809 [Amended]

■ 11–13. Section 10.809 is amended:

■ a. In paragraph (d)(7) by removing the reference to "paragraph (d)(5)" and adding in its place a reference to "paragraph (d)(6)"; and

■ b. In paragraph (n) by removing the words "or packing or repacking" and adding in their place the words "and repacking and packaging".

§ 10.811 [Amended]

■ 14. Section 10.811(a)(1) is amended by adding the words "or yarns" immediately after the words "all such fibers".

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 15. The general authority citation for part 12 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

§ 12.1 [Amended]

■ 16. Section 12.1(a) is amended by removing the words "and cosmetics" and adding in their place the words "cosmetics, and tobacco products".

§ 12.3 [Amended]

■ 17. Section 12.3(a) is amended by adding the words "tobacco product," immediately after the word "cosmetic,".

■ 18. In § 12.8(a) is amended by:

■ a. Revising the first sentence;

■ b. Paragraph (a) is further amended in the third sentence by removing from the third sentence the words "Such meat, meat-food products, horse meat and horse meat food products shall" and adding, in their place, the words "Such meat and meat-food products will"; and

■ c. Removing the word "Customs" each time that it appears and adding, in its place, the term "CBP".

The revision reads as follows:

§ 12.8 Inspection; bond; release.

(a) All imported meat and meat-food products offered for entry into the United States are subject to the regulations prescribed by the Secretary of Agriculture under the Animal Health Protection Act. (7 U.S.C. 8301, *et seq.*).

* * *

* * * * *

■ 19. In § 12.74:

■ a. The section heading is revised.

■ b. Paragraph (a) is revised.

■ c. Paragraph (b)(1) is revised.

■ d. Paragraph (b)(2) is amended by removing the words "a period of at least 5" and adding, in their place, the words "at least five", and by removing the word "Customs" each time that it appears and adding in its place the term "CBP";

■ e. Paragraph (c)(1) is amended by removing the phrase "paragraphs (c)(3)(i) through (c)(3)(iv)" and adding, in its place, the phrase "paragraph (c)(3)";

■ f. Paragraph (c)(2) is amended, in the first sentence, by removing the phrase "paragraphs (c)(3)(i) through (c)(3)(iv)" and adding, in its place, the phrase "paragraph (c)(3)", by removing the number "5" and adding in its place the word "five", by removing the word "Customs" each time that it appears and adding in its place the term "CBP"; and, in the last sentence, by removing the terms "89.612–96(d), 90.613(c) & (d), 91.705(c) & (d)" and adding, in their place, the terms "89.612(d), 90.613(c) and (d), 94.805(c) and (d), and 1068.335";

■ g. Paragraph (c)(3)(i) is amended by removing the terms "89.611–96(b)(1), 90.612(b)(1), 91.704(b)(1));" and adding, in their place, the terms "89.611(b)(1), 90.612(b)(1), 94.804(b)(1), 1068.325(a)).";

■ h. Paragraph (c)(3)(ii) is amended by removing the terms "89.611–96(b)(2), 90.612(b)(2), 91.704(b)(2));" and adding, in their place, the terms "89.611(b)(2), 90.612(b)(2), 94.804(b)(2), 1068.325(b)).";

■ i. By revising paragraph (c)(3)(iii);

■ j. By revising paragraph (c)(3)(iv);

■ k. Paragraph (d) is amended by removing the term "Customs" and adding, in its place, the term "CBP";

■ l. Paragraph (e) is amended in the first sentence by adding the words "or stationary" after the word "nonroad", and by removing the term "Customs" and adding, in its place, the term "CBP", and in the second sentence by adding the words "or stationary" after the word "nonroad", and by removing the word "otherwise" and adding, in its place, the word "other".

The revisions read as follows:

§ 12.74 Nonroad and stationary engine compliance with Federal antipollution emission requirements.

(a) *Applicability of EPA regulations.* The requirements governing the importation of nonroad and stationary engines subject to conformance with applicable emissions standards of the U.S. Environmental Protection Agency (EPA) are contained in EPA regulations, issued under the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*). These EPA regulations should be consulted for detailed information as to the admission requirements for subject nonroad and stationary engines. See 40 CFR part 1068, subpart D, with the following exceptions:

(1) For nonroad compression-ignition regulated under 40 CFR part 89, see 40 CFR part 89, subpart G. This applies to certain engines through the 2011 model year.

(2) For nonroad spark-ignition engines at or below 19 kilowatts regulated under 40 CFR part 90, see 40 CFR part 90, subpart G. This applies to certain engines through the 2011 model year.

(3) For marine compression-ignition engines regulated under 40 CFR part 94, see 40 CFR part 94, subpart I. This includes propulsion engines and auxiliary engines installed on marine vessels. This applies to certain engines through the 2013 model year.

(b) *Admission of nonconforming nonroad engines.* (1) *EPA declaration form required.* EPA Form 3520–21, "Importation of Engines, Vehicles, and Equipment Subject to Federal Air Pollution Regulations", must be completed by the importer and retained on file by him before making a customs entry for such nonroad or stationary engines/vehicles/equipment.

* * * * *

(c) * * *

(3) * * *

(iii) Display (see 40 CFR 89.611(b)(4), 90.612(b)(3), 94.804(b)(4), 1068.325(c)).

(iv) Precertification (see 40 CFR 89.611(b)(3)).

* * * * *

§ 12.112 [Amended]

■ 20. Section 12.112(b) is amended by removing the words "Abbreviated List of Pesticides compiled by the Environmental Protection Agency" and adding, in their place, the words "Index of Pesticide Products located in the Environmental Protection Agency's handbook entitled *Recognition and Management of Pesticide Poisonings,* found at *http://www.epa.gov*".

§ 12.123 [Amended]

■ 21. Section 12.123(b) is amended by:

■ a. Removing the words "Customs Form 7551, 7553, or 7595" and adding, in their place, the words "CBP Form 301, containing the conditions set forth in § 113.62 of this chapter";

■ b. Removing the third sentence; and

■ c. Removing the word "Customs" and adding, in its place, the term "CBP".

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

■ 22. The general authority citation for part 18 and the specific authority for § 18.11 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1623, 1624.

* * * * *

Section 18.11 also issued under 19 U.S.C. 1484;

* * * * *

§ 18.11 [Amended]

■ 23. In § 18.11, paragraph (e) is amended by:

■ a. Removing from the first sentence the word "of" and adding in its place the word "or"; and

■ b. Removing from the first and third sentences the word "shall" and adding in its place the word "must".

PART 101—GENERAL PROVISIONS

■ 24. The general authority citation for part 101 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624, 1646a.

Section 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b.

* * * * *

§ 101.3 [Amended]

■ 25. In § 101.3(b)(1), the table of the list of Customs ports of entry is amended in the entry for Fargo, North Dakota, in the

column headed "Limits of port", by adding the numbers "09" after the phrase "CBP Dec. 03-".

PART 103—AVAILABILITY OF INFORMATION

■ 26. The general authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

* * * * *

§ 103.31 [Amended]

■ 27. In § 103.31, paragraph (e)(2) is amended by:

■ a. Removing the phrase "CBP Data Center" each time that it appears and adding, in its place, the term "CBP Technology Support Center"; and

■ b. Removing from the last sentence the phrase "CBP Data Center, on (703) 921–6000", and adding, in its place, the phrase "CBP Technology Support Center at 1–800–927–8729."

PART 118—CENTRALIZED EXAMINATION STATIONS

■ 28. The general authority citation for part 118 continues to read as follows:

Authority: 19 U.S.C. 66, 1499, 1623, 1624; 22 U.S.C. 401; 31 U.S.C. 5317.

* * * * *

§ 118.3 [Amended]

■ 29. In § 118.3:

■ a. The word "six" is removed from the fourth sentence and, in its place, is added the word "five"; and

■ b. The word "Customs" is removed and, in its place, is added the term "CBP" each place it occurs.

PART 122—AIR COMMERCE REGULATIONS

■ 30. The general authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

§ 122.42 [Amended]

■ 31. Section 122.42(b)(2) is amended by removing the reference to "122.34" and adding in its place a reference to "122.14, 122.15,".

PART 141—ENTRY OF MERCHANDISE

■ 32. The general authority citation for part 141, CBP regulations, continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

§ 141.4 [Amended]

■ 33. The introductory text to § 141.4(c) is amended by removing the reference to "19(e)" and adding in its place a reference to "3(e)".

§ 141.113 [Amended]

■ 34. In § 141.113:

■ a. Paragraph (c) introductory text is amended by removing the words "and cosmetics" in the paragraph heading and adding in their place the words "cosmetics, and tobacco products".

■ b. Paragraph (c)(1) introductory text is amended by removing the words "or cosmetic" in the first sentence and adding in their place the words, "cosmetic, or tobacco product".

■ c. Paragraph (c)(3) is amended by removing the words "device or cosmetic" in the first sentence and adding in their place the words, "device, cosmetic, or tobacco product".

PART 146—FOREIGN TRADE ZONES

■ 35. The authority citation for part 146 continues to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624.

■ 36. In § 146.35, paragraph (e) is revised to read as follows:

§ 146.35 Temporary deposit in a zone; incomplete documentation.

* * * * *

(e) *Submission of CBP Form 214.* A complete and accurate CBP Form 214 must be submitted, as provided in § 146.32, within 15 calendar days with no exceptions granted by the port director, or the merchandise will be placed in general order.

PART 159—LIQUIDATION OF DUTIES

■ 37. The general authority citation for part 159 continues to read as follows:

Authority: 19 U.S.C. 66, 1500, 1504, 1624.

* * * * *

§ 159.11 [Amended]

■ 38. Section 159.11(b) is amended at the end of the paragraph by removing the words ", but shall not apply to drawback entries".

PART 162—INSPECTION, SEARCH, AND SEIZURE

■ 39. The general authority citation for part 162 and the specific authority for § 162.23 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624, 6 U.S.C. 101, 8 U.S.C. 1324(b).

* * * * *

Section 162.23 also issued under 19 U.S.C. 1595a(c).

* * * * *

■ 40. In § 162.23:

■ a. Paragraphs (c) and (e) are amended by removing the word "Customs" and adding, in its place, the term "CBP"; and

■ b. A new paragraph (f) is added.

The addition reads as follows:

§ 162.23 Seizure under section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)).

* * * * *

(f) *Exportations contrary to law.* Merchandise exported or sent, or attempted to be exported or sent, from the United States contrary to law, or the proceeds or value thereof, and property used to facilitate the exporting or sending, or attempted exporting or sending, of such merchandise, will be seized and subject to forfeiture. In addition, the receipt, purchase, transportation, concealment or sale of such merchandise prior to exportation will result in its seizure and forfeiture to the United States.

PART 192—EXPORT CONTROL

■ 41. The general authority citation for part 192 continues to read as follows:

Authority: 19 U.S.C. 66, 1624, 1646c. Subpart A also issued under 19 U.S.C. 1627a, 1646a, 1646b; subpart B also issued under 13 U.S.C. 303; 19 U.S.C. 2071 note; 46 U.S.C. 91.

* * * * *

§ 192.14 [Amended]

■ 42. In § 192.14, paragraph (d) is amended by:

■ a. Removing the phrase "§§ 30.50 through 30.58" and adding in its place the phrase "§§ 30.35 through 30.40"; and

■ b. Removing the phrase "(15 CFR 30.50 through 30.58)" and adding in its place the phrase "(15 CFR 30.35 through 30.40)".

Dated: August 23, 2010.

Alan Bersin,

Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2010–21253 Filed 8–25–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 12 and 163

[CBP Dec. 10–27; USCBP 2008–0052]

RIN 1515–AD62 (Formerly RIN 1505–AB98)

Entry Requirements for Certain Softwood Lumber Products Exported From Any Country Into the United States

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule the interim amendments to title 19 of the Code of Federal Regulations (19 CFR) that prescribe special entry and documentation requirements applicable to certain softwood lumber and softwood lumber products exported from any country into the United States. This final rule implements Title VIII ("Softwood Lumber Act of 2008") of the Tariff Act of 1930, as added by section 3301 of Title III, Subtitle D, of the Food, Conservation, and Energy Act of 2008, which requires the President to establish and maintain an importer declaration program with respect to the importation of certain softwood lumber and softwood lumber products and prescribes special entry requirements whereby importers must submit the export price, estimated export charge, if any, and an importer declaration with the entry summary. The Act also established new recordkeeping requirements applicable to certain imports of softwood lumber home packages and kits that are subject to declaration requirements, but that are not subject to the softwood lumber importer declaration program of section 803 of the Act.

DATES: *Effective Date:* August 26, 2010.

FOR FURTHER INFORMATION CONTACT: Renee D. Chovanec, Chief, International Coordination, Trade Agreements and Planning Division, Office of International Trade, Tel: (202) 863–6384.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2008, CBP published in the **Federal Register** (73 FR 49934), as Customs and Border Protection Decision (CBP Dec.) 08–32, interim regulations prescribing special entry and documentation requirements applicable to certain softwood lumber and softwood lumber products exported from any country into the United States. These interim regulations, set forth in new § 12.142 of title 19 of the Code of Federal Regulations (19 CFR 12.142), implemented the terms of Title VIII (Softwood Lumber Act of 2008 or "the Act") of the Tariff Act of 1930, as added by section 3301 of Title III, Subtitle D, of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, enacted June 18, 2008). The Act required the President to establish and maintain an importer declaration program with respect to the importation of certain softwood lumber and softwood lumber products and prescribe special entry requirements whereby importers must provide the export price, estimated export charge, if any, and an importer declaration with the entry summary documentation. The Act also imposed new recordkeeping requirements applicable to certain imports of softwood lumber home packages and kits.

CBP solicited public comment on the interim rule.

Discussion of Comments

Five commenters responded to the solicitation of comments in CBP Dec. 08–32, and CBP considered all comments that were timely submitted. Several of the commenters raised numerous issues in each of their submissions and these issues are addressed individually in this document. A description of the comments received, together with CBP's analyses, is set forth below.

Comment

One commenter notes that while it considers the additional reporting requirements imposed on softwood lumber imports by the Act unnecessary, CBP has nevertheless chosen the best method for collecting the required data. The commenter further suggests that the additional reporting requirements will impose further collection and reporting burdens on importers that will translate into additional costs that importers that will pass down to consumers.

CBP Response

Pursuant to the terms of the Act, CBP is required to collect the information described in CBP Dec. 08–32. While CBP is cognizant of the additional reporting burden the new softwood lumber entry requirements place on the importer, the agency has devised a method of data collection that minimizes the associated costs and burdens to importers of softwood lumber and softwood lumber products.

Comment

One commenter suggests that CBP should explain in the final rule that the declaration language set forth in § 12.142(c)(3)(iii)(B)(*3*), which states that "the exporter has paid, or committed to pay, all export charges due," includes export charges that may be imposed retroactively after initial export charges are collected.

CBP Response

Section 12.142(c)(3)(iii)(B)(*3*) of the interim rule requires the importer to declare, to his best knowledge and belief, that the exporter has paid or committed to pay "all export charges due." It is CBP's view that as this language includes export charges imposed retroactively after initial export charges are collected, the commenter's suggested language is unnecessary.

Comment

One commenter submits that CBP Dec. 08–32 properly reflects the requirements of the Act and should be adopted as final without change.

CBP Response

CBP agrees that CBP Dec. 08–32 properly reflects the requirements of the Act.

Comment

One commenter recommends that the final rule should retain the condition set forth in CBP Dec. 08–32 that an importer declaration is required for each shipment of covered merchandise and that blanket declarations should not be accepted.

CBP Response

CBP concurs and will continue to require a declaration on each entry summary line item in the final rule.

Comment

One commenter notes that the 2008 Harmonized Tariff Schedule of the United States (HTSUS) subheading numbers set forth in section 804(a) of the Act, which describe products covered by the Act, may change over time. The commenter states that as section 804(d) of the Act addresses this issue by providing that "the descriptions of the covered articles, rather than the HTS subheading number, control whether a product is covered by the importer declaration program," § 12.142(b) should be amended accordingly.

CBP Response

CBP is of the view that § 12.142(b) accurately reflects the scope of the statutory language and does not require further clarification. Section 804(d) of the Act provides, "[F]or purposes of determining if a product is covered by the importer declaration program, the President shall be guided by the article descriptions provided in this section." Section 804(a) of the Act describes the products covered by the softwood lumber importer declaration program by identifying the applicable HTSUS tariff subheading numbers *and* accompanying article descriptions. The commenter's concern that potential changes to the 2008 HTSUS subheadings identified in section 804(a) of the Act may have the effect of altering the scope of coverage is unwarranted inasmuch as section 804(d) of the Act ensures that a product's description will dictate whether it is covered by the Act. The fact that an article, otherwise described in section 804(a) of the Act, may be subsequently classified in a HTSUS subheading that is different from the tariff provisions originally listed in the statute will not preclude that article from being covered by the Act.

Comment

One commenter is of the opinion that a conflict exists between the manner by which the export price must be reported on the entry summary pursuant to the Softwood Lumber Act of 2008 and the U.S.-Canada Softwood Lumber Agreement (SLA) of 2006. Specifically, the commenter notes that pursuant to the Softwood Lumber Agreement of 2006 the Canadian-issued export permit allows for an aggregated export price. Conversely, pursuant to section 803(b)(1) of the Softwood Lumber Act of 2008, the export price reported on the entry summary may not be aggregated and must be listed for each line with a different line required for each consignee.

CBP Response

CBP acknowledges that Canadian-issued export permits often present the export price as an aggregate figure. Presenting this data as an aggregate is not prohibited by the terms of the U.S.-Canada Softwood Lumber Agreement of 2006; however, it is prohibited under the terms of the Softwood Lumber Act of 2008, which requires that the export price reported on the entry summary be listed for each line with a different line required for each consignee. To reconcile this situation, CBP advises that in situations where the export price on a Canadian-issued export permit is aggregated, importers should allocate the export price among the lines on the entry summary. For example, if the export price listed on the export permit is $1000 and there are two line items on the entry summary, divide the $1000 to reflect each line item's respective percentage of the entered value. If seventy-five percent (75%) of the entered value is reported on one line item and twenty-five percent (25%) on the other, then list $750 as the export price on the first line item and $250 as the export price on the other line item. The export price listed on both line items on the entry summary should add up to the export price on the one line item of the Canadian-issued export permit.

Comment

One commenter raises the concern that the reconciliation requirements set forth in the Act put into place a process that overlaps with the reconciliation process mandated under the U.S.-Canada Softwood Lumber Agreement of 2006 and that this could cause confusion or delay.

CBP Response

CBP does not view the data collection and reconciliation requirements mandated by the Softwood Lumber Act of 2008 to be in conflict with those required by the U.S.-Canada Softwood Lumber Agreement of 2006. CBP acknowledges that while some of the data required to be submitted by importers pursuant to the 2008 Act may also be collected by Canada pursuant to the 2006 Agreement, there is no duplication in that a shipper is not required to submit the same information to the same country more than once. The common data elements that are submitted to both the U.S. and Canada should be the same. Therefore data reconciliation as required under the Softwood Lumber Act of 2008 should not affect data reconciliations under the U.S.-Canada Softwood Lumber Agreement of 2006.

Comment

One commenter notes that the interim rule set forth in CBP Dec. 08–32 unnecessarily places an increased burden on importers. It also impacts small and medium-sized enterprises, including the U.S. housing industry, and is likely to have a trade dampening effect.

CBP Response

With regard to the commenter's statement that the interim rule places an unnecessary burden on importers, CBP reiterates that the interim rule merely implements the entry and recordkeeping requirements mandated by the Softwood Lumber Act of 2008. The interim rule does not impose any burdens on trade other than those explicitly required by law. Moreover, the prescribed method of data collection set forth in the regulation is intended to streamline the reporting process and minimize any administrative burden associated with reporting the required information. This process should help mitigate the administration burden for all enterprises, including small and medium-sized businesses.

Comment

One commenter requests that CBP identify the standard to be used in assessing civil penalties under the Softwood Lumber Act of 2008 by using the standard contained in 19 U.S.C. 1592 in a new 19 CFR 12.142(f).

CBP Response

CBP does not believe it is necessary to add this language to 19 CFR 12.142 as the standards for assessing civil and criminal penalties are clearly prescribed by section 808 of the Softwood Lumber Act of 2008.

Comment

One commenter states that CBP Dec. 08–32 does not specify which date should be used as the basis for the export price and export charge listed on the entry summary line. Without specifying the date required as the basis for the export price and export charge, different dates may be used which would create discrepancies between the export permit date and the entry summary data. The commenter suggests using the shipping date to be consistent with the U.S.-Canada Softwood Lumber Agreement of 2006.

CBP Response

CBP does not believe this change is necessary as importers of softwood lumber and softwood lumber products from Canada need only report the export price listed on the permit issued by the Government of Canada.

Comment

One commenter notes that CBP Dec. 08–32 does not reflect the fact that Canadian exporters are permitted to cap the export price at $500 per thousand board feet when calculating the export charge. For this reason, the commenter submits that the export price on the entry summary will be inconsistent with that on the Canadian export permit when capped.

CBP Response

CBP does not believe this change is necessary as importers of softwood lumber and softwood lumber products only need to report the export price listed on the permit issued by the Government of Canada.

Comment

One commenter requests that CBP add language to the interim rule that provides that where an international agreement between a country that exports softwood lumber or softwood lumber products and the United States provides greater specificity regarding aspects of the Softwood Lumber Act of 2008, CBP will implement 19 CFR 12.142 in accordance with the more specific law to the extent that it does not conflict with the 2008 Act.

CBP Response

CBP is of the view that such language is unnecessary. CBP Dec. 08–32 implements the Softwood Lumber Act of 2008 in a manner that does not conflict with international softwood lumber agreements to which the U.S. is a signatory.

Comment

One commenter strongly supports the requirement for the presentation of the original paper Maritime Lumber Bureau Certificate of Origin, as prescribed in CBP Dec. 08–32. The commenter, however, urges CBP to exclude entirely softwood lumber imported from the Canadian Maritime provinces from the importer declaration program promulgated in 19 CFR 12.142.

CBP Response

The Softwood Lumber Act of 2008 requires CBP to collect the export price, export charge, if any, and importer declaration on all importations of covered softwood lumber and softwood lumber products. Accordingly, CBP is without authority to except softwood lumber imported from the Canadian Maritime provinces from the importer declaration program. CBP will continue to require the presentation of the original paper Maritime Lumber Bureau Certificate of Origin.

Conclusion

After review of the comments and further consideration, CBP has decided to adopt as final the interim rule published in the **Federal Register** (73 FR 49934) on August 25, 2008, as CBP Dec. 08–32.

Inapplicability of Notice and Delayed Effective Date Requirements

CBP has determined, pursuant to the provisions of 5 U.S.C. 553(b)(B) and (d)(3), that prior public notice and comment procedures on this regulation are unnecessary and contrary to the public interest. These regulations align the CBP regulations to reflect the terms of Title VIII of the Tariff Act of 1930, as added by section 3301 of Title III, Subtitle D, of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, enacted June 18, 2008), which went into effect August 18, 2008. The regulatory amendments inform the public of the special entry and documentation requirements applicable to certain softwood lumber and softwood lumber products exported from any country into the United States. The regulations are currently in effect as an interim rule and this final rule does not change the interim rule. For these reasons, pursuant to the provisions of 5 U.S.C. 553(d)(3), CBP finds that there is good cause for dispensing with a delayed effective date.

Regulatory Flexibility Act and Executive Order 12866

CBP Dec. 08–32 was issued as an interim rule rather than a notice of proposed rulemaking because CBP had determined there was good cause. The amendments were necessary to inform the public on how to comply with statutory requirements. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) do not apply. Further, these amendments do not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collections of information in this document are contained in §§ 12.142(c) and (d) (19 CFR 12.142(c) and (d)). This information is used by CBP to fulfill its information collection obligations under Title VIII of the Tariff Act of 1930, as added by section 3301 within Title III, Subtitle D, of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246), whereby importers of certain softwood lumber and softwood lumber products are required to submit the export price, estimated export charge, if any, and an importer declaration with the entry summary information or, where applicable, to submit additional documentation required for home packages and kits. The likely respondents are business organizations including importers and brokers.

The collection of information associated with the entry summary documentation (CBP Form 7501) was previously approved by the Office of Management and Budget under control number 1651–0052. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), CBP has submitted to OMB for review an adjustment to the information provided to OMB for the previously approved OMB control number to account for the changes in this rule. The estimated annual burden associated with the collection of information in this final rule is now estimated to be 1,269 hours per respondent. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects

19 CFR Part 12

Bonds, Customs duties and inspection, Entry of merchandise, Imports, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise.

19 CFR Part 163

Customs duties and inspection, Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

■ Accordingly, the interim rule amending Parts 12 and 163 of the CBP Regulations (19 CFR Parts 12 and 163), which was published at 73 FR 49934 on August 25, 2008, is adopted as a final rule.

Alan Bersin,

Commissioner, U.S. Customs and Border Protection.

Approved: August 23, 2010.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2010–21244 Filed 8–25–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 111

[USCBP–2008–0059; CBP Dec. 10–28]

RIN 1651–AA74

Customs Broker License Examination Individual Eligibility Requirements

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This final rule adopts, with one modification, proposed changes U.S. Customs and Border Protection (CBP) regulations regarding the requirements that an individual must satisfy in order to take the written examination for an individual customs broker's license, which is administered by CBP. Under this final rule, in order to be eligible to take the examination, an individual must on the date of examination be a citizen of the United States who has attained the age of 18 years and who is not an officer or employee of the U.S. Government. These changes will facilitate the overall licensing process by enabling individuals who have attained the age of 18 to take the examination in order to gain valuable experience while ensuring they would not be precluded from obtaining a license upon turning 21 because of citizenship or employment status.

DATES: *Effective Date:* This final rule is effective on September 27, 2010.

FOR FURTHER INFORMATION CONTACT: Anita Harris, Chief, Broker Compliance Branch, Office of International Trade, (202) 863–6069.

SUPPLEMENTARY INFORMATION:

Background

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides that a person (an individual, corporation, association, or partnership) must hold a valid customs broker's license and permit in order to transact customs business on behalf of others, sets forth standards for the issuance of broker's licenses and permits, and provides for the taking of disciplinary action against brokers that have engaged in specified types of infractions. In the case of an applicant for an individual broker's license, section 641 states that the Secretary of the Treasury may conduct an examination to determine such applicant's qualifications for a license. Section 641 also authorizes the Secretary of the Treasury to prescribe rules and regulations relating to the customs business of brokers as necessary to protect importers and the revenue of the United States and to carry out the provisions of section 641.

The Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.,* Public Law 107–296 (Nov. 25, 2002) (the "HSA") established the Department of Homeland Security (DHS) and transferred the U.S. Customs Service from the Department of the Treasury to DHS, effective March 1, 2003. Section 1502 of the HSA renamed the "Customs Service" as the "Bureau of Customs and Border Protection," which has since been renamed U.S. Customs and Border Protection (CBP). *See* 72 FR 20131 (April 23, 2007) and 75 FR 12445 (March 16, 2010).

Treasury Department Order No. 100–16 (*see* Appendix to 19 CFR Part 0) delegates to DHS the authority to prescribe the rules and regulations relating to customs brokers.

The regulations issued under the authority of section 641 are set forth in part 111 of title 19 of the Code of Federal Regulations (19 CFR part 111). Part 111 includes detailed rules regarding the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers. These rules include the qualifications required of applicants and the procedures for applying for licenses and permits. Section 111.11 (19 CFR 111.11) sets forth the basic requirements for obtaining a broker's license. Paragraphs (a)(1) through (a)(4) of § 111.11 provide that, in order to obtain a customs broker's license, an individual must: Be a citizen of the United States upon applying for the license and not an officer or employee of the United States; attain the age of 21 prior to the date of application for such license; Be of good moral character; and, obtain a passing grade on the written examination within a 3-year period before submission of the application.

The regulations relating to the written examination for an individual customs broker's license are set forth in § 111.13 (19 CFR 111.13). Paragraph (b) of § 111.13, pertaining to the date and place of the examination, provides that an individual intending to take the examination must advise the appropriate port director in writing at least 30 calendar days prior to the scheduled examination date and remit the $200 examination fee prescribed in paragraph (a) of § 111.96. There were previously no additional requirements in § 111.13 that were required to be fulfilled in order for an individual to sit for the customs broker's license examination.

Notice of Proposed Rulemaking

On May 27, 2008, CBP published a notice of proposed rulemaking in the **Federal Register** (73 FR 30328; the "NPRM") that proposed to amend § 111.13 to more closely align the basic requirements that an individual must satisfy to take the written examination for a customs broker's license with the basic requirements an individual must satisfy to obtain an customs broker's license. In order to be eligible to take the written examination under the amendments proposed in the NPRM, an individual would be required to be a U.S. citizen on the date of examination and not be an officer or employee of the U.S. Government, and to have attained the age of 21 prior to the date of examination.

The NPRM explained that the proposed amendments would facilitate the overall licensing process by helping to ensure that those sitting for the examination are not automatically precluded from obtaining a license by reason of age, citizenship status, or employment. It was also noted that limiting the examination to U.S. citizens is a reasonable security measure that conforms to the existing citizenship requirement for obtaining a license. In addition, by barring U.S. Government employees from taking the examination, the changes proposed in the NPRM would help to eliminate the appearance of any conflict of interest or unfair advantage that might be associated with their Federal Government employment.

The NPRM also proposed non-substantive amendments to § 111.13(a), (c), and (e) to reflect the nomenclature changes effected by the transfer of the U.S. Customs Service to the Department of Homeland Security.

Comments were solicited in the NPRM of May 27, 2008. The comment period closed on July 28, 2008.

Discussion of Comments

Four commenters responded to the solicitation of comments in the NPRM. A description of the comments received and CBP's response is set forth below.

Comment: One commenter did not support the proposed requirement that an individual attain the age of 21 prior to the date of the broker examination because this requirement would inhibit the career potential of individuals who can currently take and pass the examination and subsequently apply to obtain a customs broker's license upon turning 21 years old. In this regard, the commenter suggests that CBP reduce the age limitation proposed in the NPRM.

CBP Response: After further considering the age limit issue, CBP

agrees with the commenter that the limit should be lowered from the proposed 21 years to 18 years of age to provide greater opportunities for individuals who have graduated from high school and are in the process of gaining work experience before being eligible to apply for a broker's license. CBP notes that the age of majority (adulthood) in the United States is generally considered to be 18 years and that age 18 is consistent with the requirement that an application for an individual broker's license must be submitted within a 3-year period after the applicant takes and passes the written examination. *See* 19 CFR 111.12(a). A less restrictive age requirement ensures that an individual will still be able to apply to obtain a license upon turning 21 years old while having the opportunity to work under the supervision and control of a licensed broker or brokerage for a greater time period after having taken the exam. Accordingly, since CBP is adopting the commenter's suggestion to modify the age limit, § 111.13(b) is amended in the final rule to require that an individual must only be 18 years old on the date of the examination.

Comment: One commenter, an association that provides a preparatory training course for individuals intending to take the written examination, stated that it was initially concerned that the age and citizenship requirements proposed in the NPRM would negatively impact its business by reducing the number of applicants who are eligible to sit for the examination. However, the commenter specifically noted that only one out of 203 applicants enrolled in its course for the October 2008 examination would not have met the age and citizenship requirements to take the examination as proposed in the NPRM. As such, the commenter supports the proposed amendments since there was no economic impact on its business.

CBP Response: CBP appreciates the commenter's input and its review of the potential impact that the proposed amendments would have had on its business. Since CBP is modifying the age requirement from 21 years to 18 years based upon the input of another commenter, CBP believes there is even less of a restriction on those who would likely enroll in the commenter's preparatory course.

Comment: A commenter opposed the amendments in the NPRM based upon the amount of time it takes to obtain a license after passing the examination. The commenter would only support the proposed amendments if CBP was required to issue a license within six months of passing the examination.

CBP Response: CBP understands the commenter's concern regarding the timely issuance of customs brokers' licenses after passing the examination. However, CBP believes that requiring licenses to be issued within a mandatory timeframe would not be operationally practical or in furtherance of CBP's mission of facilitating legitimate trade. In this regard, CBP initially notes that the broker's examination is intended only to evaluate and verify an applicant's knowledge of relevant customs laws and regulations. The background investigation described in § 111.14, which must be completed after an individual passes the examination but before a license is issued, is intended to verify the accuracy of the statements made in the application, the business integrity of the applicant, and the moral character and reputation of the applicant. CBP has a legitimate interest in closely scrutinizing applicants who will be transacting customs business on behalf of importers before granting a license. Considering the general scope of the background investigation, the circumstances unique to each applicant's background that may require more time to investigate, and the number of Federal agencies that may ultimately assist in the investigation (*e.g.,* Federal Bureau of Investigation, U.S. Immigration and Customs Enforcement, CBP), it is clear that imposing a regulatory requirement to issue a license within an arbitrary time frame would not be operationally practical and would hinder CBP's ability to verify that licenses are issued to qualified individuals.

Comment: One commenter, a large clothing retailer, did not support the amendment in the NPRM to preclude non-U.S. citizens from taking the examination. In support of its position, the commenter states that the private sector does not have an equivalent to the examination and notes that employers may hire and promote individuals based solely upon their ability to pass the examination. In addition, the commenter states that preventing non-U.S. citizens from taking the examination would be discriminatory since it would prevent legal resident aliens from advancing their careers in the sense that the examination is the only measurement of an individual's competence in the trade compliance field.

CBP Response: CBP initially notes that the customs broker's license examination is not designed to be used as a tool by private sector employers to gauge whether job applicants or current employees possess the requisite knowledge to be employed or promoted in the trade compliance field. Rather, the examination is administered so that CBP can evaluate and verify an applicant's knowledge of relevant customs laws and regulations for purposes of granting an individual customs broker's license. In addition, CBP disagrees that the examination is the only measurement of an individual's competence in the trade compliance field because employers have the option to utilize privately-developed benchmarks or other academic tools to evaluate an individual's aptitude. Moreover, CBP disagrees that preventing non-U.S. citizens from taking the examination would be discriminatory because the amendment set forth in the NPRM and adopted in this document will merely align the requirement for taking the examination with the existing statutory requirement of citizenship for obtaining a license. *See* 19 U.S.C. 1641(b)(2).

Conclusion

After analysis of the comments and further review of matter, CBP has decided to adopt as final, with the modification discussed above in the comment analysis, the NPRM published in the **Federal Register** (73 FR 30328) on May 27, 2008. In addition, minor editorial changes have been made to the regulatory text for clarity.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments in this document do not have a significant economic impact on a substantial number of small entities because the final rule more closely aligns the requirements for taking the written examination for an individual customs broker's license with the requirements for actually obtaining a customs broker's license as to citizenship and employment. Accordingly, the amendments set forth in this document are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This final rule does not meet the criteria to be considered an economically "significant regulatory action" under Executive Order 12866 because it will not result in the expenditure of over $100 million in any one year. The Office of Management and Budget (OMB) has not reviewed this rule under that Order.

Signing Authority

This document is being issued by CBP in accordance with § 0.1(b)(1) of the CBP regulations (19 CFR 0.1(b)(1)).

List of Subject in 19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports, Licensing, Reporting and recordkeeping requirements.

Amendments to the CBP Regulations

■ For the reasons set forth in the preamble, part 111 of title 19 of the Code of Federal Regulations (19 CFR part 111) is amended as set forth below.

PART 111—CUSTOMS BROKERS

■ 1. The general authority citation for part 111 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 1641.

* * * * *

■ 2. In § 111.13:

■ a. Paragraph (a) is amended by removing the words "Customs Headquarters" and adding in its place, the words "Customs and Border Protection (CBP) Headquarters";

■ b. Paragraph (b) is amended by revising the heading and adding a new first sentence;

■ c. Paragraph (c) is amended by removing the word "Customs" each place it appears and adding in its place, the term "CBP"; and

■ d. Paragraph (e) is amended by removing the word "Customs" in the first sentence and adding in its place, the term "CBP".

The addition and revision to paragraph (b) read as follows:

§ 111.13 Written examination for individual license.

* * * * *

(b) *Basic requirements, date, and place of examination.* In order to be eligible to take the written examination, an individual must on the date of examination be a citizen of the United States who has attained the age of 18 years and who is not an officer or employee of the United States Government. * * *

* * * * *

Dated: August 18, 2010.

Alan Bersin,

Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2010–21254 Filed 8–25–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9500]

RIN 1545–BJ47

Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that authorize the disclosure of certain items of return information to the Bureau of the Census (Bureau) in conformance with section 6103(j)(1) of the Internal Revenue Code (Code). The final and temporary regulations are made pursuant to a request from the Secretary of Commerce. These regulations facilitate the assistance of the IRS to the Bureau in its statistics programs and require no action by taxpayers and have no effect on their tax liabilities. The text of the temporary regulations also serves as the text of the proposed regulations [REG–137486–09] set forth in the Proposed Rules section in this issue of the **Federal Register.**

DATES: *Effective Date:* These regulations are effective on August 26, 2010.

Applicability Date: For dates of applicability for this regulation, see §§ 301.6103(j)(1)–1(e) and 301.6103(j)(1)–T(e).

FOR FURTHER INFORMATION CONTACT: Melissa Segal at (202) 622–7950 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 6103(j)(1)(A) authorizes the Secretary of Treasury to furnish, upon written request by the Secretary of Commerce, such return or return information as the Secretary of Treasury may prescribe by regulation to officers and employees of the Bureau of the Census (Bureau) for the purpose of, but only to the extent necessary in, the structuring of censuses and conducting related statistical activities authorized by law. Section 301.6103(j)(1)–1 of the regulations further defines such purposes by reference to 13 U.S.C. chapter 5 and provides an itemized description of the return information authorized to be disclosed for such purposes.

This document adopts final regulations that authorize the IRS to disclose an additional item of return information requested by the Secretary of Commerce to assist the Bureau in identifying companies that are actively engaged in research and development activities for the Bureau's annual Survey of Industrial Research and Development. In response to this request, on December 31, 2007, the IRS and the Treasury Department published temporary regulations under § 6103(j)(1). *See* TD 9373 (72 FR 74192). Also on December 31, 2007, the IRS and the Treasury Department issued a notice of proposed rulemaking cross-referencing those temporary regulations. *See* REG–147832–07 (72 FR 74246). No comments were received and no public hearing was requested or held. This Treasury decision adopts the proposed rules with no change.

This Treasury decision also contains temporary regulations that authorize the disclosure of additional items of return information requested by the Secretary of Commerce on the grounds that the information is necessary to allow the Bureau to study a developing trend of increased use of contract workers. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register.**

Explanation of Provisions

By letter dated February 6, 2006, the Secretary of Commerce requested that an additional item of return information be disclosed to the Bureau's annual Survey of Industrial Research and Development. As duly requested by the Secretary of Commerce and set forth in the proposed regulations, the final regulation authorizes the disclosure of categorical information on total qualified research expenses in three ranges: Greater than zero, but less than $1 million; greater than or equal to $1 million, but less than $3 million; and, greater than or equal to $3 million.

Separately, by letter dated July 24, 2009, the Secretary of Commerce requested that additional items of return information be disclosed to the Bureau for purposes of allowing the Bureau to study a developing trend of increased use of contract workers. Specifically, the Secretary of Commerce requested disclosure of the following additional items: (1) Total number of documents reported on Form 1096 transmitting Forms 1099–MISC and (2) Total amount reported on Form 1096 transmitting Forms 1099–MISC.

Section 301.6103(j)(1)–1 of the regulations formerly permitted disclosure of the total number of documents reported on Form 1096 transmitting Forms 1099–MISC and the total amount reported on Form 1096 transmitting Forms 1099–MISC. At the request of the Secretary of Commerce, the Treasury Department removed these items from the list of items of return information authorized to be disclosed (*See* TD 9372, 72 FR 73262 [Dec. 27, 2007]). This removal was consistent with the Secretary of Commerce's practice to seek revocation of authorizations for disclosure of return information no longer considered necessary for the structuring of censuses or related statistical activity.

The Secretary of Commerce has since determined that these items of return information are necessary for the structuring of census and conducting related statistical activities authorized by law because these items provide critical data about contract labor that is needed to estimate total employment and payroll in the United States. The employment and compensation data compiled by the Census Bureau are important to analysts and policy makers in both the public and private sectors. The Secretary of Commerce asserts that, because of the strong need for this data in order to accurately reflect total employment and payroll in the United States, good cause exists to amend Section 301.6103(j)(1)–1 of the regulations to restore the items listed in this section to the list of items of return information that may be disclosed. The Treasury Department and the IRS agree that amending existing regulations to permit disclosure of these items to the Bureau is appropriate to meet the analytical needs of the Bureau.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act, please refer to the cross-referenced notice of proposed rulemaking published elsewhere in this **Federal Register.** Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Melissa Segal, Office of the Associate Chief Counsel (Procedure & Administration).

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 301.6103(j)(1)–1 is amended by adding paragraph (b)(3)(xxv) and revising paragraph (e) to read as follows:

§ 301.6103(j)(1)–1 Disclosure of return information reflected on returns to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

* * * * *

(b) * * *

(3) * * *

(xxv) From Form 6765 (when filed with corporation income tax returns)—total qualified research expenses.

* * * * *

(e) *Effective/applicability date.* Paragraph (b)(3)(xxv) of this section is applicable to disclosures to the Bureau of the Census on or after *August 26, 2010.*

■ **Par. 3.** Section 301.6103(j)(1)–1T is amended by:

■ 1. Reserve paragraphs (b)(3)(xxvi) through (b)(3)(xxviii).

■ 2. Adding paragraphs (b)(3)(xxix) and (b)(3)(xxx).

■ 3. Revising paragraph (e).

■ 4. Adding a sentence at the end of paragraph (f).

§ 301.6103(j)(1)–1T Disclosures of return information reflected on returns to officers and employees of the Department of Commerce, for certain statistical purposes and related activities (temporary).

* * * * *

(b)(3)(xxvi) through (b)(3)(xxviii) [Reserved]. For further guidance, see § 301.6103(j)(1)–1(b)(3)(xxvi) through (b)(3)(xxviii).

(xxix) Total number of documents reported on Form 1096 transmitting Forms 1099–MISC.

(xxx) Total amount reported on Form 1096 transmitting Forms 1099–MISC.

* * * * *

(e) *Effective/applicability date.* Paragraph (b)(3)(xxix) through (b)(3)(xxx) of this section is applicable to disclosures to the Bureau of the Census on or after August 26, 2010.

(f) * * * The applicability of paragraphs (b)(3)(xxix) through (b)(3)(xxx) of this section expires on or before August 26, 2013.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: August 11, 2010.

Michael Mundaca,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2010–21049 Filed 8–25–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 317, 351, 353, and 359

Regulations Governing Agencies for Issue of United States Savings Bonds; Offering of United States Savings Bonds, Series EE; Regulations Governing Definitive United States Savings Bonds, Series EE and HH; Offering of United States Savings Bonds, Series I

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: Treasury is discontinuing the issuance of definitive (paper) savings bonds through payroll savings plans.

DATES: *Effective Date:* The amendments to 31 CFR 351.47 and 31 CFR 359.35 are effective on October 1, 2010; all other amendments are effective on January 1, 2011.

ADDRESSES: You can download this Final Rule at the following Internet addresses: *http://www.publicdebt.treas.gov*, *http://www.gpo.gov*, or *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Elisha Whipkey, Director, Division of Program Administration, Office of Retail Securities, Bureau of the Public Debt, at (304) 480–6319 or *elisha.whipkey@bpd.treas.gov*.

Ann Fowler, Attorney-Adviser, Susan Sharp, Attorney-Adviser, Dean Adams, Assistant Chief Counsel, Edward Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the

Public Debt, at (304) 480–8692 or *ann.fowler@bpd.treas.gov*.

SUPPLEMENTARY INFORMATION: United States Savings Bonds are non-marketable Treasury securities which have been sold continuously since March 1935. Savings bonds were introduced as a means of encouraging broad public participation in government financing by making Treasury securities available in small denominations specially tailored to the small investor. Today, savings bonds continue to be an important savings and investment tool for individuals, and Treasury is committed to offering savings bonds to the public as efficiently as possible.

In order to reduce costs, to increase the reliability and security of transactions by moving from paper to electronics, and to minimize the Treasury's impact on the environment, Treasury is discontinuing the issuance of definitive (paper) savings bonds through payroll savings plans. Treasury will eliminate the option to purchase paper savings bonds through payroll deductions for United States government employees on October 1, 2010, and for all other employees on January 1, 2011. This policy covers only paper savings bonds purchased through payroll sales; individuals will still be able to purchase paper savings bonds at financial institutions for themselves and as gifts. Payroll savers will be encouraged to continue their purchases through TreasuryDirect®, a web-based system that allows investors to buy and hold electronic savings bonds. Transitioning employees to electronic payroll purchases saves employers administrative costs and allows employees to manage their own savings bond accounts.

Procedural Requirements

Executive Order 12866. This rule is not a significant regulatory action pursuant to Executive Order 12866.

Administrative Procedure Act (APA). Because this rule relates to United States securities, which are contracts between Treasury and the owner of the security, this rule falls within the contract exception to the APA, 5 U.S.C. 553(a)(2). As a result, the notice, public comment, and delayed effective date provisions of the APA are inapplicable to this rule.

Regulatory Flexibility Act. The provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* do not apply to this rule because, pursuant to 5 U.S.C. 553(a)(2), it is not required to be issued with notice and opportunity for public comment.

Paperwork Reduction Act (PRA). There is no new collection of information contained in this final rule that would be subject to the PRA, 44 U.S.C. 3501 *et seq.* Under the 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 valid Office of Management and Budget control number. The Office of Management and Budget already has approved all collections of information in 31 CFR Part 353 (OMB No. 1535–0009, 1535–0023, 1535–0063) and Part 359 (OMB No. 1535–0111).

Congressional Review Act (CRA). This rule is not a major rule pursuant to the CRA, 5 U.S.C. 801 *et seq.,* because it is a minor amendment that is expected to decrease costs for taxpayers and for employers; therefore, this rule is not expected to lead to any of the results listed in 5 U.S.C. 804(2). This rule may take immediate effect after we submit a copy of it to Congress and the Comptroller General.

List of Subjects

31 CFR Part 317

Bonds, Electronic funds transfers, Federal Reserve System, Government securities, Securities.

31 CFR Part 351

Bonds, Federal Reserve System, Government securities.

31 CFR Part 353

Banks and banking, Government securities, Federal Reserve system.

31 CFR Part 359

Bonds, Federal Reserve system, Government securities, Securities.

■ Accordingly, for the reasons set out in the preamble, 31 CFR Chapter II, Subchapter B, is amended as follows:

PART 317—REGULATIONS GOVERNING AGENCIES FOR ISSUE OF UNITED STATES SAVINGS BONDS.

■ 1. Revise the authority citation for part 317 to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 12 U.S.C. 1767; and 31 U.S.C. 3105.

■ 2. Amend § 317.1 by revising paragraph (c)(2) to read as follows:

§ 317.1 Definitions.

* * * * *

(c) * * *

(2) Each organization that is authorized to inscribe bonds sold over-the-counter.

* * * * *

§ 317.2 [Amended]

■ 3. Amend § 317.2 by removing paragraph (c), and redesignating paragraph (d) as paragraph (c).

■ 4. Amend § 317.3(a) by revising the second sentence to read as follows:

§ 317.3 Procedure for qualifying and serving as issuing agent.

(a) * * * However, if an organization seeks qualification under § 317.2(c), it shall make application directly to the Bureau of the Public Debt for approval by the Commissioner of the Bureau of the Public Debt. * * *

* * * * *

■ 5. Amend § 317.7 by revising the first sentence to read as follows:

§ 317.7 Obtaining and accounting for bond stock.

An issuing agent that is authorized to inscribe bonds sold over-the-counter may obtain bond stock from the designated Federal Reserve Bank. * * *

§ 317.8 [Amended]

■ 6. In § 317.8, remove the Appendix to § 317.8.

PART 351—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES EE

■ 7. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105.

§ 351.46 [Amended]

■ 8. Amend § 351.46 by removing footnote 2.

■ 9. Revise § 351.47 to read as follows:

§ 351.47 May I purchase definitive Series EE savings bonds through a payroll savings plan?

Treasury discontinued the issuance of definitive Series EE savings bonds through a payroll savings plan:

(a) Effective October 1, 2010, for United States government employees, and

(b) Effective January 1, 2011, for all other employees.

§ 351.70 [Amended]

■ 10. Amend § 351.70 by redesignating footnote 3 as footnote 2.

PART 353—REGULATIONS GOVERNING DEFINITIVE UNITED STATES SAVINGS BONDS, SERIES EE AND HH

■ 11. The authority citation for part 353 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105, 3125.

■ 12. Amend § 353.6 by:

■ a. Redesignating paragraph (d) as paragraph (e);

■ b. Redesignating paragraph (c) as paragraph (d);

■ c. Redesignating paragraph (b)(4) as paragraph (c) and revising it to read as follows:

§ 353.6 Restrictions on registration.

* * * * *

(c) *Nonresident aliens.* A nonresident alien may be designated co-owner or beneficiary or, on authorized reissue, owner, unless the nonresident alien is a resident of an area with respect to which the Department of the Treasury restricts or regulates the delivery of checks drawn against funds of the United States or its agencies or instrumentalities. See Department of the Treasury Circular No. 655, current revision (31 CFR part 211). Registration is not permitted in any form which includes the name of any alien who is a resident of any restricted area.

* * * * *

PART 359—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES I

■ 13. The authority citation for part 359 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105.

§ 359.34 [Amended]

■ 14. Amend § 359.34 by removing footnote 4.

■ 15. Revise § 359.35 to read as follows:

§ 359.35 May I purchase definitive Series I savings bonds through a payroll savings plan?

Treasury discontinued the issuance of definitive Series I savings bonds through a payroll savings plan:

(a) Effective October 1, 2010, for United States government employees, and

(b) Effective January 1, 2011, for all other employees.

§ 359.55 [Amended]

■ 16. Amend § 359.55 by redesignating footnote 5 as footnote 4.

Richard L. Gregg,

Fiscal Assistant Secretary.

[FR Doc. 2010–21197 Filed 8–25–10; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0775]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Wrightsville Beach, NC and Northeast Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of two North Carolina Department of Transportation (NCDOT) drawbridges: The S.R. 74 Bridge, across the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, NC, and the Isabel S. Holmes Bridge across the Northeast Cape Fear River, mile 1.0, at Wilmington, NC. The deviation is necessary to accommodate distance races. This deviation allows the bridges to remain in the closed position during the races.

DATES: This deviation is effective from 7 a.m. through 11:59 p.m. on November 13, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0775 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0775 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lindsey Middleton, Coast Guard; telephone 757–398–6629, e-mail *Lindsey.R.Middleton@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Wilmington Family YMCA on behalf of the NCDOT requested a temporary deviation from the current operating regulations of the S.R. 74 Bridge across the Atlantic Intracoastal Waterway (AIWW), mile 283.1, at Wrightsville Beach and the Isabel S. Holmes Bridge across the Northeast Cape Fear River, mile 1.0, at Wilmington. The current operating schedules for the aforementioned bridges are set out in 33 CFR 117.821(a) (4) and 33 CFR 117.829(a) respectively. The requested deviation is to accommodate the Third Annual Beach2Battleship Iron and Half-Iron distance Triathlons scheduled for Saturday, November 13, 2010.

The S.R. 74 Bridge at Wrightsville Beach is a lift drawbridge with a vertical clearance of 20 feet above mean high water (MHW) in the closed position. The Isabel S. Holmes Bridge at Wilmington is a lift drawbridge with a vertical clearance of 40 feet above MHW in the closed position. Vessels that can pass under the bridge in the closed-to-navigation position can do so at any time. The bridge will not be able to open for emergencies.

The Coast Guard will inform the users of the waterways through our Local and Broadcast Notices to Mariners of the two bridge closures so that vessels can arrange their transits to minimize any impact caused by the temporary deviation. There are no alternate routes available to vessel traffic.

To facilitate the races, the drawbridges will be maintained in the closed-to-navigation position on November 13, 2010, at the following times: From 7 a.m. to 10:30 a.m. for the S.R. 74 Bridge and from 12 p.m. to 11:59 p.m. for the Isabel S. Holmes Bridge.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 12, 2010.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. 2010–21300 Filed 8–25–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0761]

Drawbridge Operation Regulation; Pocomoke River, Snow Hill, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the S12

Bridge across the Pocomoke River, mile 29.9, at Snow Hill, MD. The deviation restricts the operation of the draw span to facilitate the cleaning and painting of the bridge.

DATES: This deviation is effective from 7 a.m. on September 8, 2010 to 7 p.m. on October 8, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0761 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0761 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mrs. Sandra Elliott, Bridge Management Specialist, Fifth District, Coast Guard; telephone 757–398–6557, e-mail *Sandra.S.Elliott@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Maryland State Highway Administration (SHA), who owns and operates this single leaf bascule drawbridge, has requested a temporary deviation from the current operating schedule to facilitate cleaning and painting the structure. Under the regular operating schedule, the bridge opens on signal as required by 33 CFR 117.569(c) if at least five hours advance notice is given.

The S12 Bridge across Pocomoke River, mile 29.9 at Snow Hill MD, has a vertical clearance in the closed position of two feet above mean high water and five feet above mean low water. Under this temporary deviation, the contractor has requested to maintain the bridge in the closed position to vessels beginning at 7 a.m. on September 8, 2010 until and including 7 p.m. on October 8, 2010.

Bridge opening data supplied by SHA and reviewed by the Coast Guard revealed, from August 2009 to October 2009, the bridge opened for vessels 57, 57, and 48 times, respectively. During the same period on the weekdays, the bridge opened 13, 14, and 13 times, respectively, with the majority of the vessel openings on the weekends for a fishing tournament.

The Coast Guard has coordinated the restrictions with the local users of the waterway. The Coast Guard will inform other waterway users of the bridge closure periods through our Local and Broadcast Notices to Mariners so that vessels can arrange their transits to minimize any impact caused by the temporary deviation. There are no alternate routes for vessels transiting this section of the Pocomoke River but the drawbridge will be able to open in the event of an emergency.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 11, 2010.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. 2010–21303 Filed 8–25–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0757]

Safety Zone, Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 from 7 a.m. to 11 a.m. and from 1 p.m. to 5 p.m. on September 7, 2010 through September 11, 2010. This action is necessary to protect the waterways, waterway users, and vessels from hazards associated with the U.S. Army Corps of Engineers' installation of parasitic structures which will help control the spread of aquatic nuisance species that might devastate the waters in the Chicago Sanitary and Ship Canal. During the enforcement period, entry into, transiting, mooring, laying-up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

DATES: The regulations in 33 CFR 165.T09.0166 will be enforced from 7 a.m. on September 7, 2010 through 5 p.m. September 11, 2010.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail CDR Tim Cummins, Deputy Prevention Division, Ninth Coast Guard District, telephone 216–902–6045, e-mail address *Timothy.M.Cummins@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL listed in 33 CFR 165.T09–0166(a)(2), on all waters of the Chicago Ship and Sanitary Canal from Mile Marker 296.1 to Mile Marker 296.7 daily from 7 a.m. to 11 a.m. and from 1 p.m. to 5 p.m. on September 7, 2010 through September 11, 2010.

This enforcement action is necessary because the Captain of the Port Sector Lake Michigan has determined that the U.S. Army Corps of Engineers' installation operation poses risks to life and property. Specifically, there will be congested waterways and construction operations requiring the use of divers taking place in the vicinity of the U.S. Army Corps of Engineers' electric dispersal barrier. The combination of vessel traffic, divers, and electric current in the water makes the control of vessels through the impacted portion of the Chicago Sanitary and Ship Canal necessary to prevent injury and property loss.

In accordance with the general regulations in § 165.23 of this part, entry into, transiting, mooring, laying up, or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

This notice is issued under authority of 33 CFR 165.T09–0166 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Captain of the Port, Sector Lake Michigan, will provide notice through other means, which may include but are not limited to Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, or on-scene oral notice. Additionally, the Captain of the Port, Sector Lake Michigan, may notify representatives from the maritime industry through telephonic and e-mail notifications.

Dated: August 6, 2010.

L. Barndt,

Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.

[FR Doc. 2010–21218 Filed 8–25–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0743]

RIN 1625–AA00

Safety Zone; Raccoon Creek, Bridgeport, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in specified waters of Raccoon Creek, Bridgeport, NJ. This action is necessary to provide for the safety of life and property on navigable waters while contractors replace steel I-beams. This safety zone is intended to restrict vessel access in order to protect mariners in a portion of Raccoon Creek.

DATES: This rule is effective in the CFR on August 26, 2010 through 10 p.m. on August 28, 2010. This rule is effective with actual notice for purposes of enforcement on August 14, 2010. This rule will remain in effect through August 28, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0743 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0743 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Corrina Ott, Chief, Waterways Management Division, Coast Guard; telephone 215–271–4902, e-mail *Corrina.Ott@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM is impracticable and contrary to the public interest. Delaying the effective date by first publishing an NPRM and holding a comment period would be contrary to the rule's objectives of ensuring safety of life on the navigable waters while these repairs are taking place, as immediate action is needed to protect persons and vessels from the hazards associated with the bridge repair operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this regulation would be contrary to the public interest as immediate action is necessary to protect persons and vessels from the hazards associated with the bridge repair operations.

Basis and Purpose

This temporary safety zone is necessary to ensure the safety of persons, vessels, and the New Jersey Department of Transportation (NJDOT) workers while the NJDOT conducts significant bridge repairs. The NJDOT plans on replacing steel I-beams used to support the Route 130 Bridge spanning the Raccoon Creek in Bridgeport, NJ. A barge will be used to transport and support construction materials which will be stationed in the Raccoon Creek channel during the pendency of the safety zone.

Discussion of Rule

This temporary safety zone is for all navigable waters within 400 yards on either side of the Route 130 Bridge, located approximately at 39 48′04″ N, 075 21′20″ W. This rule is effective from 6 a.m. to 10 p.m. every Saturday from August 14, 2010 through August 28, 2010. This rule is necessary because the NJDOT has identified the need to station a barge below the Route 130 Bridge to replace three 17-foot steel I-beams and to prevent injury or damage to property from falling debris associated with the repair. This temporary rule will provide for the safety of mariners navigating the Raccoon Creek. This rule is required due to the inherent dangers associated with these types of construction.

During the enforcement period of the safety zone, all persons and vessels will be prohibited from entering, transiting, mooring, or remaining within the zone unless specifically authorized by the Captain of the Port Delaware Bay, or her designated representative.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Due to the location of the proposed safety zone being in an area not subject to regular flow of vessel traffic, the regulatory impact is expected to be minimal.

Small Entities

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

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

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for three days over the course of three weeks from 6 a.m. to 10 p.m. every Saturday from August 14, 2010 through August 28, 2010. The local marina being affected has been notified regarding this temporary safety zone. The marina has made arrangements to inform affected boaters of the need to make alternate arrangements during the effective period. Before the effective period, the Coast Guard will issue

maritime advisories widely available to users of the creek allowing mariners to adjust their plans, accordingly. Although the safety zone will apply to the entire width of the waterway, traffic will be allowed to pass through the safety zone with the permission of the Captain of the Port Delaware Bay or her designated representative.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves a limited-in-duration safety zone intended to protect life and property on the navigable waterways of Raccoon Creek. An environmental analysis checklist and a categorical exclusion determination will be made available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0171.1.

■ 2. Add § 165.T05–0743 to read as follows:

§ 165.T05–0743 Safety Zone; Raccoon Creek, Bridgeport, NJ

(a) *Location.* The safety zone will restrict vessel traffic on all navigable waters within 400 yards on either side of the Route 130 Bridge, Raccoon Creek,

Bridgeport, NJ located at 39 48′04″ N, 075 21′20″ W.

(b) *Definitions.* (1) "Designative Representative" means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on her behalf. (2) "Official patrol" means any vessel assigned or approved by the Captain of the Port Delaware Bay with a commissioned, warrant, or petty officer on board that is displaying a Coast Guard Ensign as well as any assisting local law enforcement vessels.

(c) *Regulations.* (1) Under the general regulations in § 165.23, entry into, transiting, mooring, anchoring, or remaining within this safety zone is prohibited unless authorized by the Captain of the Port Delaware Bay or her representative.

(2) Except for persons or vessels authorized by the Captain of the Port Delaware Bay or her designated representative, no person or vessel may enter or remain in the regulated area.

(3) The operator of any vessel in the regulated area shall: (i) Stop the vessel immediately when directed to do so by any Official Patrol,

(ii) Proceed as directed by any Official Patrol.

(4) The Captain of the Port Delaware Bay can be reached through telephone 215–271–4807.

(5) The Official Patrol enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Effective Period.* This rule is effective in the CFR on August 26, 2010. This rule is effective with actual notice for purposes of enforcement on August 14, 2010. This rule will remain in effect through 10 p.m. on August 28, 2010.

(e) *Enforcement Period.* This rule will be enforced from 6 a.m. to 10 p.m. every Saturday from August 14, 2010 through August 28, 2010.

Dated: August 5, 2010.

R.T. Gatlin,

Captain, U.S. Coast Guard, Acting Captain of the Port Delaware Bay.

[FR Doc. 2010–21309 Filed 8–25–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0502]

RIN 1625–AA00

Safety Zones; Swim Events Within the Sector New York Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing five temporary safety zones for swim events occurring on waters of the Hudson River, East River and Long Island Sound. These temporary safety zones are necessary to protect swimmers, spectators and vessels from the hazards associated with the swim events. Persons and vessels are prohibited from entering into, transiting through, or anchoring within the safety zones unless authorized by the Captain of the Port New York or designated representative.

DATES: This rule is effective in the CFR on August 26, 2010 through 11:59 p.m. on September 12, 2010. This rule is effective with actual notice for purposes of enforcement beginning at 03:30 a.m. on July 24, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0502 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0526 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LTJG Eunice James, Coast Guard Sector New York Waterways Management Division; 718–354–4163, e-mail *Eunice.A.James @uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM is impractical as the Coast Guard did not receive notification of the specific location or planned dates for the events in sufficient time to issue an NPRM without delaying this rule making. A delay or cancellation of the events in order to allow for a notice and comment period is contrary to the public interest in having these events occur on schedule. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. In addition to the reasons stated above, this rule is intended to ensure the safety of the event participants, spectators and other waterway users; thus any delay in the rule's effective date would be impractical.

Basis and Purpose

These temporary safety zones are necessary to ensure the safety of participants, vessels and spectators from hazards associated with the swimming events and the inherent nature of a large number of swimmers, kayaks, and recreation vessels in the water. Swim events have the potential to result in serious injuries or fatalities. These temporary safety zones are intended to restrict vessels entering the area around the participants to reduce the risk while the swimmers are in the water.

Discussion of Rule

Several organizations are sponsoring swimming events within the waters of the Sector New York Captain of the Port Zone, including the Hudson River, the East River and Long Island Sound. The swim events consist of a large number of swimmers, and paddlers crossing the navigable channels.

These events pose significant risks to participants, spectators and the boating public because of the large number of swimmers, kayakers, and recreational vessels that are expected in the area of the event. The temporary safety zones are necessary to ensure the safety of participants, spectators and vessels from the hazards associated with the swim events.

This rule establishes the following temporary safety zones:

(1) A 100-yard radius around the participants of the Swim Across America swim event on the waters of Long Island Sound in the vicinity of Glen Cove, NY and Larchmont, NY.

(2) A 100-yard radius around the participants of Newburgh to Beacon Swim event in the vicinity of Newburgh, NY.

(3) A 100-yard radius around the participants of the Brooklyn Bridge Swim, a swim event on the waters of the East River in the vicinity of Brooklyn, NY.

(4) A 100-yard radius around the participants of the Hudson River Swim for Life, a swim event on the waters of the Hudson River in the vicinity of Nyack, NY and Sleepy Hollow, NY.

(5) A 100-yard radius around the participants of the Toughman Half Triathlon, a swim event on the waters of the Hudson River in the vicinity of Croton Point Park, NY.

Regulatory Analyses

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

Regulatory Planning and Review

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

The Coast Guard's implementation of these temporary safety zones will be of short duration and designed to minimize the impact on navigable waters. These safety zones will be of limited duration, and they cover only a small portion of the navigable waterways. Furthermore, vessels may be authorized to transit the zones with permission of the Captain of the Port New York or designated representative.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in the designated safety zone during the enforcement period of the named swim events.

The safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely transit around the zones. Before the effective period, the Coast Guard will issue notice of the time and location of each safety zone through the Local Notice to Mariners and Broadcast Notice to Mariners.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a new temporary safety zones § 165.T01–0502 to read as follows:

§ 165.T01–0502 Safety Zones; Swim Events within the Sector New York Captain of the Port Zone.

(a) *Location.* The following swim events include safety zones as described herein:

(1) Swim Across America 2010 LIS Swim, Glen Cove, NY to Larchmont, NY.

(i) All waters of Long Island Sound, from surface to bottom, within 100-yard radius around the swimmers swimming from Morgan Park Beach, Glen Cove, NY to Larchmont Shore Club, Larchmont, NY.

(ii) Effective Date. This rule will be effective from 5:30 a.m. through 10:30 p.m. on July 24, 2010 and August 14, 2010.

(2) Newburgh to Beacon Swim, Newburgh, NY to Beacon, NY.

(i) All waters of the Hudson River from surface to bottom, within a 100-yard radius around the swimmers swimming from the waterfront at Newburgh, NY to the waterfront at Beacon, NY.

(ii) Effective Date. This rule will be effective from 11:30 a.m. to 1:30 p.m. on July 31, 2010.

(3) Brooklyn Bridge Swim, Brooklyn, NY.

(i) All waters of the East River from surface to bottom, within a 100-yard radius around the swimmers swimming in the waters of the East River from Brooklyn Bridge Park to East River Park, Brooklyn.

(ii) Effective Date. This rule will be effective from 11:45 a.m. to 1:30 p.m. on September 11, 2010.

(4) Hudson River Swim for Life, Nyack, NY to Sleepy Hollow, NY.

(i) All waters of the Hudson River from surface to bottom, within a 100-yard radius around the swimmers swimming from Nyack, NY to Kingsland Point Park, Sleepy Hollow, NY.

(ii) Effective Date. This rule will be effective from 9 a.m. to 12:30 p.m. on September 12, 2010.

(5) Toughman Half Iron Triathlon, Hudson River, Croton Point Park, NY.

(i) All waters of the Hudson River from surface to bottom, within a 100-yard radius around the swimmers swimming in the vicinity of Haverstraw Bay, Croton Point Park, Westchester County, NY.

(ii) Effective Date. This rule will be effective from 6 a.m. to 10 a.m. on September 12, 2010.

(b) *Definitions.* The following definition applies to this section: Designated representative means any commissioned, warrant and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, State, and Federal law enforcement vessels that have been authorized to act on behalf of the Captain of the Port New York.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port New York or a designated representative. Persons desiring to transit within any of the safety zones established in this section may contact the Captain of the Port at telephone number 718–354–4398 or via on-scene patrol personnel on VHF channel 16 to seek authorization.

If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port New York or the designated representative.

(d) *Enforcement period.* This section will be enforced from 3:30 a.m. to 11:59 p.m. on various dates from July 24 to September 12, 2010.

Dated: July 22, 2010.

G.P. Hitchen,

Captain, U.S. Coast Guard, Acting, Captain of the Port New York.

[FR Doc. 2010–21311 Filed 8–25–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–1186–201021; FRL–9193–4]

Approval and Promulgation of Air Quality Implementation Plans: Kentucky; Approval Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for the Paducah Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the Kentucky State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standards for the Paducah 1997 8-hour ozone attainment area, which comprises Marshall County and a portion of Livingston County (hereafter referred to as the "Paducah Area"). This maintenance plan was submitted to EPA on May 27, 2008, by the Commonwealth of Kentucky, and ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) through the year 2020. On July 15, 2009, the Commonwealth of Kentucky submitted supplemental information with updated

emissions tables for this Area to reflect actual emissions. This plan meets the statutory and regulatory requirements, and is consistent with EPA's guidance. EPA is taking final action to approve the revisions to the Kentucky SIP, pursuant to the Clean Air Act (CAA). EPA is also in the process of establishing a new 8-hour ozone NAAQS, and expects to finalize the reconsidered NAAQS by August 2010. Today's action, however, relates only to the 1997 8-hour ozone NAAQS. Requirements for the Paducah Area under the 2010 NAAQS will be addressed in the future.

DATES: This rule will be effective September 27, 2010.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2007–1186. All documents in the electronic docket are listed in the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information 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 at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Mr. Farngalo may be reached by phone at (404) 562–9152 or by electronic mail address *farngalo.zuri@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. EPA Guidance and CAA Requirements
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V. Statutory and Executive Order Reviews

I. Background

In accordance with the CAA, the Paducah Area, consisting of Marshall County and a portion of Livingston County in Kentucky, was designated as marginal nonattainment for the 1-hour ozone NAAQS effective November 6, 1991 (56 FR 56694) because the Area did not meet the 1-hour ozone NAAQS. On November 13, 1992, the Commonwealth of Kentucky submitted a request to redesignate the Paducah Area to attainment for the 1-hour ozone NAAQS. At the same time as the redesignation request, Kentucky submitted the required ozone monitoring data and maintenance plan to ensure that the Paducah Area would remain in attainment for the 1-hour ozone NAAQS for a period of 10 years, consistent with the CAA section 175A(a). The maintenance plan submitted by Kentucky followed EPA guidance for limited maintenance areas, which applied to 1-hour ozone NAAQS areas with design values less than 85 percent of the applicable standard (0.12 parts per million). On February 7, 1995, EPA approved Kentucky's request to redesignate the Paducah Area (60 FR 7124) to attainment for the 1-hour ozone NAAQS.

II. EPA Guidance and CAA Requirements

On April 30, 2004, EPA designated areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase I Implementation Rule for the 1997 8-hour ozone NAAQS (69 FR 23951) (Phase I Rule). The Paducah Area was designated attainment for the 1997 8-hour ozone NAAQS, effective June 15, 2004. The Paducah attainment area consequently was required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase I Rule, 40 CFR 51.905(a)(4). On May 20, 2005, EPA issued guidance providing information as to how a state might fulfill the maintenance plan obligation established by the CAA and the Phase I Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act,* May 20, 2005—hereafter referred to as "Wegman Memorandum").

On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated portions of EPA's Phase I Rule. *See South Coast Air Quality Management District.* v. *EPA,* 472 F.3d 882 (DC Cir. 2006). The Court vacated those portions of the Phase I Rule that provided for regulation of the 1997 8-hour ozone nonattainment areas designated under Subpart 1 (of part D of the CAA), in lieu of Subpart 2 among other portions. The Court's decision did not alter any 8-hour ozone attainment area requirements under the Phase I Rule for CAA section 110(a)(1) maintenance plans. EPA has determined that Kentucky's May 27, 2008, proposed SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Paducah attainment area.

III. Today's Action

EPA is taking final action to approve the SIP revisions concerning the 110(a)(1) maintenance plan addressing the 1997 8-hour ozone NAAQS for the Paducah Area. This maintenance plan was submitted to EPA on May 27, 2008, by the Commonwealth of Kentucky to ensure the continued attainment of the 1997 8-hour ozone NAAQS through the year 2020. This approval action is based on EPA's analyses of whether this request complies with section 110 of the CAA and section 51.905(a)(4). EPA's analyses for the Commonwealth of Kentucky's submittal are described in detail in the proposed rule published January 4, 2010 (75 FR 97).

The comment period for this proposed action closed on February 3, 2010. EPA did not receive any comments, adverse or otherwise, during this public comment period. However, EPA noticed an inadvertent omission of the July 15, 2009, supplement that Kentucky provided from the electronic docket at *http://www.regulations.gov.* Since EPA referenced this supplement in the January 4, 2010, proposed rulemaking, EPA reopened the public comment period for this proposed action for the limited purpose of allowing the public the opportunity to review and consider this supplemental information in regards to EPA's proposed rulemaking (75 FR 8574). EPA's reopening of the comment period ended on March 25, 2010. During this additional comment period, EPA did not receive any comments.

In support of this final action, the Commonwealth of Kentucky provided an analysis of emissions differences for the highway mobile source emissions using a Reid Vapor Pressure (RVP) level of 9.0 pounds per square inch (psi), which is the applicable standard during the regulatory control period (*i.e.,* May 1st through September 15th). *See* 40 CFR 80.27. In its original submission, the Commonwealth of Kentucky had modeled 8.6 psi based on historical information that indicated that summer

time RVP supplied to the Paducah Area averaged 8.6 psi. EPA considers the original submittal to model a more stringent RVP; however, in order to ensure that Kentucky could demonstrate attainment with a higher RVP, Kentucky provided the supplemental information. Subsequently, the Commonwealth of Kentucky provided modeling at the 9.0 psi level. EPA reviewed this additional information and noted that there was no change in emissions for nitrogen oxides (NO_X) and a slight increase (less than a tenth of a ton per day) in emissions of volatile organic compounds (VOC) with RVP at the 9.0 psi level as compared to the 8.6 psi level. The difference in total highway emissions for each year emissions was provided and is included in the following table:

PADUCAH AREA HIGHWAY MOBILE SOURCE EMISSIONS

[Tons per day]

	8.6 psi		9.0 psi		Difference between 8.6 psi & 9.0 psi	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
2002	1.14	1.90	1.19	1.90	0.05	0.00
2005	1.62	3.36	1.67	3.36	0.05	0.00
2008	1.47	3.00	1.52	3.00	0.05	0.00
2011	1.32	2.49	1.36	2.49	0.04	0.00
2014	1.14	1.90	1.19	1.90	0.05	0.00
2017	1.04	1.51	1.07	1.52	0.03	0.01
2020	0.94	1.27	0.97	1.27	0.03	0.00

EPA has made the determination that, even with the slight increase in VOC emissions due to the difference of modeling 9.0 psi versus 8.6 psi, Kentucky has demonstrated continued maintenance for the 1997 8-hour NAAQS for the Paducah Area. Further, EPA believes that Kentucky's 110(a)(1) submission for the Paducah Area meets the CAA requirements in addition to EPA policy and guidance.

IV. Final Action

Pursuant to Section 110 of the CAA, EPA is approving the maintenance plan addressing the 1997 8-hour ozone NAAQS for the Paducah Area, which was submitted by Kentucky on May 27, 2008, and ensures continued attainment of the 1997 8-hour ozone NAAQS through the year 2020. EPA has evaluated the Commonwealth's submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy. EPA's rationale is explained in the proposed action.

On March 12, 2008, EPA issued a revised ozone NAAQS. EPA subsequently announced a reconsideration of the 2008 NAAQS, and proposed new 8-hour ozone NAAQS in January 2010. A final 8-hour ozone NAAQS is expected in August 2010. The current action, however, is being taken to address requirements under the 1997 ozone NAAQS. Requirements for the Paducah Area under the 2010 NAAQS will be addressed in the future.

V. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 CAA; 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 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

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

Dated: August 11, 2010.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

PART 52—[AMENDED]

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

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

Subpart S—Kentucky

■ 2. Section 52.920(e), is amended by adding a new entry for the "Paducah 8-Hour Ozone Attainment/1–Hour Ozone Maintenance Plan Section 110(a)(1)" at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	*	*	*	*
Paducah 8-Hour Ozone Attainment/1-Hour Ozone Maintenance Plan Section 110(a)(1).	Marshall and Livingston Counties.	May 27, 2008	August 26, 2010 [insert citation of publication].	

[FR Doc. 2010–21107 Filed 8–25–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–0113–200709(c); FRL–9193–5]

Approval and Promulgation of Implementation Plans Georgia: State Implementation Plan Revision; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: On February 9, 2010, EPA published a direct final rule approving revisions to the Georgia State Implementation Plan submitted by the Georgia Environmental Protection Division on September 26, 2006, with a clarifying revision submitted on November 6, 2006. This action corrects a typographical error in the regulatory text in Table (c) of the aforementioned **Federal Register** notice.

DATES: This action is effective August 26, 2010.

ADDRESSES: Copies of the documentation used in the action being corrected are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Ms. Benjamin can be reached at 404–562–9040, or via electronic mail at *benjamin.lynorae@epa.gov*.

SUPPLEMENTARY INFORMATION: This action corrects a typographical error in the regulatory language for an entry that appears in Table (c) of Georgia's Identification of Plan section at 40 CFR 52.570. The direct final action which approved the addition of new rule 391–3–1–.02(2)(rrr), "NO_X Emissions from Small Fuel-Burning Equipment," was approved by EPA on February 9, 2010 (75 FR 6309). However, EPA inadvertently listed new rule (rrr) as being revised, rather than added as a new entry, in Table (c). Therefore, EPA is correcting this typographical error by clarifying that rule 391–3–1–.02(2)(rrr) is being added as a new entry to Table (c)—EPA Approved Georgia Regulations.

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because today's action to clarify the addition of new rule 391–3–1–.02(2)(rrr), in Table (c) of the rulemaking, has no substantive impact on EPA's February 9, 2010, approval of this regulation. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction of this table entry, or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the meaning of EPA's analysis or action to approve the addition of rule 391–3–1–.–2(2)(rrr) to the Georgia SIP.

EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule merely corrects a typographical error in

Table (c) of a prior rule by clarifying the addition, rather than the revision, of rule 391–3–1–.02(2)(rrr), which EPA approved on February 9, 2010. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely corrects a typographical error in Table (c) of a prior rule by identifying the addition of new rule 391–3–1–.02(2)(rrr), in a regulation which EPA approved on February 9, 2010, and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely corrects an inadvertent error in Table (c) of a prior rule, and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This rule merely corrects a typographical error in Table (c) of a prior rule by identifying the addition of new rule 391–3–1–.02(2)(rrr), in a regulation which EPA approved on February 9, 2010, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 CAA 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: August 16, 2010.

J. Scott Gordon,

Acting Regional Administrator, Region 4.

■ 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 L—Georgia

■ 2. Section 52.570(c) is amended by adding an entry for "391–3–1–.02(2)(rrr)" to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
391–3–1–.02(2)(rrr)	NO_X Emissions from Small Fuel-Burning Equipment.	3/27/06	8/26/10 [Insert citation of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 2010–21114 Filed 8–25–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[ET Docket No. 06–135; FCC 10–128]

Spectrum Requirements for Advanced Medical Technologies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document addresses a petition for reconsideration (petition) filed by Medtronic, Inc. (Medtronic) regarding rules for the Medical Device Radiocommunication (MedRadio) service. The Commission grants reconsideration to the extent of amending the MedRadio rules to permit the submission of average power transmitter measurements, and making editorial corrections or clarifications to several provisions concerning the frequency monitoring criteria and permissible communications for "listen-before-talk" (LBT) and non-LBT devices. The Commission denies reconsideration in all other respects and otherwise affirms certain provisions of the MedRadio rules questioned by Medtronic.

DATES: Effective September 27, 2010.

FOR FURTHER INFORMATION CONTACT: Mark Settle, (202) 418–1569 or Gary Thayer, Policy and Rules Division, Office of Engineering and Technology, (202) 418–2290, *Mark.Settle@fcc.gov* or *Gary.Thayer@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* ET Docket No. 06–135, adopted July 15, 2010, and released July 26, 2010. The full text of this document is available on the Commission's Internet site at *http://www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM.*

Summary of the Memorandum Opinion and Order

1. The Commission addresses a petition for reconsideration (petition) filed by Medtronic, Inc. (Medtronic) regarding rules for the Medical Device Radio-communication (MedRadio) service. The Commission granted reconsideration to the extent of amending the MedRadio rules to permit the submission of average power transmitter measurements, and making editorial corrections or clarifications to several provisions concerning the frequency monitoring criteria and permissible communications for "listen-before-talk" (LBT) and non-LBT devices. The Commission denied reconsideration in all other respects and otherwise affirmed certain provisions of the MedRadio rules questioned by Medtronic.

2. The Commission established the MedRadio service under part 95 of the rules by *Report and Order (MedRadio Order), see* 74 FR 22696, May 14, 2009. Altogether, the MedRadio service provides a total of five megahertz of contiguous spectrum for advanced wireless medical radiocommunication devices serving a diverse range of diagnostic and therapeutic purposes in humans. In the *MedRadio Order,* the Commission also adopted service and technical rules governing the operation of medical radiocommunication devices used in the MedRadio service. Building upon the former Medical Implant Communications Service (MICS)—which limited operation to implanted medical devices—the more flexible MedRadio rules accommodate body-worn as well as implanted medical devices, including those using either LBT or non-LBT spectrum access methods. The MedRadio service incorporates the MICS "core" band at 402–405 MHz—which continues to be limited to implanted devices—and also includes two megahertz of newly designated spectrum in the adjacent "wing" bands at 401–402 MHz and 405–406 MHz—in which both body-worn and implanted devices are permitted. The MedRadio service continues to incorporate many of the licensing and technical requirements that applied to the legacy MICS.

3. Medtronic requests that the new MedRadio rules be amended to permit transmitter power measurements to be made using average power instrumentation techniques that were formerly allowed under the MICS rules. The former MICS rules stated that compliance with the maximum transmitter power limits shall be based upon measurements using a peak detector function or, alternatively, the instrumentation techniques set forth in a particular American National Standards Institute (ANSI) standard referenced in the rule. That standard has been modified by ANSI since adoption of the MICS rules in 1999 and no longer includes the specific average power instrumentation techniques cited by Medtronic. As adopted in the *MedRadio Order,* the new rules set forth a compliance requirement in terms of a "Commission-approved peak power technique." Medtronic argues that the Commission did not propose to delete these provisions of the MICS rules in the *Notice of Proposed Rulemaking (MedRadio NPRM)* that preceded the adoption of the MedRadio rules, see 71 FR 43682, August 2, 2006. Medtronic further asserts that the peak power requirement as set forth in the rule adopted in the *MedRadio Order* would, in effect, prohibit the use of average power instrumentation techniques that were acceptable within the scope of the former MICS rule. It contends that the inability to rely upon these average power techniques for compliance would require MedRadio devices to reduce power, and that this, in turn, would be detrimental to the reliable operation of existing equipment and adversely affect the development of new generation devices. To remedy this concern, Medtronic recommends that the Commission reinstate the former MICS rule provision or, in the alternative, restore the intent of the prior rule by substituting text that would permit the use of average power measurement techniques. St. Jude Medical agrees with Medtronic, stating that the effect of the peak power measurement rule will be to sharply reduce the range available to some systems. Biotronik opposes Medtronic's request, stating that the peak power approach adopted in the *MedRadio Order* is a more appropriate technique for MedRadio transmitters because average power measurements would allow higher power devices in the band and, thus, increase the potential for interference in the band.

4. As a threshold matter, the Commission addresses Medtronic's suggestion that it failed to provide sufficient notice for modifying the power measurement provisions. While the Commission acknowledges that the *MedRadio NPRM* did not explicitly request comment on whether the power measurement provisions should be modified, changes to these measurement provisions are a logical outgrowth of issues in the *MedRadio NPRM* that we did present for comment. More specifically, the Commission

specifically invited comment on power and duty cycle thresholds for MedRadio devices and emphasized that its proposed rules were intended to allow flexibility in spectrum usage for MedRadio devices. Thus, it would be reasonable for interested parties to anticipate that the Commission would also adopt rules for determining whether such devices comply with those rules, including power measurement methods. In addition, in the *MedRadio NPRM,* the Commission sought comment on "whether the various current MICS rules would continue to be appropriate for operations under the new allocation." Parties should have anticipated that the Commission could conclude that a reference to an outdated ANSI standard would not "continue to be appropriate for operations under the new allocation." Accordingly, the Commission concluded that the power measurement rule revisions adopted in the MedRadio Order are logical outgrowths of the *MedRadio NPRM*, and therefore, that the Commission provided sufficient APA notice for these revisions.

5. The Commission notes that it was not its intent to change the underlying frame of reference for measuring allowable transmit power, which is a maximum EIRP over a specified bandwidth, but recognizes that removing the reference to the obsolete ANSI standard (in combination with the reference to the alternative power measurement technique using a peak detector function) contributed to the uncertainty over whether a previously acceptable average power measurement technique would continue to be allowed. Accordingly, the Commission is amending § 95.628(g)(3) of the MedRadio rules to restore the approach in the former MICS rule which specified a peak detector function as one measurement technique for demonstrating compliance with transmitter power limits. In substitution for the obsolete ANSI standard of the former MICS rule, the Commission is also adding a provision that expands the available options for demonstrating compliance by stating that measurement procedures found acceptable to the Commission in accordance with 47 CFR 2.947 may also be used. In addition, the Office of Engineering and Technology (OET) Laboratory Division has published information in its Knowledge Data Base (KDB) concerning acceptable average power measurement procedures under this provision. The Commission believes that this approach satisfies the substance of Medtronic's request that the MedRadio rules be modified to permit the average power instrumentation techniques formerly acceptable under the MICS rules.

6. This approach also provides greater flexibility than the former MICS rule, which, in part, relied upon the ANSI standards, because it avoids inadvertent rule obsolescence as industry standards are modified or new measurement techniques are developed. Under its Part 2 rules, the Commission can provide specific guidance as to the measurement approaches that are acceptable through the issuance of bulletins or reports—such as recently has been provided in the OET KDB noted in the Memorandum Opinion and Order—and without the need to correct outdated references in the underlying rules through time-consuming, formal proceedings. Moreover, in the event the Commission has not provided guidance on a particular matter through bulletins or reports, the rules also allow parties to provide a detailed description of the measurement procedures actually used for the Commission's consideration in determining compliance with its technical rules.

7. *Non-LBT devices.* Regarding the frequency monitoring criteria for non-LBT devices, Medtronic correctly points out in its petition that the text of the *MedRadio Order* limits the number of transmissions per hour for non-LBT devices, but that these restrictions were omitted from the appropriate paragraph of § 95.628 ("MedRadio Transmitters") as adopted. Medtronic requests that these limitations be added to paragraphs (b)(2) through (b)(4)—the paragraphs which also specify the duty cycle limits for non-LBT devices. The Commission concurs. The text of the *MedRadio Order* explicitly states that maximum number of communication sessions per hour for non-LBT devices shall be ten (10) per hour for devices operating with 0.01% duty cycle within the 402–405 MHz core band, and one hundred (100) per hour for devices operating with 0.1% duty cycle in the wing bands. The omission of these provisions from the adopted rule was an editorial oversight. Therefore, the Commission amends § 95.628, paragraphs (b)(2) through (b)(4) to add these limits to conform to the literal intent of the *MedRadio Order.*

8. Medtronic also states that § 95.1209(d) ("Permissible Communications") as adopted appears to contain unnecessary language that could be interpreted as allowing non-LBT devices to operate without the communication of data. Medtronic argues that such non-data transmissions are inappropriate for non-LBT devices which do not employ frequency monitoring pursuant to § 95.628(b). Biotronik also supports this request for the same reasons. In the same subsection, Medtronic points out a clerical error in the text which mismatches the cross-references to limits set forth in § 95.628, subsections (b)(3) through (b)(4), with respect to non-LBT devices operating with 0.1% or 0.01% duty cycles.

9. The Commission agrees that the rules should be changed as Medtronic requests. The reference to non-LBT devices operating "without the communication of data" in § 95.1209(d) as adopted in the *MedRadio Order* was inadvertently carried over from the legacy MICS rule provisions. Historically, MICS devices were limited to LBT operation. Further, as Medtronic correctly points out, some small amount of non-data transmission is necessary to perform the LBT frequency monitoring protocol prescribed in the rules. By comparison, the new MedRadio rules encompass the operation of non-LBT as well as LBT devices. Since non-LBT devices, by definition, do not employ frequency monitoring prior to transmitting data, it would be spectrally inefficient and contrary to the intent of the *MedRadio Order* for such devices to operate without the transmission of data.

10. Thus, the Commission amends § 95.1209(d) to remove the reference to non-LBT devices operating without the communication of data. In addition, the Commission rectifies the cross references to the appropriate duty cycle and maximum transmission limits set forth in § 95.628—namely, that non-LBT devices operating pursuant to § 95.628, subsections (b)(2) and (b)(3), with 0.1% duty cycle may transmit for no more than 3.6 seconds per hour; and that non-LBT devices operating pursuant to § 95.628, subsection (b)(4), with 0.01% duty cycle may transmit for no more than 360 milliseconds per hour.

11. *LBT Devices.* The frequency monitoring rules for LBT devices require that the devices monitor channel(s) that they intend to occupy but not initiate a communications session unless certain access criteria are met. These criteria include a threshold power level; the LBT device may use a channel if no signal above the threshold power level is detected on that channel or, if no monitored channel meets this requirement, the channel with the lowest ambient power level (the "least-interfered-channel" or "LIC"). Medtronic urges the Commission to amend the MedRadio rules to clarify that single-channel LBT devices operating under the LIC provisions of § 95.628(a)(4) must wait to transmit until the monitoring

threshold power level specified in § 95.628(a)(1) is not exceeded on the device's single channel of operation. Medtronic states its belief that this interpretation was intended by the *MedRadio Order,* but nevertheless seeks clarification to resolve any ambiguity. More specifically, Medtronic observes that the rule's language tacitly envisions MedRadio transmitters capable of operating on multiple channels—such that the availability of an alternate channel is a meaningful option. In this light, Medtronic argues that a strained reading as applied to single channel LBT devices—which, by definition, cannot operate on an alternate channel—could lead to the interpretation that such devices may transmit at will regardless of whether the LBT monitoring threshold had been met. Such an interpretation, Medtronic argues, would essentially write the LBT requirement out of the rule for single channel devices. Biotronik supports this request.

12. The Commission agrees that the rules should be amended to state this clarification. The intended interpretation is that the LBT threshold requirement applies to both multi- and single-channel devices. It also concurs with Medtronic's assertion that a contrary interpretation would obviate the LBT requirement for single channel devices, thereby undermining our goal of fostering equitable band sharing by all LBT devices. Further, while the Commission believes that the contrary characterization that Medtronic cautions against would be a strained reading of the rule, it nevertheless wishes to prevent any misunderstanding. Accordingly, as applied to single channel LBT devices, the Commission clarifies that § 95.628(a)(4) shall be interpreted to require that such devices must wait to transmit until the monitoring threshold on the single channel of operation is not exceeded. The Commission is adding text to § 95.628(a)(4) reflecting this clarification.

13. Medtronic also requested that the Commission clarify that a MedRadio device operating under the LIC provisions of § 95.628(a)(4) must monitor—and be capable of operating on—a specified minimum number of channels (*e.g.*, 9 for the core band, and 18 for the wing bands). With support from Biotronik, Medtronic argues that such a requirement would ensure that devices using the least interfered channel provisions of § 95.628(a)(4) operate on the remaining alternate channels that have the lowest ambient power levels, thereby fostering more efficient band sharing while minimizing mutual interference.

14. The Commission declines to modify the rule and affirms the rule as adopted. As an initial matter, the Commission notes that no such requirement was contained in the former MICS rules, and that no mention of adopting such a requirement was made in the *MedRadio NPRM.* Furthermore, and on the merits, the Commission also finds that establishing such a requirement on reconsideration would be inconsistent with our general desire, as articulated in the *MedRadio Order,* to adopt rules generally in conformance with the MICS while providing greater flexibility. The Commission believes that it is desirable to give manufacturers and the marketplace ample opportunity to determine the device channeling capabilities that are most useful for a particular application. Thus far, no problems have been reported to us resulting from this flexibility, and Medtronic presents no facts that would cause us to reconsider this decision.

15. Finally, Medtronic asks that the Commission reconsider the decision in the *MedRadio Order* to reject Medtronic's request—which it first raised in a January 10, 2008 *ex parte* submission—to modify the LBT monitoring threshold set forth in § 95.628(a)(3) for devices that transmit with less than the maximum allowed power. The Commission declined to modify the LBT monitoring threshold because the issue was not raised in the *MedRadio NPRM* and thus there was little substantive basis on the record for modifying the rule. At the time of its submission, Medtronic asked that LBT threshold specified in the MICS rules be modified to increase the LBT threshold by 1 db for every 1 dB that the EIRP of the monitoring systems transmitter is below the maximum permitted level of 25 microwatts EIRP for both body-worn and implanted MedRadio devices across the entire 401–406 MHz MedRadio band. Medtronic further stated that this modification would harmonize with recently adopted ETSI standards for low-power medical device data communications in other countries. Medtronic merely reiterates these claims in its petition, and suggests that the requested modification would only affect devices with lower interference potential. More recently, in subsequent *ex parte* submissions, Medtronic characterizes its request as being limited to body-worn devices when acting as programmer/control transmitters, and that it is not seeking a change to the LBT threshold for standalone programmer/control transmitters.

16. Upon reconsideration, the Commission affirms the finding in the *MedRadio Order* that insufficient notice was provided in the *MedRadio NPRM* to support modifying the LBT threshold as requested. The mere fact that Medtronic raised the subject of a modified LBT threshold for the first time in an *ex parte* submission does not cure this basic lack of sufficient notice in the *MedRadio NPRM* itself.

17. The Commission also affirms the finding in the *MedRadio Order* that there was insufficient substantive discussion in the comment record to support such a modification. The Commission believes that modifying the monitoring threshold as suggested by Medtronic raises several issues that require further analysis. For example, Medtronic states that this modification would harmonize with recently adopted ETSI standards for low-power medical device data communications in other countries, but seeks to limit its application to only body-worn devices when acting as programmer/control transmitters across the entire 401–406 MHz MedRadio band. Although the ETSI standard cited by Medtronic does include the substance of the modified LBT threshold, this standard only covers the 401–402 MHz and 405–406 MHz wing bands, and also applies to both implanted and body-worn devices when used to select the frequency of operation. In addition, the Commission has to consider the impact of a higher monitoring threshold on primary METAIDS users in these frequency bands which might increase the likelihood of a medical device seeking to operate on a channel being used by a METAIDS device. Medtronic seeks to minimize these concerns by asserting that LBT medical devices would suffer no more interference from METAIDS devices than non-LBT devices, but it offers no analysis to support this assertion. These concerns lead us to conclude that insufficient substantive record has been developed to act on Medtronic's request at this time. The first step to develop such a record, to the extent it wishes to further proceed on this question, is for Medtronic to file a petition for rulemaking with the Commission.

18. *Human Torso Simulator and Testing Technique.* The transmitters used for medical implant and body-worn devices authorized under the MedRadio rules are required to be tested to determine compliance with radiated emissions and EIRP limits. Medtronic requests that the rules be modified to reinstate a provision requiring use of a particular human torso simulator test technique for implanted medical

devices that was set forth in former § 95.639(f)(2)(i) of the MICS rules. Medtronic states that the corresponding new MedRadio provision, § 95.628(g)(3)(i), which more broadly requires a "Commission-approved human body simulator and test technique," fails to provide sufficient guidance about what type of measurement data is required. Medtronic also claims that no changes to the test technique were proposed in the *MedRadio NPRM.* Medtronic further argues that the former MICS provision reduces possible confusion by providing, in effect, a safe harbor for compliance purposes. Biotronik supports this request for the same reasons.

19. The Commission denies this request and affirms § 95.628(g)(3)(i) of the new MedRadio rules as adopted. The new rule is more permissive than the former MICS rule and provides greater flexibility in testing devices by expanding, rather than limiting, available measurement compliance options. As the Commission observed regarding procedures for measuring average power, § 2.947 of the rules allows the Commission to provide specific guidance as to the measurement approaches that would be acceptable in a more responsive and timely manner through the issuance of bulletins or reports and without the need to correct outdated references in the underlying rules through time-consuming, formal proceedings. Moreover, in the event the Commission has not provided guidance through bulletins or reports, the rules also allow parties to provide a detailed description of the measurement procedures actually used for the Commission's consideration in determining compliance with its technical rules. This approach also forestalls inadvertent rule obsolescence as new measurement techniques are developed. More to the point with respect to Medtronic's concerns herein, the Commission affirms that the new rules do not preclude use of the "human torso" simulator described in the former MICS rules. Finally, as with the transmitter power measurement issue, the Commission notes that the OET Laboratory Division has published information in its KDB concerning acceptable measurement procedures under this provision, including a statement that use of the human torso technique formerly codified in the MICS rules continues to be acceptable.

Paperwork Reduction Analysis

20. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Congressional Review Act

21. The Commission will send a copy of this Memorandum Opinion and Order, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Final Regulatory Flexibility Analysis

22. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking (MedRadio NPRM)* in this proceeding.[2] The Commission sought written public comment on the proposals in the *MedRadio NPRM,* including comment on the IRFA. In addition, a Final Regulatory Flexibility Analysis (FRFA) was incorporated in the subsequent *Report and Order* (*MedRadio Order*) in this same proceeding.[3] This Final Regulatory Flexibility Analysis (FRFA) for the subject Memorandum Opinion and Order conforms to the RFA.[4]

A. Need for and Objective of Adopted Rules

23. The subject Memorandum Opinion and Order responds to the Petition for Reconsideration submitted by Medtronic, Inc. on June 15, 2009.[5] It grants reconsideration to the extent of including a provision in the MedRadio rules that permits the submission of transmitter output power measurements made using average power instrumentation techniques. It also makes several minor corrections or clarifications of an editorial nature with respect to other provisions. It denies reconsideration in all other respects.

24. The need for and objectives of the amended rules adopted in this Memorandum Opinion and Order are the same as those discussed in the FRFA for the Report and *MedRadio Order.* In the *MedRadio Order,* the Commission found that additional spectrum was required for the operation of advanced medical devices using wireless telecommunication technologies. Thus, building upon the legacy Medical Implant Communications Service (MICS), the Commission adopted service and technical rules for a new MedRadio Service that replicated, and expanded upon, many of the former MICS requirements. For example, the legacy MICS rules limited operation to implanted medical devices. However, the rules for the new MedRadio Service adopted in the MedRadio Order accommodate body-worn as well as implanted medical devices. Under this framework, the rules for MedRadio service incorporates the MICS "core" band at 402–405 MHz—which continues to be limited to implanted devices; and also includes two megahertz of newly designated spectrum in the adjacent "wing" bands at 401–402 MHz and 405–406 MHz— in which both body-worn and implanted devices are permitted. As with the MICS, the MedRadio service is housed within Part 95 of the Commission's rules.[6] As a result, the legacy MICS and new MedRadio rules share many of the same licensing and technical requirements. Altogether, the MedRadio service provides a total of five megahertz of contiguous spectrum for advanced wireless medical radiocommunication devices serving a

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] *See* Investigation of the Spectrum Requirements for Advanced Medical Technologies, Amendment of Parts 2 and 95 of the Commission's Rules to Establish the Medical Device Radio Communications Service at 401–402 and 405–406 MHz, Dexcom, Inc., Request for Waiver of the Frequency Monitoring Requirements of the Medical Implant Communications Service Rules, Biotronik, Inc. Request for Waiver of the Frequency Monitoring Requirements for the Medical Implant Communications Service Rules, ET Docket No. 06–135, RM–11271, *Notice of Proposed Rule Making and Notice of Inquiry and Order, (MedRadio NPRM)* 21 FCC Rcd 8164 (2006).

[3] *See* Investigation of the Spectrum Requirements for Advanced Medical Technologies, Amendment of Parts 2 and 95 of the Commission's Rules to Establish the Medical Device Radio Communications Service at 401–402 and 405–406 MHz, Dexcom, Inc., Request for Waiver of the Frequency Monitoring Requirements of the Medical Implant Communications Service Rules, Biotronik, Inc. Request for Waiver of the Frequency Monitoring Requirements for the Medical Implant Communications Service Rules, ET Docket No. 06–135, RM–11271, *Report and Order, (MedRadio Report and Order)* 24 FCC Rcd 22696 (2009).

[4] *See* 5 U.S.C. 604.

[5] *See Petition for Reconsideration,* ET Docket No. 06–135, filed by Medtronic on June 15, 2009.

[6] Part 95 governs the Personal Radio Services, including General Mobile Radio Service, Radio Control Service and Citizens Band (CB) Radio Service. The CB Radio Service, in turn, covers a number of specialized services, including the MedRadio Service. As with the legacy MICS, the MedRadio service devices operate on a secondary, non-interference basis with respect to primary authorized services and, as such, they must accept harmful interference from devices operated under such services. Further, MedRadio devices operate on a shared, non-exclusive basis with respect to each other and other secondary devices.

diverse range of diagnostic and therapeutic purposes in humans.

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

25. No comments were filed in response to the FRFA in this proceeding. In addition, no comments were submitted concerning small business issues.

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

26. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[7] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[8] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[9] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[10]

27. In the FRFA the Commission stated that nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.[11] A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[12] Nationwide, as of 2002, there were approximately 1.6 million small organizations.[13] The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[14] Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.[15] The Commission estimates that, of this total, 84,377 entities were "small governmental jurisdictions."[16] Thus, we estimate that most governmental jurisdictions are small.

28. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment."[17] The SBA has developed a small business size standard for firms in this category, which is: all such firms having 750 or fewer employees.[18] According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year.[19] Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999.[20] Thus, under this size standard, the majority of firms can be considered small.

D. Description of Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

29. The Memorandum Opinion and Order does not change any of the reporting, recordkeeping, or other compliance requirements resulting from the rules adopted in the *MedRadio Order.* As stated above, the only substantive rule change in the Memorandum Opinion and Order merely reinstates a provision from the former MICS rules that permits the submission of average power transmitter measurements.

30. Furthermore, as stated in the FRFA, the rules adopted by the Commission in the *MedRadio Order* use the same licensing approach for the entire 401–406 MHz MedRadio band that was previously used for the legacy MICS band at 402–405 MHz. Rather than require individual transmitter licensing, the Commission authorizes operation by rule within the Citizens Band (CB) Radio Service under Part 95 of our Rules and pursuant to Section 307(e) of the Communications Act.[21] Thus, licensing will be accomplished through adherence to applicable technical standards and other operating rules. The Commission concluded in the *MedRadio Order* that this approach is beneficial because it would minimize the administrative burden on prospective licensees as compared with an individual licensing scheme.

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

31. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[22]

[7] 5 U.S.C. 603(b)(3).

[8] 5 U.S.C. 601(6).

[9] 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3).

[10] Small Business Act, 15 U.S.C. 632 (1996).

[11] *See* SBA, Programs and Services, SBA Pamphlet No. CO–0028, at page 40 (July 2002).

[12] 5 U.S.C. 601(4).

[13] Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

[14] 5 U.S.C. 601(5).

[15] U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

[16] We assume that the villages, school districts, and special districts are small, and total 48,558. See U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

[17] U.S. Census Bureau, 2007 NAICS Definitions, "334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing"; *http://www.census.gov/naics/2007/def/ND334220.HTM#N334220.*

[18] 13 CFR 121.201, NAICS code 334220.

[19] U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005); *http://factfinder.census.gov.* The number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks out data for firms or companies only to give the total number of such entities for 2002, which was 929.

[20] *Id.* An additional 18 establishments had employment of 1,000 or more.

[21] We note that 47 U.S.C. 307(e)(3) provides that the term "citizens band radio service" shall have the meaning given it by the Commission by rule. 47 U.S.C. 307(e)(1) provides that upon determination by the Commission that an authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the citizens band radio service.

[22] *See* 5 U.S.C. 603(c).

32. In the preceding *MedRadio NPRM*, the Commission sought comment on which regulatory approaches would be appropriate to govern the MedRadio Service. Subsequently, in the *MedRadio Order* the Commission considered the responsive comments filed by interested parties, and determined that record as a whole supported extending the license-by-rule approach under Part 95—used by the former MICS—to the new MedRadio service because of the reduced regulatory impact on all licensees.

F. Report to Congress

33. The Commission will send a copy of the Memorandum Opinion and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[23] In addition, the Commission's Consumer and Governmental Affairs Bureau will send a copy of the Memorandum Opinion and Order, including the FRFA, to the Chief Counsel for Advocacy of the SBA.

Ordering Clauses

34. Pursuant to the authority contained in §§ 4(i), 302, 303(e), 303(f), and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(c), 303(f), and 307 this Memorandum Opinion and Order i*s hereby adopted.*

35. Part 95 of the Commission's rules *is amended* and such rule amendments shall be effective September 27, 2010

36. Pursuant to §§ 4(i), 302, 303(e) 303(f), 303(g), 303(r) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(g) and 405, that the petition for reconsideration filed by Medtronic, Inc. *Is granted in part* and *denied in part* as set forth.

37. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Memorandum Opinion and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

38. *It is further ordered* that ET Docket No. 06–135 *is terminated.*

List of Subjects in 47 CFR Part 95

Communications equipment, Medical devices.

[23] *See* 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 95 to read as follows:

PART 95—PERSONAL RADIO SERVICES

■ 1. The authority citation for part 95 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

■ 2. Section 95.628 is amended by revising paragraphs (a)(4), (b)(2) through (b)(4), and (g)(3) introductory text to read as follows:

§ 95.628 MedRadio transmitters.

(a) * * *

(4) If no signal in a MedRadio channel above the monitoring threshold power level is detected, the MedRadio programmer/control transmitter may initiate a MedRadio-communications session involving transmissions to and from a medical implant or medical body-worn device on that channel. The MedRadio communications session may continue as long as any silent period between consecutive data transmission bursts does not exceed 5 seconds. If a channel meeting the criteria in paragraph (a)(3) of this section is unavailable, MedRadio transmitters that are capable of operating on multiple channels may transmit on the alternate channel accessible by the device with the lowest monitored ambient power level. Except as provided in paragraph (b) of this section, MedRadio transmitters that operate on a single channel and thus do not have the capability of operating on alternate channels may not transmit unless no signal on the single channel of operation exceeds the monitoring threshold power level.

* * * * *

(b) * * *

(2) MedRadio devices operating in either the 401–401.85 MHz or 405–406 MHz bands, provided that the transmit power is not greater than 250 nanowatts EIRP and the duty cycle for such transmissions does not exceed 0.1%, based on the total transmission time during a one-hour interval, and a maximum of 100 transmissions per hour.

(3) MedRadio devices operating in the 401.85–402 MHz band, provided that the transmit power is not greater than 25 microwatts EIRP and the duty cycle for such transmissions does not exceed 0.1%, based on the total transmission time during a one hour interval, and a maximum of 100 transmissions per hour.

(4) MedRadio devices operating with a total emission bandwidth not exceeding 300 kHz centered at 403.65 MHz, provided that the transmit power is not greater than 100 nanowatts EIRP and the duty cycle for such transmissions does not exceed 0.01%, based on the total transmission time during a one-hour interval, and a maximum of 10 transmissions per hour.

* * * * *

(g) * * *

(3) Radiated emissions and EIRP measurements may be determined by measuring the radiated field from the equipment under test at 3 meters and calculating the EIRP. The equivalent radiated field strength at 3 meters for 25 microwatts, 250 nanowatts, and 100 nanowatts EIRP is 18.2, 1.8, or 1.2 mV/meter, respectively, when measured on an open area test site; or 9.1, 0.9, or 0.6 mV/meter, respectively, when measured on a test site equivalent to free space such as a fully anechoic test chamber. Compliance with the maximum transmitter power requirements set forth in § 95.639(f) shall be based on measurements using a peak detector function and measured over an interval of time when transmission is continuous and at its maximum power level. In lieu of using a peak detector function, measurement procedures that have been found to be acceptable to the Commission in accordance with § 2.947 of this chapter may be used to demonstrate compliance.

* * * * *

■ 3. Section 95.1209 is amended by revising paragraph (d) to read as follows:

§ 95.1209 Permissible communications.

* * * * *

(d) For the purpose of facilitating MedRadio system operation during a MedRadio communications session, as defined in § 95.628, MedRadio transmitters may transmit in accordance with the provisions of § 95.628(a) for no more than 5 seconds without the communications of data; MedRadio transmitters may transmit in accordance with the provisions of § 95.628(b)(2) and (b)(3) for no more than 3.6 seconds in total within a one hour time period; and MedRadio transmitters may transmit in accordance with the provisions of § 95.628(b)(4) for no more than 360

milliseconds in total within a one hour time period.

* * * * *

[FR Doc. 2010–21011 Filed 8–25–10; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131363–0087–02]

RIN 0648–XY45

Fisheries of the Economic Exclusive Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully use the 2010 total allowable catch (TAC) of Pacific cod specified for catcher vessels less than 60 feet (18.3 meters) LOA using hook-and-line or pot gear specified for the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 27, 2010, through 2400 hrs, A.l.t., December 31, 2010. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 10, 2010.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648–XY45, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.
- Mail: P.O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586–7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comment will generally be posted without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

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

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI under § 679.20(d)(1)(iii) on May 19, 2010 (75 FR 28502, May 21, 2010).

NMFS has determined that as of August 20, 2010, approximately 500 metric tons of Pacific cod remain in the 2010 Pacific cod apportionment for catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2010 TAC of Pacific cod in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the Pacific cod fishery by Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 20, 2010.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 10, 2010.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 23, 2010.

Carrie Selberg,

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

[FR Doc. 2010–21260 Filed 8–23–10; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131363–0087–02]

RIN 0648–XY44

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from trawl catcher vessels to catcher vessels less than 60 feet (18.3 meters) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the C season apportionment of the 2010 total allowable catch (TAC) of Pacific cod established for trawl catcher vessels to be harvested.

DATES: Effective August 23, 2010, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The C season apportionment of the 2010 Pacific cod TAC specified for trawl catcher vessels in the BSAI is 4,996 metric tons (mt) as established by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010), for the period 1200 hrs, A.l.t., June 10, 2010, through 1200 hrs, A.l.t., November 1, 2010.

The Administrator, Alaska Region, NMFS, has determined that trawl catcher vessels will not be able to harvest 500 mt of the C season apportionment of the 2010 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 500 mt of Pacific cod from the C season trawl catcher vessel apportionment to catcher vessels less than 60 feet (18.3 meters (m)) LOA using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the final harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010) are revised as follows: 4,496 mt to the C season apportionment for trawl catcher vessels and 5,098 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from trawl catcher vessels to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. Since the trawl catcher vessel Pacific cod fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 20, 2010.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 23, 2010.

Carrie Selberg,

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

[FR Doc. 2010–21259 Filed 8–23–10; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 75, No. 165

Thursday, August 26, 2010

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0862; Directorate Identifier 2010–CE–040–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA Model TBM 700 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

During a SOCATA flight test, it was noted some difficulties for the pilot to release oxygen. After investigation it was found that, due to the design of the oxygen generator release pin, one of the mask's lanyard linked to the pin could be jammed when it is pulled by a pilot or a passenger.

This condition, if not corrected, would lead, in case of an emergency procedure due to decompression, to a risk of generator fault with subsequent lack of oxygen on crew and/or passenger.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by October 12, 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.

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: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090.

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–2010–0862; Directorate Identifier 2010–CE–040–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://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

On November 6, 2009, we issued AD 2009–23–12, Amendment 39–16086 (74 FR 58539; November 13, 2009). That AD required actions intended to address an unsafe condition on the products listed above. AD 2009–23–12 revised AD 2009–13–05 (74 FR 29126, June 19, 2009), which was intended to address an unsafe condition on the products listed above.

Since we issued AD 2009–23–12, SOCATA has developed a modification that is a terminating action to address the unsafe condition.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2010–0090, dated May 18, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

During a SOCATA flight test, it was noted some difficulties for the pilot to release oxygen. After investigation it was found that, due to the design of the oxygen generator release pin, one of the mask's lanyard linked to the pin could be jammed when it is pulled by a pilot or a passenger.

This condition, if not corrected, would lead, in case of an emergency procedure due to decompression, to a risk of generator fault with subsequent lack of oxygen on crew and/or passenger.

For the reason described above, SOCATA released Pilot Operating Handbook (POH) Temporary Revision (TR) 03 which asks, in case of failure to release oxygen, to pull on the other mask lanyard in order to activate the oxygen generator. The Emergency AD 2009–0096–E was issued to mandate the follow-up of these actions by the operators in case of failure. This EAD was subsequently revised into AD 2009–0096R1 in order to clarify the applicability.

A SOCATA modification enabling to solve this issue has been developed. Consequently, this new AD, superseding EASA AD 2009–0096R1 retaining its requirements, requires implementing the modification which is a terminating action.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

SOCATA has issued SOCATA TBM 700 A & B Pilot's Operating Handbook (POH), Temporary Revision No. 3, dated March 2009; and DAHER–SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–168, dated December 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 126 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $66 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $19,026, or $151 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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 this 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 proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

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 FAA amends § 39.13 by removing Amendment 39–16086 (74 FR 58539; November 13, 2009), and adding the following new AD:

SOCATA: Docket No. FAA–2010–0862; Directorate Identifier 2010–CE–040–AD.

Comments Due Date

(a) We must receive comments by October 12, 2010.

Affected ADs

(b) This AD supersedes AD 2009–23–12, Amendment 39–16086.

Applicability

(c) This AD applies to Model TBM 700 airplanes, serial numbers 1 through 204, 206 through 239, and 241 through 243, that are:

(i) Certificated in any category; and

(ii) equipped with a chemical oxygen generation system.

Subject

(d) Air Transport Association of America (ATA) Code 35: Oxygen.

Reason

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

During a SOCATA flight test, it was noted some difficulties for the pilot to release oxygen. After investigation it was found that, due to the design of the oxygen generator release pin, one of the mask's lanyard linked to the pin could be jammed when it is pulled by a pilot or a passenger.

This condition, if not corrected, would lead, in case of an emergency procedure due to decompression, to a risk of generator fault with subsequent lack of oxygen on crew and/or passenger.

For the reason described above, SOCATA released Pilot Operating Handbook (POH) Temporary Revision (TR) 03 which asks, in case of failure to release oxygen, to pull on the other mask lanyard in order to activate the oxygen generator. The Emergency AD 2009–0096–E was issued to mandate the follow-up of these actions by the operators in case of failure. This EAD was subsequently revised into AD 2009–0096R1 in order to clarify the applicability.

A SOCATA modification enabling to solve this issue has been developed. Consequently, this new AD, superseding EASA AD 2009–0096R1 retaining its requirements, requires implementing the modification which is a terminating action.

Actions and Compliance

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

(1) Before further flight after the effective date of this AD, insert Page 3.13.5 of Temporary Revision No. 3, dated March 2009, into the Emergency Procedures section and the Limitations section of SOCATA TBM 700 A & B Pilot's Operating Handbook (POH).

(2) Within 7 months after the effective date of this AD or 100 hours time-in-service (TIS) after the effective date of this AD, whichever occurs first, replace the existing oxygen generator release pin, part number (P/N) T700A3510038100, with an open pin, P/N T700A351004410000, using the accomplishment instructions of DAHER–SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–168, dated December 2009.

(3) Upon replacement of the existing oxygen generator release pin with an open pin, P/N T700A351004410000, using the accomplishment instructions of SB No. 70–168, remove Page 3.13.5 of Temporary Revision No. 3, dated March 2009, as inserted by paragraph (f)(1) of this AD from the POH.

(4) After the effective date of this AD, do not install in any affected airplane an oxygen generator release pin, P/N T700A3510038100.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, 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: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2010–0090, dated May 18, 2010; SOCATA TBM 700 A & B Pilot's Operating

Handbook (POH), Temporary Revision No. 3, dated March 2009; and DAHER–SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–168, dated December 2009, for related information.

Issued in Kansas City, Missouri, on August 20, 2010.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–21250 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0849; Directorate Identifier 2010–CE–043–AD]

RIN 2120–AA64

Airworthiness Directives; PILATUS Aircraft Ltd. Model PC–7 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as: This Airworthiness Directive (AD) is prompted due to an occurrence when an aircraft had a partial in-flight separation of the aileron outboard bearing support. The aileron outboard bearing supports are attached with two forward attachment bolts and two aft attachment bolts. The forward attachment bolts are approximately 3.2 mm (0.125 inch) longer than the aft attachment bolts. If the aileron outboard bearing supports have been removed, it is possible that during the reinstallation of the aileron outboard bearing supports, the attachment bolts can be installed in wrong positions. Bolts that are installed in wrong positions can damage the threads in the rear attachment anchor nuts. Such a condition, if left uncorrected, could lead to in-flight separation of the aileron outboard bearing support, and as a consequence, the loss or limited controllability of the aircraft. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by October 12, 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.

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: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; *fax:* (816) 329–4090.

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–2010–0849; Directorate Identifier 2010–CE–043–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

The Federal Office of Civil Aviation (FOCA), which is the aviation authority for Switzerland, has issued AD HB–2010–010, dated July 29, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> This Airworthiness Directive (AD) is prompted due to an occurrence when an aircraft had a partial in-flight separation of the aileron outboard bearing support.
>
> The aileron outboard bearing supports are attached with two forward attachment bolts and two aft attachment bolts. The forward attachment bolts are approximately 3.2 mm

(0.125 inch) longer than the aft attachment bolts. If the aileron outboard bearing supports have been removed, it is possible that during the reinstallation of the aileron outboard bearing supports, the attachment bolts can be installed in wrong positions. Bolts that are installed in wrong positions can damage the threads in the rear attachment anchor nuts.

Such a condition, if left uncorrected, could lead to in-flight separation of the aileron outboard bearing support, and as a consequence, the loss or limited controllability of the aircraft.

In order to correct and control the situation, this AD requires a one time inspection to verify that the bolts are installed in the correct positions and the threads of the anchor nuts are in good condition. The replacement of the attachment hardware is required if any damage on the anchor nut threads or a bolt at the wrong location is found.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Pilatus Aircraft Ltd. has issued PC–7 Service Bulletin No. 57–015, Rev. No. 1, date July 23, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 12 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,040, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 25 work-hours and require parts costing $200, for a cost of $2,325 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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 this 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 proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

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 FAA amends § 39.13 by adding the following new AD:

Pilatus Aircraft Ltd.: Docket No. FAA–2010–0849; Directorate Identifier 2010–CE–043–AD.

Comments Due Date

(a) We must receive comments by October 12, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to PILATUS Aircraft Ltd. Model PC–7 airplanes, manufacturer serial numbers (MSN) 101 through 618, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 57: Wings.

Reason

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

This Airworthiness Directive (AD) is prompted due to an occurrence when an aircraft had a partial in-flight separation of the aileron outboard bearing support.

The aileron outboard bearing supports are attached with two forward attachment bolts and two aft attachment bolts. The forward attachment bolts are approximately 3.2 mm (0.125 inch) longer than the aft attachment bolts. If the aileron outboard bearing supports have been removed, it is possible that during the reinstallation of the aileron outboard bearing supports, the attachment bolts can be installed in wrong positions. Bolts that are installed in wrong positions can damage the threads in the rear attachment anchor nuts.

Such a condition, if left uncorrected, could lead to in-flight separation of the aileron outboard bearing support, and as a consequence, the loss or limited controllability of the aircraft.

In order to correct and control the situation, this AD requires a one time inspection to verify that the bolts are

installed in the correct positions and the threads of the anchor nuts are in good condition. The replacement of the attachment hardware is required if any damage on the anchor nut threads or a bolt at the wrong location is found.

Actions and Compliance

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

(1) Within 1 month after the effective date of this AD, check the airplane maintenance records to determine if the left and/or right aileron outboard bearing supports have been removed at any time during the life of the airplane. Do this check following paragraph 3.A. of Pilatus Aircraft Ltd. PC–7 Service Bulletin No. 57–015, Rev. No. 1, date July 23, 2010.

(2) If an entry is found during the airplane maintenance records check required in paragraph (f)(1) of this AD or it is unclear whether or not the left and/or right aileron outboard bearing supports have been removed, perform the actions following the instructions in paragraph 3.A.(2) through paragraph 3.E of Pilatus Aircraft Ltd. PC–7 Service Bulletin No. 57–015, Rev. No. 1, date July 23, 2010.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, 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:* Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4059; *fax:* (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Special Flight Permit

(h) Special flight permits will not be issued.

Related Information

(i) Refer to MCAI Federal Office of Civil Aviation (FOCA) AD HB–2010–010, dated July 29, 2010; and Pilatus Aircraft Ltd. PC–7 Service Bulletin No. 57–015, Rev. No. 1, date July 23, 2010, for related information.

Issued in Kansas City, Missouri, on August 19, 2010.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–21182 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0815; Airspace Docket No. 10–ANE–107]

Proposed Removal and Amendment of Class E Airspace, Oxford, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class E surface airspace as an extension to Class D airspace, and amend Class E airspace extending upward from 700 feet at Oxford, CT. Decommissioning of the Waterbury Non-Directional Beacon (NDB) at the Waterbury-Oxford airport has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

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

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2010–0815; Airspace Docket No. 10–ANE–107, 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, Operations Support Group, Eastern Service Center, 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–2010–0815; Airspace Docket No. 10–ANE–107) 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.*

Comments 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–2010–0815; Airspace Docket No. 10–ANE–107." 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 NPRM's 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 remove Class E surface airspace as an extension to Class D airspace and amend the description of the Class E airspace extending upward 700 feet above the surface at Oxford-Waterbury Airport, Oxford, CT. The Waterbury NDB has been decommissioned and reference to the navigation aid would be removed from the airspace description for the safety and management of IFR operations at Waterbury-Oxford Airport.

The Class E surface airspace designations as an extension to Class D and the Class E 700 foot airspace designations are published in Paragraph 6004 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 E airspace designations listed in this document will 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 amend controlled airspace at Waterbury-Oxford Airport, Oxford, CT.

Lists 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 CLASS 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, effective September 15, 2009, is amended as follows:

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Surface Area

* * * * *

ANE CT E4 Oxford, CT [REMOVED]

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ANE CT E5 Oxford, CT [AMENDED]

Waterbury-Oxford Airport, CT
(Lat. 41°28′43″ N., long. 73°08′07″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Waterbury-Oxford Airport.

Issued in College Park, Georgia, on August 12, 2010.

Myron A. Jenkins,

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

[FR Doc. 2010–21219 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, 40, and 301

[REG–153340–09]

RIN 1545–BJ13

Electronic Funds Transfer of Depository Taxes; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing (REG–153340–09) that were published in the **Federal Register** on Monday, August 23, 2010, relating to Federal tax deposits (FTDs) by Electronic Funds Transfer (EFT).

FOR FURTHER INFORMATION CONTACT: Michael E. Hara, (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under sections 1461, 6302, 6656, and 7502 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (REG–153340–09), published on Monday, August 23, 2010 (75 FR 51707), contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG–153340–09), which was the subject of FR Doc. 2010–20737, is corrected as follows:

1. On page 51707, column 2, in the preamble, under the caption **DATES:**, fifth line, the language "September 21, 2010, must be received" is corrected to read "September 27, 2010, must be received".

2. On page 51708, column 2, in the preamble, under the paragraph heading "Comments and Public Hearing", last paragraph of the column, second line, the language "for September 21, 2010, at

10 a.m. in the" is corrected to read "for September 27, 2010, at 10 a.m. in the".

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2010–21257 Filed 8–23–10; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

RIN 1545–BJ27

[REG–137486–09]

Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulation.

SUMMARY: In the Rules and Regulations section of this **Federal Register** the IRS is issuing final and temporary regulations to disclose return information to the Bureau of the Census. The text of the temporary regulations published in the Rules and Regulations section of the **Federal Register** serves as the text of these proposed regulations.

DATES: Written and electronic comments and requests for a public hearing must be received by November 24, 2010.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–137486–09), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–137486–09), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS and REG–137486–09).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Melissa Segal, (202) 622–7950; concerning submissions of comments, Regina Johnson, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Procedure and Administration regulations [26 CFR Part 301] relating to section 6103(j)(1)(A) of the Internal Revenue Code (Code). Section 6103(j)(1)(A) of the Code authorizes the Secretary of the Treasury to furnish, upon written request by the Secretary of Commerce, such returns or return information as the Secretary of Treasury may prescribe by regulation to officers and employees of the Bureau of the Census (Bureau) for the purpose of, but only to the extent necessary in, the structuring of censuses and conducting related statistical activities authorized by law. Section 301.6103(j)(1)–1 of the regulations provides an itemized description of the items of return information authorized to be disclosed for this purpose. This document contains proposed regulations authorizing the disclosure of additional items requested by the Secretary of Commerce. The text of temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are timely submitted to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Melissa Segal, Office of the Associate Chief Counsel (Procedure & Administration).

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6103(j)(1)–1 is amended by adding paragraphs (b)(3)(xxix) and (b)(3)(xxx), and revising paragraph (e) to read as follows:

§ 301.6103(j)(1)–1 Disclosures of return information reflected on returns to officers and employees of the Department of Commerce, for certain statistical purposes and related activities.

* * * * *

(b) * * *

(3) * * *

(xxix) [The text of proposed § 301.6103(j)(1)–1(b)(3)(xxix) is the same as the text of § 301.6103(j)(1)–1T(b)(3)(xxix) published elsewhere in this issue of the **Federal Register**].

(xxx) [The text of proposed § 301.6103(j)(1)–1(b)(3)(xxx) is the same as the text of § 301.6103(j)(1)–1T(b)(3)(xxx) published elsewhere in this issue of the **Federal Register**].

* * * * *

(e) *Effective/applicability date.* Paragraph (b)(3)(xxix) through (b)(3)(xxx) of this section is applicable to disclosures to the Bureau of the Census on or after the date final regulations are published in the **Federal Register**.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2010–21047 Filed 8–25–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 409, 410, 411, 414, 415, and 424

[CMS–1503–CN]

RIN 0938–AP79

Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2011; Corrections

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

ACTION: Correction of proposed rule.

SUMMARY: This document corrects technical and typographical errors in the proposed rule entitled "Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2011" that appeared in the July 13, 2010 **Federal Register**. The proposed rule that appeared in the July 13, 2010 **Federal Register** addressed proposed changes to the physician fee schedule and other Medicare Part B payment policies to ensure that our payment systems are updated to reflect changes in medical practice and the relative value of services.

FOR FURTHER INFORMATION CONTACT: Rebecca Cole, (410) 786–4497.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2010–15900 of July 13, 2010 (75 FR 40040), there were a number of technical errors that are identified and corrected in the Correction of Errors section below.

II. Summary of Errors

The following is a summary of the errors identified in the calendar year (CY) 2011 Physician Fee Schedule proposed rule and corrected in section III. of this notice:

A. Errors in the Preamble

On page 40043, we made inadvertent errors in the table of contents for the durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) provisions.

On page 40089, in Table 24, we made formatting errors (omitted indentations) in listing some of the cost subcategories for office expenses, and pharmaceuticals and medical materials and supplies. In addition, we inadvertently listed a cost category as "All Other Labor-Related" instead of "All Other Services".

On page 40091, we are correcting typographical errors in our description of fixed capital.

On page 40095, we made an error in the footnotes to Table 30. The footnote numbered "N/A" was inadvertently combined with the preceding footnote (number 4).

On page 40121, in our discussion of revisions for payment for power-driven wheelchairs, we erroneously included the word "falling" in our description of the DMEPOS quality standards definition of certain power wheelchairs. In addition, on page 40122 of this discussion, we inadvertently included the word "of" in our description of the statutory provision and the methodologies used to calculate and update the purchase price of power wheelchairs.

On page 40123, in our discussion of the productivity adjustment regarding ambulatory surgical center (ASC), ambulance, clinical laboratory, and DMEPOS fee schedules, in several places we inadvertently omitted references to the DMEPOS fee schedule and erroneously referenced three payment systems instead of four payment systems.

On page 40136, in Table 39, in the listing of the primary care services Healthcare Common Procedure Coding System (HCPCS) codes that are eligible for CY 2011 primary care incentive payments, we inadvertently omitted HCPCS code 99213.

On page 40158, in Table 46, which is an example of the ASP price substitution timeframe, we inadvertently included language that should have appeared in the fourth column, (Q1–11), in the third column, (Q4–10).

On page 40180, in our discussion of the four disease modules covered by the proposed PQRI group practice reporting option I (GPRO I) measures, we inadvertently omitted hypertension from the list of disease modules.

On page 40186, in our discussion of the proposed Physician Quality Reporting Initiative (PQRI) measures, we inadvertently include measure #135 (Chronic Kidney Disease (CKD): Influenza Immunization) in Table 51 which lists the 2010 PQRI quality measures that are not proposed for inclusion in the 2011 PQRI quality measures. In addition, we also made errors in referencing the number of 2010 measures that will be retained in 2011. On pages 40189 and 40194, we also erred by omitting measure #135 from Table 52, which lists the proposed 2011 quality measure from the 2010 PQRI quality measures set and from Table 58, which lists the proposed 2011 CKD Measures Group.

On page 40190, in Table 52, regarding the NQF Measure No., we inadvertently listed the wrong NQF measure numbers for two of the proposed PQRI measures (measure #201 Ischemic Vascular Disease (IVD): Blood Pressure Management Control and measure #202 Ischemic Vascular Disease (IVD): Complete Lipid Profile).

On page 40193, in our listing (Table 56) of the 2011 PQRI quality measures for electronic health record (EHR) reporting, we made an error in the table heading.

On pages 40192 and 40197, in Tables 54 and 70 regarding the new individual quality measures proposed for 2011 and the proposed 2011 asthma measures group, we made errors in the titles of the two of the asthma-related measures.

On page 40199, in our discussion of the statutory requirements for the additional incentive payments authorized under section 1848(m)(7) of the Act, we inadvertently omitted some of the language describing the requirements.

On page 40217, we made an error in the language regarding the authority of the competitive bidding implementation contractor (CBIC).

On page 40243, in our discussion of the off-the-shelf (OTS) orthotics exemption, we inadvertently omitted references to hospitals. We also made an error in the discussion of access to OTS orthotics.

On page 40244, in the DMEPOS diabetic testing supplies section, we inadvertently omitted the word "not" from our discussion of the provisions impact on suppliers and whether suppliers require beneficiaries to switch brands.

On pages 40078, 40081, 40095, 40122, 40124, 40144, 40154 through 40156, 40167 through 40169, 40199, 40200, 40207, and 40225, we are correcting typographical errors which include punctuation, indentation of text, separation of lines of text, and the numbering of section headings and tables.

B. Errors in the Regulations Text

On page 40259, we are correcting punctuation errors in § 414.904 regarding the average sales price as the basis for payment.

III. Correction of Errors

In FR Doc. 2010–15900 of July 13, 2010 (75 FR 40040), make the following corrections:

A. Corrections to the Preamble

1. On page 40043, second and third columns, lines 40 through 76 and 1 through 21, the table of contents entries that begin with the listing "G. DMEPOS Competitive Bidding Program Issues" and end with the listing "(12) Effect of Contract Termination" are corrected to read as follows:

G. DMEPOS Provisions

1. Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies DMEPOS Competitive Bidding Program (CBP)
   a. Legislative and Regulatory History of DMEPOS CBP
   b. Implementation of a National Mail Order DMEPOS Competitive Bidding Program (CBP) for Diabetic Testing Supplies
   (1) National Mail Order DMEPOS CBP
   (2) DMEPOS CBP for National Mail Order Diabetic Supplies
   (3) Overview of Proposed Rule
   (4) Future Competitions of Diabetic Testing Supplies
   (5) Definition of Mail Order Item
   (6) Special Rule in the Case of Competition for Diabetic Testing Strips
   (7) Anti-Switching Rule in Case of Competition for Diabetic Test Strips
   c. Off-the-Shelf (OTS) Orthotics Exemption
   d. Grandfathering Rules Resulting in Additional Payments to Contract Suppliers Under the DMEPOS Competitive Bidding Program (CBP)
   e. Appeals Process
   (1) Purpose and Definitions: (§ 414.402)
   (2) Applicability
   (3) Contract Termination
   (4) Notice of Termination
   (5) Corrective Action Plan
   (6) Right to Request a Hearing by the CBIC Hearing Officer (HO)
   (7) Scheduling of the Hearing
   (8) Burden of Proof
   (9) Role of the Hearing Officer (HO)
   (10) CMS's Final Determination
   (11) Effective Date of the Contract Termination
   (12) Effect of Contract Termination
2. Changes to Payment Rules for Oxygen and Oxygen Equipment
   a. Background
   b. Furnishing Oxygen Equipment After the 36-Month Rental Period (Cap)
   c. Furnishing Oxygen Equipment During the 36-Month Rental Period (Cap)"

2. On page 40078—

a. Top third of the page, third column, partial paragraph, line 24, the table reference "Table 20" is corrected to read "Table 20A."

b. Middle of the page, in the table title, the table number "20" is corrected to read "20A."

3. On page 40080, top of the page—

a. Third column, partial paragraph, last line, the table reference "Table 20" is corrected to read "Table 20B".

b. Table title, the table number "20" is corrected to read "20B".

4. On page 40081—

a. Top half of the page, in the table title, the table number "TABLE 20" is corrected to read "TABLE 20B".

b. Lower half of the page, second column, last paragraph, ninth line, the table reference "Table 20" is corrected to read "Table 20B".

5. On page 40089, in Table 24, first column (Cost category), the entries for Office Expenses, and Pharmaceuticals and Medical Materials and Supplies are corrected to read as follows:

Cost category
Office Expenses
Utilities
Chemicals
Paper
Rubber & Plastics
Telephone
Postage
All Other Services
Fixed Capital
Moveable Capital
Pharmaceuticals and Medical Materials and Supplies
Pharmaceuticals
Medical Materials and Supplies

6. On page 40091, first column, seventh full paragraph, line 3, the phrase "building leases and depreciation." is corrected to read "building leases, mortgage interest, and depreciation on medical buildings.".

7. On page 40095, in Table 30, the footnote that begins with the phrase "[4] Derived from a CMS survey" is corrected to read as follows:

"[4] Derived from a CMS survey of several major commercial insurers.

N/A Productivity is factored into the MEI categories as an adjustment to the price variables; therefore, no explicit weight exists for productivity in the MEI.".

8. On page 40121, second column, first full paragraph, line 22, the phrase, "power wheelchairs falling" is corrected to read "power wheelchairs".

9. On page 40122—

a. First column, first partial paragraph, line 10, the phrase "subsequently update of" is corrected to read "subsequently update".

b. Second column, last partial paragraph, the phrase "The ACAct" is corrected to read "The ACA."

10. On page 40123—

a. Top of the page, first column, first paragraph, lines 8 and 9, the phrase "and the clinical laboratory fee schedule (CLFS)" is corrected to read "the clinical laboratory fee schedule (CLFS) and the DMEPOS fee schedule".

b. Lower half of the page—

(1) First column—

(a) First paragraph, last line, the phrase "and the CLFS." is corrected to read "the CLFS and the DMEPOS fee schedule.".

(b) Third paragraph, line 1, the phrase "all three payment" is corrected to read "all four payment".

(2) Second column, last paragraph—

(a) Line 3, the phrase "the three payment" is corrected to read "the four payment".

(b) Last line, the phrase "ASCs, the AFS, and the CLFS" is corrected to read "ASCs, the AFS, the CLFS, and the DMEPOS fee schedule".

(3) Third column, first partial paragraph, line 11, "the AFS and CLFS" is corrected to read "AFS, CLFS, and DMEPOS fee schedule".

11. On page 40124, last portion of the page, third column, partial paragraph, first line, the parenthetical phrase "(United States city average minus," is corrected to read "(United States city average) minus."

12. On page 40136—

a. Middle third of the page, first column, in the section heading, the section number "4" is corrected to read "3".

b. Lower third of the page, in Table 39, the table is corrected by adding the following entry:

CPT codes	Description
99213	Level 3 established patient office or other outpatient visit.

13. On page 40144, third column, first paragraph, line 1, the reference "Section VI.H" is corrected to read "Section VI.G.".

14. On page 40152, lower half of the page, third column, partial paragraph, lines 12 and 13, the phrase "services furnished and using" is corrected to read "services furnished using".

15. On page 40154, lower half of the page, second column, first full paragraph, line 4, the phrase "for example.:" is corrected to read "for example:".

16. On page 40155, second column, last paragraph, line 12, the phrase "biological under section 1861(s)(2)(A)" is corrected to read "biologicals under section 1861(s)(2)(A) of the Act".

17. On page 40156, third column, last paragraph, lines 4 and 5, the phrase "some concerns using the volume-weighted AMP" is corrected to read

"some concern about using this volume-weighted AMP".

18. On page 40158, middle of the page, Table 46, fourth column, lines 3 through 8, the entry "CMS calculates ASP payment limits for Q1. Compares calculated payment limits to OIG substitute prices. Published Q1–11 prices that may include OIG substitute prices." is corrected by moving the entry to the fifth column.

19. On page 40167, second column—

a. Before the first full paragraph, line 1, in the section heading, the section number, "i." is corrected to read "h.".

b. Before the third full paragraph line 1, in the section heading, the section number, "j." is corrected to read "i.".

20. On page 40168—

a. First column, before the first full paragraph, line 1, in the section heading, the section number, "k." is corrected to read "j.".

b. Second column—

(1) Before the third full paragraph, in the section heading, line 1, the section number, "l." is corrected to read "k.".

(2) Third full paragraph, line 9, the figure "1057057" is corrected to read "1.057057".

(3) Fourth full paragraph, line 5, the phrase "identified EPs (EPs)" is corrected to read "identified eligible professionals (EPs)".

21. On page 40169, third column, first partial paragraph, lines 7 and 8, the reference "section G.1.d." is corrected to read "section VI.F.1.d."

22. On page 40180, second column, second full paragraph, lines 3 and 4, the phrase "heart failure; and preventive care services." is corrected to read "heart failure; hypertension; and preventive care services.".

23. On page 40186—

a. Top quarter of the page, first column, second partial paragraph, line 1, the figure "198" is corrected to read "199."

b. Second quarter of the page, Table 51, the table is corrected by removing the entry for "Measure No. 135".

c. Third quarter of the page—

(1) First column, first full paragraph—

(a) Line 3, the figure "5" is corrected to read "4".

(b) Line 8, the phrase "PQRI measures #135, #136, and #139" is corrected to read "PQRI measures #136 and #139".

(2) Second column—

(a) First full paragraph—

(*1*) Line 1, the figure "170" is corrected to read "171".

(*2*) Line 3, the figure "170" is corrected to read "171".

(b) First partial paragraph, line 1, the figure "125" is corrected to read "126".

24. On pages 40186 through 40190, in Table 52, the table is corrected by—

(a) Adding the following entry in numerical order:

Measure No.	Measure title	Measure developer	NQF Measure No.
135	Chronic Kidney Disease (CKD): Influenza Immunization	AMA–PCPI	AQA

(b) Revising the fourth column (NQF measure no.) for the following entries:

Measure No.	Measure title	Measure developer	NQF Measure No.
201	Ischemic Vascular Disease (IVD): Blood Pressure Management Control.	NCQA	0073
202	Ischemic Vascular Disease (IVD): Complete Lipid Profile	NCQA	0075

25. On page 40192, lower half of the page, Table 54, first column,

a. Lines 35 and 36, the measure title "Asthma: Assessment of Asthma Risk—Emergency Department/Inpatient Setting" is corrected to read "Asthma—Tobacco Use Screening—Ambulatory Setting".

b. Lines 37 and 38, the measure title "Asthma: Discharge Plan—Emergency Department/Inpatient Setting" is corrected to read "Asthma—Tobacco Use Intervention—Ambulatory Screening".

26. On page 40193, third quarter of the page, Table 56, the table title, "TABLE 56: PROPOSED 2011 MEDICARE ARRA—HITECH MEASURES AVAILABLE FOR EHR–BASED REPORTING" is corrected to read "TABLE 56—ADDITIONAL PROPOSED MEASURES AVAILABLE FOR EHR–BASED REPORTING IN 2011".

27. On page 40194, lower half of the page, Table 58, the table is corrected by adding the following entry in numerical order:

Measure No.	Measure title	NQF Measure No.	Measure developer
135	Chronic Kidney Disease (CKD): Influenza Immunization	AQA adopted	AMA-PCPI

28. On page 40197, middle of the page, Table 70, second column—

a. Lines 3 and 4, the measure title "Assessment of Asthma Risk—Emergency Department/Inpatient Setting" is corrected to read "Asthma—Tobacco Use Screening—Ambulatory Setting".

b. Line 5, the measure title "Asthma: Discharge Plan—Emergency Department/Inpatient Setting" is corrected to read "Asthma—Tobacco Use Intervention—Ambulatory Screening".

29. On page 40199—

a. First column, last bulleted paragraph, last line, the phrase "MOCP for such year" is corrected to read "MOCP practice assessment for such year".

b. Second column, second numbered paragraph (1), the paragraph "(1) In a form and manner specified by the Secretary, that the EP has successfully completed a qualified MOCP practice

assessment for such year;" is corrected to read "(1) In a form and manner specified by the Secretary, that the EP more frequently than is required to qualify for or maintain board certification status, participates in the MOCP for a year and successfully completes a qualified MOCP practice assessment for such year;".

c. Third column, first bulleted paragraph, line 20, the phrase "her or participate" is corrected to read "EHR or participate".

30. On page 40200, third column, fifth bulleted paragraph that begins with the phrase "The board has signed" is corrected to read as follows:

"• The board has signed documentation from the EP that the EP wishes to have their information released to CMS;

• Information from the experience of care survey;".

31. On page 40207, third column, before the third full paragraph, in the section heading, line 1, the section number "(2)" is corrected to read "(ii)".

32. On page 40217, first column, fifth full paragraph, lines 8 through 10, the phrase "independent determination from the CBIC's recommendation to terminate" is corrected to read "independent recommendation whether to terminate".

33. On page 40225, lower third of the page, third column, before the last paragraph, in the section heading, the section number "3." is corrected to read "2.".

34. On page 40243—

a. Second column—

(1) Second full paragraph, lines 5 through 7, the phrase "to physicians or other practitioners (as defined by the Secretary)" is corrected to read "to physicians, other practitioners (as defined by the Secretary), or hospitals".

(2) Last paragraph—

(a) Lines 2 and 3, the phrase "physicians and other providers" is corrected to read "physicians, other practitioners, and hospitals".

(b) Lines 3 and 4, the phrase, "allow physicians to continue" is corrected to read "allow physicians, other practitioners, and hospitals to continue".

b. Third column, first partial paragraph, lines 4 through 6, the phrase, "continued access to OTS items for beneficiaries while being seen in their physician's office." is corrected to read "access to these items for beneficiaries when these items are furnished by physicians, other practitioners, and hospitals to their own patients."

35. On page 40244, second column, first full paragraph—

a. Line 5, the phrase "switching beneficiaries" is corrected to read "incentivizing beneficiaries to switch".

b. Line 19, the phrase, "do require beneficiaries" is corrected to "do not require beneficiaries".

B. Corrections to the Regulations Text

1. On page 40259, second column, first partial paragraph § 414.904(d)(3)(iii)(A)—

a. Line 3, the phrase "quarters; immediately preceding" is corrected to read "quarters, immediately preceding".

b. Last line, the phrase "apply; and," is corrected to read "apply; and".

IV. Waiver of 60-Day Comment Period

We ordinarily permit a 60-day comment period on a notice of proposed rulemaking in the **Federal Register**, as provided in section 1871(b)(1) of the Act. However, this period may be shortened, as provided under section 1871(b)(2)(C) of the Act, when the Secretary finds good cause that a 60-day comment period would be impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

The changes made by this correction notice do not constitute agency rulemaking, and therefore the 60-day comment period does not apply. This correction notice merely corrects typographical and technical errors in the CY 2011 Physician Fee Schedule proposed rule and does not make substantive changes to the CY 2011 Physician Fee Schedule proposed rule appearing in the July 13, 2010 **Federal Register** that would require additional time on which to comment. Instead, this correction notice is intended to ensure the accuracy of the CY 2011 Physician Fee Schedule proposed rule. To the extent that the 60-day comment period does apply, we find good cause to shorten the period for the reasons set forth above.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 23, 2010.

Dawn L. Smalls,

Executive Secretary to the Department.

[FR Doc. 2010–21255 Filed 8–23–10; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. FRA–2009–0007, Notice No. 1]

RIN 2130–AC01

Track Safety Standards; Concrete Crossties

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA is proposing to amend the Federal Track Safety Standards to promote the safety of railroad operations over track constructed with concrete crossties. In particular, FRA is proposing specific requirements for effective concrete crossties, for rail fastening systems connected to concrete crossties, and for automated inspections of track constructed with concrete crossties. In addition, FRA is proposing to remove the provision on preemptive effect.

DATES: Written comments must be received by October 12, 2010. Comments received after that date will be considered to the extent possible without incurring additional delay or expense.

FRA anticipates being able to resolve this rulemaking without a public, oral hearing. However if FRA receives a specific request for a public, oral hearing prior to September 27, 2010, one will be scheduled and FRA will publish a supplemental notice in the **Federal Register** to inform interested parties of the date, time, and location of any such hearing.

ADDRESSES: *Comments:* Comments related to this Docket No. FRA–2009–0007, Notice No. 1 may be submitted by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.Regulations.gov.* Follow the online instructions for submitting comments.

• *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

• *Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, West Building, Ground floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket

number or Regulatory Identification Number (RIN) for this rulemaking. Please note that all comments received will be posted without change to *http://www.Regulations.gov,* including any personal information provided. *Please see* the discussion under the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.Regulations.gov* at any time or visit the Docket Management Facility, U.S. Department of Transportation, West Building, Ground floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenneth Rusk, Staff Director, Office of Railroad Safety, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone: (202) 493–6236); or Sarah Grimmer Yurasko, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone: (202) 493–6390).

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I. Concrete Crossties

A. Derailment in 2005 Near Home Valley, Washington

On April 3, 2005, a National Railroad Passenger Corporation (Amtrak) passenger train traveling at 60 miles per hour on the BNSF Railway Company's line through the Columbia River Gorge (near Home Valley, Washington) derailed on a 3-degree curve. According to the National Transportation Safety Board (NTSB), 30 people sustained injuries. Property damage totaled about $854,000. See NTSB/RAB–06–03. According to the NTSB, the accident was caused in part by excessive concrete crosstie abrasion, which allowed the outer rail to rotate outward and create a wide gage track condition. This accident illustrated the potential for track failure with subsequent derailment under conditions that might not be readily evident in a normal visual track inspection. Conditions giving rise to this risk may include concrete tie rail seat abrasion, track curvature, and operation of trains through curves at speeds leading to unbalance (which is more typical of passenger operations). Subsequently, this accident also called attention to the need for clearer and more appropriate requirements for concrete ties, in general. This proposed rule addresses this complex of issues as further described below.

B. General Factual Background on Concrete Crossties

Traditionally, crossties have been made of wood, but due to improved continuous welded rail processes, elastic fastener technology, and concrete prestressing techniques, the use of concrete crossties is widespread and growing. On major railroads in the United States, concrete crossties make up an estimated 20 percent of all installed crossties. A major advantage of concrete crossties is that they transmit imposed wheel loads better than traditional wood crossties, although they are susceptible to stress from high-impact loads. Another advantage of concrete crossties over wood ties is that temperature change has little effect on concrete's durability, and concrete ties often provide better resistance from track buckling.

There are, however, situations that can negatively impact a concrete crosstie's effectiveness. For example, in wet climates, eccentric wheel loads and noncompliant track geometry can cause high-concentrated non-uniform dynamic loading, usually toward the field-side of the concrete rail base. This highly-concentrated non-uniform dynamic loading puts stress on the crosstie that can lead to the development of a fracture. Additionally, repeated wheel loading rapidly accelerates rail seat deterioration where the padding material fails and the rail steel is in direct contact with the concrete. The use of automated technology can help inspectors ensure rail safety on track constructed of concrete crossties. While wood and concrete crossties differ structurally, they both must still support the track in compliance with the Federal Track Safety Standards (49 CFR part 213).

Although timber crossties are more prevalent throughout track in the United States, the use of concrete crossties in the railroad industry, either experimentally or under revenue service, dates back to 1893. The first railroad to use concrete crossties was the Philadelphia and Reading Company in Germantown, PA.[1] In 1961, the Association of American Railroads (AAR)[2] carried out comprehensive laboratory and field tests on prestressed concrete crosstie performance. Replacing timber crossties with concrete crossties on a one-to-one basis at 19½ inch spacing proved acceptable based on engineering performance, but was uneconomical.

Increasing crosstie spacing from the conventional 20 inches to 30 inches increased the rail bending stress and the load that each crosstie transmitted to the ballast; however, the increased rail bending stress was within design limits. Further, by increasing the crosstie base to 12 inches, the pressure transmitted from crosstie to ballast was the same as for timber crossties. Thus, by increasing the spacing of the crossties while maintaining rail, crosstie, and ballast stress at acceptable levels, the initial research showed that fewer concrete crossties than timber crossties could be used, making the application of concrete crossties an economical alternative to timber crossties.

Early research efforts in the 1960s and 1970s were focused on the strength characteristics of concrete crossties, *i.e.,* bending at the top center and at the bottom of the crosstie under the rail seat or the rail-crosstie interface, and material optimization such as aggregate and prestressing tendons and concrete failure at the rail-crosstie and ballast-crosstie interface. Renewed efforts regarding the use of concrete crossties in the United States in the 1970s were led by a major research effort to optimize crosstie design at the Portland Cement Association Laboratories (PCA).

The PCA's research included the use of various shapes, sizes, and materials to develop the most economically desirable concrete crosstie possible. Extensive use of concrete crossties by

[1] J.W. Weber, "Concrete crossties in the United States," International Journal Prestressed Concrete Vol. 14 No. 1, February 1969.

[2] "Prestressed concrete crosstie investigation," AAR, Engineering research division, Report No. ER–20 November 1961; and G.M. Magee and E.J. Ruble, "Service Test on Prestressed Concrete Crossties," Railway Track and Structures, September 1960.

railroads all over the world since the 1970s indicates that concrete crossties are an acceptable design alternative for use in modern track. Test sections on various railroads were set up in the 1970s to evaluate the performance of concrete crossties. Such installations were on the Alaska Railroad, Chessie System, The Atchison, Topeka and Santa Fe Railway Company, the Norfolk and Western Railway Company, and the Facility for Accelerated Service Testing (FAST) in Pueblo, Colorado.[3]

During the 1970s, PCA addressed several of the initial concrete design problems, including quality control issues and abrasion. Abrasion, or failure of the concrete surface between the rail and crossties, became apparent when large sections of track were converted to concrete crossties, especially on high-curvature and high-tonnage territories. This phenomenon, commonly termed "rail seat abrasion," was noted in one form or another on four major railroads in North America (or their predecessors): Canadian Pacific Railway (CP); Canadian National Railway (CN); BNSF; and Union Pacific Railroad Company (UP).[4] CN's concrete crosstie program started in 1976, and researchers noted that rail seat abrasion was generally less than 0.2 inches by 1991. In a few cases, particularly on curved track, rail seat abrasion of as much as 1 inch has been noted. In the majority of cases, especially on tangent or light curvature track, rail seat abrasion was uniform across the rail seat. BNSF started its program in 1986 and noted the same pattern of abrasion as CN with most of the abrasion occurring on curves. At CP, rail seat abrasion was present on 5-degree curves, and CP used a bonded pad to reduce rail seat abrasion. CP's experience indicated that evidence of abrasion appeared shortly after failure of the bonded pad. At other locations where test sites were set up under less severe environments, concrete crossties were installed with no apparent sign of rail seat abrasion.

Mechanisms that lead to rail seat abrasion include the development of abrasive slurry between the rail pad and the concrete crosstie. Slurry is made up of various materials including dust particles, fine material from the breakdown of the ballast particles, grinding debris from rail grinders, and sand from locomotive sanding or blown by the wind. This slurry, driven by the rail movement, abrades the concrete surface and leaves the concrete aggregate exposed, generating concentrated forces on the rail pads. This abrasion process is accelerated once the pad is substantially degraded and the rail base makes direct contact with the concrete crosstie.

Recently, a new form of rail seat abrasion, which is believed to be attributable to excessive compression forces on the rail seat area, was noted on high-curvature territory. The wear patterns in these locations have a triangular shape when viewed from the side of the crosstie. These wear patterns are similar in shape to the rail seat pressure distribution calculated when a vertical load and overturning moment are applied. The high vertical and lateral forces applied to the high rail by a curving vehicle provide such a vertical load and an overturning moment that loads the rail base unevenly.

Anecdotal evidence indicates that once this triangular shape wear pattern develops and moves beyond the two-thirds point of the rail seat, as referenced from the field side, a high negative cant is created, leading to high compressive forces on the field side. These forces are high even in the absence of an overturning moment since the rail is now bearing on only a fraction of the original bearing area. Further, it is believed that once the rail seat wears to this triangular shape, the degradation rate is accelerated due to the high compressive forces.

It is apparent that at this time, elimination of rail seat abrasion in existing concrete crossties would be difficult in areas with severe operating conditions. Mitigation of the problem on new or existing crossties is required. For new crosstie construction, it is possible to focus research efforts on strengthening the rail seat area with use of high-strength concrete or with embedding a steel plate at the time new crossties are cast. Both options have a high probability of success, but could render concrete crossties uneconomical.

Modern concrete crossties are designed to accept the stresses imposed by irregular rail head geometry and loss, excessive wheel loading caused by wheel irregularities (out of round), excessive unbalance speed, and track geometry defects. In developing the proposed regulatory text, FRA considered the worst combinations of conditions, which can cause excessive impact and eccentric loading stresses that would increase failure rates. FRA also considered other measures in the proposed requirements concerning loss of toeload and longitudinal and lateral restraint, in addition to improper rail cant.

C. Statutory Mandate To Conduct This Rulemaking

On October 16, 2008, the Rail Safety Improvement Act of 2008 (Pub. L. 110–432, Division A) ("RSIA") was enacted. Section 403(d) of RSIA states that "[n]ot later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations for concrete cross ties. In developing the regulations for class 1 through 5 track, the Secretary may address, as appropriate—(1) limits for rail seat abrasion; (2) concrete cross tie pad wear limits; (3) missing or broken rail fasteners; (4) loss of appropriate toeload pressure; (5) improper fastener configurations; and (6) excessive lateral rail movement." The Secretary delegated his responsibilities under RSIA to the Administrator of FRA. See 49 CFR 1.49(oo).

Regulations governing the use of concrete crossties currently address only high-speed rail operations (Class 6 track and above).[5] For track Classes 1–5 (the lower speed classes of track), concrete crossties have been treated, from the regulatory aspect, as timber crossties. While this approach works well for the major concerns with concrete crossties, it does not address the critical issue of rail seat abrasion, which this NPRM proposes to address. Also not addressed in the current regulation is the longitudinal rail restraint provided by concrete crossties, which is totally different than the restraint provided by timber crossties. This NPRM addresses these shortcomings and proposes new methodologies for inspection.

II. Overview of FRA's Railroad Safety Advisory Committee (RSAC)

In March 1996, FRA established RSAC, which provides a forum for developing consensus recommendations to the Administrator of FRA on rulemakings and other safety program issues. RSAC includes representation from all of the agency's major stakeholders, including railroads, labor organizations, suppliers and manufacturers, and other interested parties. An alphabetical list of RSAC members follows:

AAR;
American Association of Private Railroad Car Owners;
American Association of State Highway and Transportation Officials;
American Chemistry Council;
American Petrochemical Institute;
American Public Transportation Association (APTA);

[3] T.Y. Lin, "*Design of Prestressed Concrete Structures*," Third Edition, John Wiley & Sons.

[4] Albert J. Reinschmidt, "Rail-seat abrasion: Causes and the search for the cure," Railway Track and Structures, July 1991.

[5] *See* 49 CFR 213.335(d).

American Short Line and Regional Railroad Association (ASLRRA);
American Train Dispatchers Association;
Amtrak;
Association of Railway Museums;
Association of State Rail Safety Managers (ASRSM);
Brotherhood of Locomotive Engineers and Trainmen (BLET);
Brotherhood of Maintenance of Way Employees Division (BMWED);
Brotherhood of Railroad Signalmen (BRS);
Chlorine Institute;
Federal Transit Administration;*
Fertilizer Institute;
High Speed Ground Transportation Association;
Institute of Makers of Explosives;
International Association of Machinists and Aerospace Workers;
International Brotherhood of Electrical Workers;
Labor Council for Latin American Advancement;*
League of Railway Industry Women;*
National Association of Railroad Passengers;
National Association of Railway Business Women;*
National Conference of Firemen & Oilers;
National Railroad Construction and Maintenance Association;
NTSB;*
Railway Supply Institute;
Safe Travel America;
Secretaria de Comunicaciones y Transporte;*
Sheet Metal Workers International Association;
Tourist Railway Association Inc.;
Transport Canada;*
Transport Workers Union of America;
Transportation Communications International Union/BRC;
Transportation Security Administration; and
United Transportation Union (UTU).

**Indicates associate, non-voting membership.*

When appropriate, FRA assigns a task to RSAC, and after consideration and debate, RSAC may accept or reject the task. If the task is accepted, RSAC establishes a working group that possesses the appropriate expertise and representation of interests to develop recommendations to FRA for action on the task. These recommendations are developed by consensus. A working group may establish one or more task forces to develop facts and options on a particular aspect of a given task. The task force then provides that information to the working group for consideration.

If a working group comes to a unanimous consensus on recommendations for action, the package is presented to the full RSAC for a vote. If the proposal is accepted by a simple majority of RSAC, the proposal is formally recommended to FRA. FRA then determines what action to take on the recommendation. Because FRA staff members play an active role at the working group level in discussing the issues and options and in drafting the language of the consensus proposal, FRA is often favorably inclined toward the RSAC recommendation.

However, FRA is in no way bound to follow the recommendation, and the agency exercises its independent judgment on whether the recommended rule achieves the agency's regulatory goals, is soundly supported, and is in accordance with policy and legal requirements. Often, FRA varies in some respects from the RSAC recommendation in developing the actual regulatory proposal or final rule. Any such variations would be noted and explained in the rulemaking document issued by FRA. If the working group or RSAC is unable to reach consensus on recommendations for action, FRA moves ahead to resolve the issue through traditional rulemaking proceedings.

III. RSAC Track Safety Standards Working Group

The Track Safety Standards Working Group ("Working Group") was formed on February 22, 2006. On October 27, 2007, the Working Group formed two subcommittees: The Rail Integrity Task Force ("RITF") and the Concrete Crosstie Task Force ("CCTF"). Principally in response to NTSB recommendation R–06–19,[6] the task statement description for the CCTF was to consider improvements in the Track Safety Standards related to fastening of rail to concrete crossties. The newly formed CCTF was directed to do the following: (1) Provide background information regarding the amount and use of concrete crossties in the U.S. rail network; (2) review minimum safety requirements in the Federal Track Safety Standards for crossties at 49 CFR 213.109 and 213.335, as well as relevant American Railway Engineering and Maintenance-of-Way Association (AREMA) concrete construction specifications; (3) understand the science (mechanical and compressive forces) of rail seat failure on concrete ties; (4) develop a performance specification for all types of crosstie material for FRA Class 2 through 5 main line track; (5) develop specifications for missing or broken concrete fastener and crosstie track structure components and/or establish wear limits for rail seat deterioration and rail fastener integrity; and (6) develop manual and automated methods to detect rail seat failure on concrete ties.

The CCTF met on November 26–27, 2007; February 13–14, 2008; April 16–17, 2008; July 9–10, 2008; and November 19–20, 2008. The CCTF's findings were reported to the Working Group on November 19, 2008. The Working Group reached a consensus on the majority of the CCTF's work and forwarded a proposal to RSAC on December 10, 2008. RSAC voted to approve the Working Group's recommended text, which is the basis of this NPRM.

In addition to FRA staff, the members of the Working Group include the following:

AAR, including members from BNSF, CN, CP, CSX Transportation, Inc., The Kansas City Southern Railway Company, Norfolk Southern Railway Company, and UP;
Amtrak;
APTA, including members from Port Authority Trans-Hudson Corporation, LTK Engineering Services, Northeast Illinois Regional Commuter Railroad Corporation (Metra), and Peninsula Corridor Joint Powers Board (Caltrain);
ASLRRA (representing short line and regional railroads);
BLET;
BMWED;
BRS;
Transportation Technology Center, Inc.; and
UTU.

Staff from the Department of Transportation's John A. Volpe National Transportation Systems Center attended all of the meetings and contributed to the technical discussions. In addition, NTSB staff attended all of the meetings and contributed to the discussions as well.

When appropriate, FRA assigns a task to RSAC, and after consideration and debate, RSAC may accept or reject the task. If the task is accepted, RSAC establishes a working group that possesses the appropriate expertise and representation of interests to develop recommendations to FRA for action on

[6] NTSB recommended that FRA "[e]xtend[,] to all classes of track[,] safety standards for concrete crossties that address at a minimum the following: limits for rail seat abrasion, concrete crosstie pad wear limits, missing or broken rail fasteners, loss of appropriate toeload pressure, improper fastener configurations, and excessive lateral rail movement." NTSB Safety Recommendation R–06–19, dated October 25, 2006.

the task. These recommendations are developed by consensus. A working group may establish one or more task forces to develop facts and options on a particular aspect of a given task. The task force then provides that information to the working group for consideration. If a working group comes to unanimous consensus on recommendations for action, the package is presented to the full RSAC for a vote. If the proposal is accepted by a simple majority of RSAC, the proposal is formally recommended to FRA. FRA then determines what action to take on the recommendation. Because FRA staff plays an active role at the working group level in discussing the issues and options and in drafting the language of the consensus proposal, FRA is often favorably inclined toward the RSAC recommendation.

However, FRA is in no way bound to follow the recommendation, and the agency exercises its independent judgment on whether the recommended rule achieves the agency's regulatory goal, is soundly supported, and is in accordance with policy and legal requirements. Often, FRA varies in some respects from the RSAC recommendation in developing the actual regulatory proposal or final rule. Any such variations would be noted and explained in the rulemaking document issued by FRA. If the working group or RSAC is unable to reach consensus on recommendations for action, FRA moves ahead to resolve the issue through traditional rulemaking proceedings.

FRA has worked closely with RSAC in developing its recommendations and believes that the RSAC has effectively addressed concerns with regard to the safety of concrete crossties. FRA has greatly benefited from the open, informed exchange of information during the meetings. There is a general consensus among railroads, rail labor organizations, State safety managers, and FRA concerning the primary principles that FRA sets forth in this NPRM. FRA believes that the expertise possessed by the RSAC representatives enhances the value of the recommendations, and FRA has made every effort to incorporate them in this proposed rule.

The Working Group was unable to reach consensus on one item that FRA has elected to include in this NPRM. The Working Group could not reach consensus on a single technology or methodology to measure the rail seat deterioration on concrete ties. Also, the group debated over whether or not the revised standards should contain language to accommodate the present technology. Encouraging public comment on this particular issue, FRA is proposing at 49 CFR 213.234(e) that the automated inspection measurement system must be capable of measuring and processing rail cant requirements that specify the following: (1) An accuracy angle, in degrees, to within ½ of a degree; (2) a distance-based sampling interval not exceeding two feet; and (3) calibration procedures and parameters assigned to the system, which assure that measured and recorded values accurately represent rail cant.

IV. FRA's Approach to Concrete Crossties in This NPRM

In this NPRM, FRA is proposing standards for the maintenance of concrete crossties in Classes 1 through 5 track. Specifically, FRA is proposing requirements to establish limits for rail seat abrasion, concrete crosstie pad wear limits, missing or broken rail fasteners, loss of appropriate toeload pressure, improper faster configuration, and excessive lateral rail movement. FRA is also proposing to add a section requiring the automated inspection of track constructed with concrete crossties.

In developing this NPRM, FRA relied heavily upon the work of the CCTF. The mission statement of the CCTF was to consider available scientific and empirical data or direct new studies to evaluate the concrete crosstie rail seat deterioration phenomenon and, through consensus, propose best practices, inspection criteria, or standards to assure concrete crosstie safety. The members of the CCTF worked together to develop definitions and terminology as required and to disseminate pertinent information and safety concerns.

The Federal Track Safety Standards prescribe minimum track geometry and structure requirements for specific railroad track conditions existing in isolation. Railroads are expected to maintain higher safety standards, and are not precluded from prescribing additional or more stringent requirements.

Currently, crossties are evaluated individually by the definitional and functional criteria set forth in the regulations. As promulgated in 49 CFR 213.109, crosstie "effectiveness" is naturally subjective, short of failure of the ties, and requires good judgment in the application and interpretation of the standard. The soundness of a crosstie is demonstrated when a 39-foot track segment maintains safe track geometry and structurally supports the imposed wheel loads with minimal deviation. Key to the track segment lateral, longitudinal, and vertical support is a strong track modulus, which is a measure of the vertical stiffness of the rail foundation, sustained by a superior superstructure (including rails, crossties, fasteners, etc.) and high-quality ballast characteristics that transmit both dynamic and thermal loads to the subgrade. Proper drainage free from excess moisture presence is an apparent and crucial factor in providing structural support.

A. Rail Cant

The Working Group discussed the concept of rail cant, but determined not to regulate this track geometric condition. The rail cant angle is described by AREMA as a degree of slope (cant) designed toward the centerline of the crosstie. FRA does not specifically use the term "rail cant" in any of its track regulations, including the standards in subpart G of part 213, which apply to track used for the operation of trains at greater than 90 miles per hour (mph) for passenger equipment and at greater than 80 mph for freight equipment (track Classes 6 and higher). However, "rail cant" is widely accepted and understood in the rail industry, and FRA has decided to use the term in the proposed rule. "Rail cant deviation" refers to the inward or outward angle made by the rail when the rail seat pad material deteriorates to a point that exposes the rail base to the concrete.

Automated technology that measures rail cant deviations exceeding proper design criteria is extremely efficient in identifying problems with the rail/crosstie interface such as rail seat abrasion (deterioration), ineffective fasteners, crosstie plate cutting (wood), missing or worn crosstie pads, and rail/plate misalignment. The deterioration or abrasion is the result of a compressive load and/or mechanical effects of deterioration from repetitious concentrated wheel loading, which typically develops a triangular void on the field side of the rail and allows the rail to tilt or roll outward under load, increasing gage widening and possible rail rollover relationships.

The CCTF could not reach consensus on a single technology or methodology to measure the rail cant angle when the concrete crosstie rail seat deteriorates. Also, the CCTF could not reach consensus on whether the revised standards should contain language to accommodate the present technology. The CCTF therefore recommended that FRA and the industry continue evaluating the possibility of developing rail seat deterioration standards for

concrete crossties for broader application within the industry.

An improper rail cant angle may be an indication of rail seat deterioration, which can be detected by a variety of methods. One method currently used is a rail profile measurement system to measure rail cant angle. Other, perhaps less costly, methods have not been fully developed. CCTF members chose not to be confined to one measurement system technology when others were available to select from in the marketplace. FRA welcomes public comment regarding the feasibility of technology as an alternative inspection standard or as an additional inspection method for the discovery and remediation of rail cant.

FRA proposes the text that it initially presented to the CCTF at 49 CFR 213.234(e) and welcomes public comment regarding the issue of measuring rail cant. FRA proposes that the automated inspection measurement system must be capable of measuring and processing rail cant requirements that specify the following: (1) An accuracy angle, in degrees, to within ½ of a degree; (2) a distance-based sampling interval not exceeding two feet; and (3) calibration procedures and parameters assigned to the system, which assure that measured and recorded values accurately represent rail cant. FRA is not proposing to mandate the use of a particular technology, rather that the technology selected by the track owner be capable of measuring and processing the rail cant requirements specified in 49 CFR 213.234(e).

B. Automated Inspections

Current inspections of crossties and fasteners rely heavily on visual inspections by track inspectors, whose knowledge is based on varying degrees of experience and training. The subjective nature of those inspections can sometimes create inconsistent determinations regarding the ability of individual crossties and fasteners to support and restrain track geometry. Concrete crossties may not always exhibit strong indications of rail seat deterioration. Rail seat deterioration is often difficult to identify even while conducting a walking visual inspection. Combined with excessive wheel loading and combinations of compliant but irregular geometry,[7] a group of concrete crossties remaining in track for an extended period of time may cause rail seat deterioration to develop rapidly. When a train applies an abnormally high lateral load to a section of track that exhibits rail seat deterioration, the result can be a wide gage or rail rollover derailment with the inherent risk of injury to railroad personnel and passengers, and damage to property.

[7] By "compliant but irregular geometry," FRA notes that track geometry can become irregular when multiple geometry measurements (gage, profile, or alinement) near the compliance limits. This combination of geometry conditions can cause irregular geometry that, when coupled with excessive wheel loading, can cause the rapid development of rail seat deterioration.

V. Section-by-Section Analysis

Section 213.2 Preemptive Effect

FRA proposes to remove this section from 49 CFR part 213. This section was prescribed in 1998 and has become outdated and, therefore, misleading because it does not reflect post-1998 amendments to 49 U.S.C. 20106. 63 FR 34029, June 22, 1998; Sec. 1710(c), Public Law 107–296, 116 Stat. 2319; Sec. 1528, Public Law 110–53, 121 Stat. 453. Although FRA considered updating this regulatory section, FRA now believes that the section is unnecessary because 49 U.S.C. 20106 sufficiently addresses the preemptive effect of part 213. In other words, providing a separate Federal regulatory provision concerning the proposed regulation's preemptive effect is duplicative of 49 U.S.C. 20106 and, therefore, unnecessary.

Section 213.109 Crossties

FRA proposes to amend this section to reflect recommendations made by the CCTF and adopted by RSAC. After discussion and review of concrete crosstie requirements in the higher speed subpart (subpart G of the Track Safety Standards), the CCTF concluded that performance specifications for concrete crossties are needed in the lower-speed standards. Specifically, requirements are needed to establish limits for rail seat abrasion, concrete crosstie pad wear limits, missing or broken rail fasteners, loss of appropriate toeload pressure, improper fastener configuration, and excessive lateral rail movement. The CCTF reviewed the method and manner of manual and automated inspection methods and technology to abate track-caused reportable derailments. FRA is proposing to revise this section to clarify the type of crosstie that will fulfill the requirements of paragraph (b) and to include requirements specific to concrete crossties.

Paragraph (b). FRA is proposing to clarify that only nondefective crossties may be counted to fulfill the requirements of the paragraph. Nondefective crossties are defined in proposed paragraphs (c) and (d). FRA is proposing to make other minor grammatical corrections to this paragraph, including moving the table of minimum number of crossties from paragraph (d) to proposed paragraph (b)(4).

Paragraph (c). FRA is proposing to state that this paragraph is specific to crossties other than concrete crossties.

Paragraph (d). FRA is proposing to move the existing table of minimum number of crossties from this paragraph, to proposed paragraph (b)(4). FRA is proposing to substitute language that delineates the requirements related to concrete crossties.

Paragraph (d)(1). FRA is proposing that, as with non-concrete crossties, concrete crossties counted to fulfill the requirements of proposed paragraph (b)(4) must not be broken through or deteriorated to the extent that prestressing material is visible. Crossties must not be so deteriorated that the prestressing material has visibly separated from, or visibly lost bond with, the concrete, resulting either in the crosstie's partial break-up, or in cracks that expose prestressing material due to spalls or chips, or in broken-out areas exposing prestressed material. Currently, metal reinforcing bars are used as the prestressing material in concrete crossties. FRA is proposing to use the term "prestressing material" in lieu of "metal reinforcing bars" to allow for future technological advances.

Crosstie failure is exhibited in three distinct ways: Stress induced (breaks, cracks); mechanical (abrasion); or chemical decomposition. Breaks, cracking, mechanical abrasion, or chemical reaction in small or large degrees compromise the crosstie's ability to maintain the rails in proper gage, alignment, and track surface.

There is distinction between "broken through" and "deteriorated to the extent that prestressing material is visible." Concrete crossties are manufactured in two basic designs: Twin-block and mono-block. Twin-block crossties are designed with two sections of concrete connected by exposed metal rods. A mono-block crosstie is similar in dimension to a timber or wood crosstie and contains prestress metal strands embedded into the concrete. The metal reinforcing strands in the concrete are observed at the ends of the crosstie for proper tension position. Prestressed reinforced concrete, including prestressed concrete ties, is made by stressing the reinforcing bar in a mold, then pouring cement concrete over the reinforcing bar in the mold. After the concrete cures, the tension on the reinforcing bar is released, and the ends of the reinforcing bar are trimmed, if appropriate for the use. The reinforcing bar remains in tension against the

concrete, which is very strong in compression. This allows the prestressed concrete to withstand both compressive and tensile loads. If the concrete spalls, or if the reinforcing bar is otherwise allowed to come out of contact with the concrete, then the reinforcing bar is no longer in tension, and the once prestressed concrete can no longer withstand tensile loads, and it will fail very rapidly in service, such as in a concrete tie.

FRA notes that prestressing material can be exposed in a concrete crosstie in a crack, but it can also be exposed on the side of the tie. When prestressing material becomes exposed on the side of the tie, the reinforcing bar is no longer in tension, the prestressed concrete can no longer withstand the tensile loads, and therefore a concrete crosstie can structurally fail.

The compressive strength of the concrete material and the amount of prestress applied in the manufacturing process provide the strength and stiffness necessary to adequately support and distribute wheel loads to the subgrade. The reinforcing metal strands/wires encased in concrete hold the crosstie together and provide tensile strength. However, significant cracking or discernible deterioration exposure of the reinforcing strands to water and oxygen produces loss of the prestress force through corrosion, concrete deterioration, and poor bonding. Loss of the prestress force renders the crosstie susceptible to structural failure and as a consequence, stability failure relating to track geometry noncompliance.

During routine inspections, spalls, chips, cracks, and similar breaks are easily visible. However, the compression of prestressed concrete crossties may close cracks as they occur, making them difficult to observe. Even such closed cracks probably weaken the crossties. Breaks or cracks are divided into three general conditions: Longitudinal; center; and rail seat. Longitudinal cracks are horizontal through the crosstie and extend parallel to its length. They are initiated by high impacts on one or both sides of the rail bearing inserts.

Crosstie center cracks are vertical cracks extending transversely or across the crosstie. These cracks are unusual and are the result of high negative bending movement (centerbound), originating at the crosstie top and extend to the bottom. Generally, the condition is progressive, and adjacent crossties may be affected. Rail seat cracks are vertical cracks that are not easily visible. They usually extend from the bottom of the crosstie on one or both sides of the crosstie and are often hard to detect. It is possible for a crosstie to be broken through, but, due to the location of the break, the prestressing material may not be visible. Crosstie strength, generally, does not fail unless the crack extends through the top layer of the prestress strands. Once the crack extends beyond the top layer, there is usually a loss of strand and concrete bond strength.

Paragraph (d)(2). FRA is proposing that crossties counted to fulfill the requirements of proposed paragraph (b)(4) of this section must not be deteriorated or broken off in the vicinity of the shoulder or insert so that the fastener assembly can either pull out or move laterally more than ⅜ inch relative to the crosstie. These conditions weaken rail fastener integrity.

Paragraph (d)(3). FRA proposes to prescribe that crossties counted to fulfill the requirements of proposed paragraph (b)(4) of this section must not be deteriorated such that the base of either rail can move laterally more than ⅜ inch relative to the crosstie on curves of 2 degrees or greater; or can move laterally more than ½ inch relative to the crosstie on tangent track or curves of less than 2 degrees. FRA's intent is to allow for a combination rail movement up to the dimensions specified, but not separately. The rail and fastener assembly work as a system, capable of providing electrical insulation, and adequate resistance to lateral displacement, undesired gage widening, rail canting, rail rollover, and abrasive or excessive compressive stresses. This paragraph was specifically added to address Sec. 403(d)(6) of RSIA, which states that the Secretary may address excessive lateral rail movement in the concrete crosstie regulations.

Paragraph (d)(4). FRA is proposing that crossties counted to fulfill the requirements of proposed paragraph (b)(4) of this section must not be deteriorated or abraded at any point under the rail seat to a depth of ½ inch or more. The measurement of ½ inch includes depth from the loss of rail pad material. The importance of having pad material in place with sufficient hysteresis (*i.e.,* resilience (elasticity) to dampen high impact loading and recover) is paramount to control rail seat cracks caused by rail surface defects, wheel flats, or out of round wheels. Additionally, concrete crossties must be capable of providing adequate rail longitudinal restraint from excessive rail creepage or thermally induced forces or stress. "Rail creepage" is the tractive effort or pulling force exerted by a locomotive or car wheels, and "thermally induced forces or stress" is the longitudinal expansion and contraction of the rail, creating either compressive or tensile forces as the rail temperature increases or decreases, respectively. The loss of pad material causes a loss of toeload force, which may decrease longitudinal restraint. This paragraph was specifically proposed to address Sec. 403(d)(1) of RSIA, which states that the Secretary may address limits for rail seat abrasion in the concrete crosstie regulations.

Paragraph (d)(5). FRA is proposing that crossties counted to fulfill the requirements of proposed paragraph (b)(4) of this section must not be deteriorated such that the crosstie's fastening or anchoring system is unable to maintain longitudinal rail restraint, maintain rail hold down, or maintain gage, due to insufficient fastener toeload. Inspectors evaluate crossties individually by "definitional and functional" criteria. A compliant crosstie is demonstrated when a 39-foot track segment maintains safe track geometry and structurally supports the imposed wheel loads. In addition to ballast, anchors bear against the sides of crossties to control longitudinal rail movement, and certain types of fasteners also act to control rail movement by exerting a downward clamping force (toeload) on the upper rail base. Part of the complexity of crosstie assessment is the fastener component. Both crossties and fasteners act as a system to deliver the expected performance effect. A noncompliant crosstie and defective fastener assembly improperly maintains the rail position and support on the crosstie and contributes to excessive lateral gage widening (rail cant-rail rollover), and longitudinal rail movement because of loss of toeload.

Fastener assemblies or anchoring systems allow a certain amount of rail movement through the crosstie to effectively relieve thermal stress buildup. However, because of the unrestrained buildup of thermal stresses, the longitudinal expansion and contraction of the rail creates either compressive or tensile forces, respectively. When longitudinal rail movement is uncontrolled, it may disturb the track structure, causing misalignment (compression) or pull-apart (tensile) conditions to catastrophic failure. Specific longitudinal performance metrics would be undesirable and restrict certain fastener assembly designs and capabilities to control longitudinal rail movement. Therefore, track inspectors use good judgment in determining fastener assembly and crosstie effectiveness. This paragraph proposes to address Sec. 403(d)(3) and (d)(4) of RSIA, which state

that the Secretary may address, in the concrete crosstie regulations, missing or broken rail fasteners, and loss of appropriate toeload pressure.

Paragraph (d)(6). FRA is proposing that crossties counted to fulfill the requirements of proposed paragraph (b)(4) of this section must not be configured with less than two fasteners on the same rail except as provided in proposed § 213.127(c). FRA is proposing to revise this section, discussed further below, to include requirements specific to fasteners utilized in conjunction with concrete crossties.

Section 213.127 Rail Fastening Systems

FRA is proposing to revise this section by designating its existing text as paragraph (a) and adding new paragraphs (b) and (c).

Paragraph (b). FRA is proposing in this paragraph that, if rail anchors are applied to concrete crossties, the combination of the crossties, fasteners, and rail anchors must provide effective longitudinal restraint. FRA has elected not to define "effective longitudinal restraint," choosing instead to make this provision a performance-based standard.

Paragraph (c). FRA is proposing that, where fastener placement impedes insulated joints from performing as intended, the fastener may be modified or removed, provided that the crosstie supports the rail. By "supports," FRA means that the crosstie is in direct contact with the rail or leaves an incidental space between the tie and rail. Certain joint configurations do not permit conventional fasteners to fit properly. As a result, manufacturers offer a modified fastener to fit along the rail so that the fastener provides the longitudinal requirement, or it is removed completely, providing lateral restraint is accomplished by ensuring full contact with the rail.

FRA is requesting comment to provide stronger guidance regarding how a concrete tie provides support to the rail at a joint without a fastener present. The agency knows that this type of configuration is successful in maintaining the structural integrity in the field, but is interested in learning the quantifiable parameters of such a practice.

Section 213.234 Automated Inspection of Track Constructed With Concrete Crossties

FRA is proposing to add a new section requiring the automated inspection of track constructed with concrete crossties. Automated inspection technology is available to perform essential tasks necessary to supplement visual inspection, quantify performance-based specifications to guarantee safe car behavior, and provide objective confidence and ensure safe train operations. Automated inspections provide a level of safety superior to that of manual methods by better analyzing weak points in track geometry and structural components. The computer systems in automated inspection systems can accurately detect geometry deviations from the Track Safety Standards and can analyze areas that are often hard to examine with the human eye. Railroads benefit from automated inspection technology by having improved defect detection capabilities, suffering fewer track-related derailments, and improving overall track maintenance.

Automated inspection technology is used in Track Geometry Measurement Systems (TGMS), Gage Restraint Measurement Systems (GRMS), and Vehicle/Track Interaction (VTI) performance measurement systems. TGMS identify single or multiple noncompliant track geometry conditions. GRMS aid in locating good or poor performing track strength locations. VTI performance measurement systems encompass both acceleration and wheel forces that, when exceeding established thresholds, often cause damage to track components and rail equipment. These automated technologies may be combined in the same or different geometry car platforms or vehicles and require vehicle/track measurements to be made by truck frame accelerometers, carbody accelerometers, or by instrumented wheelsets to measure wheel/rail forces, ensuring performance limits are not exceeded.

Rail seat deterioration can be very difficult and time consuming for a track inspector to detect manually. Other than automated inspection, there are currently no other tools capable of aiding in the detection of rail seat deterioration. Automated inspection vehicles have proved effective in measuring rail seat deterioration, and the inspection vehicles can inspect much more rapidly and accurately than a visual track inspection.

Paragraph (a). FRA proposes that automated inspection technology shall be used to supplement visual inspection by Class I railroads including Amtrak, Class II railroads, other intercity passenger railroads, and commuter railroads or small governmental jurisdictions that serve populations greater than 50,000, on track constructed of concrete crossties for Class 3 main track over which regularly scheduled passenger service trains operate, and for all Class 4 and 5 main track constructed with concrete crossties. FRA is also proposing that automated inspections identify and report concrete crosstie deterioration or abrasion prohibited by proposed § 213.109(d)(4). The purpose of the automated inspection that would be required by this new paragraph is to measure for rail seat deterioration. As previously discussed, rail seat deterioration is the failure of the concrete surface between the rail and crossties. FRA is proposing in § 213.109(d)(4) that the crosstie must not be "deteriorated or abraded at any point under the rail seat to a depth of ½ inch or more." The depth includes the loss of rail pad material.

Paragraph (b). In this paragraph, FRA is proposing the frequencies at which track constructed of concrete crossties shall be inspected by automated means. FRA is proposing that an automated inspection be conducted twice each calendar year, with no less than 160 days between inspections, if annual tonnage on Class 4 and 5 main track and Class 3 main track with regularly scheduled passenger service exceeds 40 million gross tons (mgt). FRA is proposing that an automated inspection be conducted at least once each calendar year if annual tonnage on Class 4 and 5 main track and Class 3 track with regularly scheduled passenger service equals or is less than 40 mgt annually. FRA is also proposing that either an automated or walking inspection be conducted once per calendar year on Class 3, 4 and 5 main track with exclusively passenger service. And finally, FRA proposes that track not inspected in accordance with paragraph (b)(1) or (b)(2) of this section because of train operation interruption be reinspected within 45 days of the resumption of train operations by a walking or automated inspection. If this inspection is conducted as a walking inspection, FRA proposes that the next scheduled inspection be an automated inspection as proposed in this paragraph. FRA also requests comment on whether additional inspections should be required in passenger territory with significant freight tonnage and high track curvature and if so, how such requirements might be structured to target areas of risk while holding down costs.

Paragraph (c). In this paragraph, FRA proposes to exclude from the required automated inspections sections of tangent track of 600 feet or less constructed of concrete crossties, including, but not limited to, isolated track segments, experimental or test

track segments, highway/rail crossings, and wayside detectors. These exclusions are specified because FRA recognizes the economic burden caused by requiring automated inspections to be made on short isolated locations constructed of concrete crossties that may be difficult to measure without removal of additional material, such as grade crossing planking.

Paragraph (d). The Working Group was unable to come to consensus on this item. However, FRA determined that it would propose elements of the text that it presented to the Working Group. FRA proposes that the automated inspection measurement system must be capable of measuring and processing rail cant requirements which specify the following: (1) An accuracy angle, in degrees, to within ½ of a degree; (2) a distance-based sampling interval not exceeding two feet; and (3) calibration procedures and parameters assigned to the system, which assure that measured and recorded values accurately represent rail cant.

While other automated inspection technologies may exist in the field, FRA believes that the Rail Profile Measurement System (RPMS) is currently the best developed technology to measure rail seat deterioration. RPMS normally measures rail cant in tenths of a degree. It is often difficult to measure rail cant in the field with hand measurement tools because of the small dimension, *e.g.,* one degree rail cant angle equates to ⅛ inch depth between the rail seat and the rail. Typically the RPMS instrumentation onboard the FRA geometry cars are set to notify an advisory exception when the angle exceeds four degrees of negative or outward rail cant. This paragraph was specifically added to address Sec. 403(d)(1) of RSIA, which states that, in the concrete crosstie regulations, the Secretary may address limits for rail seat abrasion. FRA specifically requests public comment with regard to this item.

Paragraph (e). FRA is proposing that the automated inspection measurement system shall produce an exception report containing a systematic listing of all exceptions to § 213.109(d)(4), identified so that appropriate persons designated as fully qualified under § 213.7 can field-verify each exception. It would continue to state that each exception must be located and field-verified no later than 48 hours after the automated inspection, and that all field-verified exceptions are subject to all the requirements of part 213.

FRA expects that the track owner would want to ensure that any exception that the automated inspection detects would be field verified by a qualified person under § 213.7. This is not only to ensure that the exception report accurately reflects the conditions of the track, but also to ensure that a qualified person can take appropriate remedial action in a timely manner. Additionally, FRA reminds track owners that all field-verified exceptions are subject to all of the Track Safety Standards.

Paragraph (f). FRA is proposing that the track owner maintain a record of the inspection data and the exception record for the track inspected in accordance with this paragraph for a minimum of two years. The record must include the date and location of limits of the inspection, type and location of each exception, and the results of field verification, and remedial action if required. The locations required must be provided either by milepost or by some other objective means, such as by the location description provided by the Global Positioning System. This proposal is intended to require the track owner to keep a good record of the conditions of track constructed of concrete crossties and, through such records, to help FRA track inspectors to gain access to and accurately assess the railroad's compliance history.

Paragraph (g). FRA is proposing that the track owner institute the necessary procedures for maintaining the integrity of the data collected by the measurement system. The track owner must maintain and make available to FRA documented calibration procedures of the measurement system that, at a minimum, specifies an instrument verification procedure that will ensure correlation between measurements made on the ground and those recorded by the instrumentation. Also, the track owner must maintain each instrument used for determining compliance with this section such that it is accurate to within ⅛ of an inch for rail seat deterioration.

The purpose of this paragraph is to ensure that the equipment that the track owner is using to comply with the regulations accurately detects what it is designed to detect.

Paragraph (h). FRA is proposing that the track owner provide training in handling rail seat deterioration exceptions to all persons designated as fully qualified under § 213.7 and whose territories are subject to the requirements of § 213.234. At a minimum, the training shall address interpretation and handling of the exception reports generated by the automated inspection measurement system, locating and verifying exceptions in the field and required remedial action, and recordkeeping requirements.

FRA aims to ensure that all persons required to comply with the regulations are properly trained. Such persons should at least understand the basic principles of the required automated inspection process, including handling of the exception reports, field verification, and recordkeeping requirements. FRA requests public comment regarding the frequency at which such training should occur and the period for which training records should be retained.

VI. Regulatory Impact and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule has been evaluated in accordance with existing policies and procedures and determined to be non-significant under both Executive Order 12866 and DOT policies and procedures. *See* 44 FR 11034; February 26, 1979. FRA has conducted and placed in the docket a Regulatory Impact Analysis addressing the costs and benefits associated with this NPRM. Document inspection and copying facilities are available at the Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Docket material is also available for inspection on the Internet at *http://www.regulations.gov.* Photocopies may also be obtained by submitting a written request to the FRA Docket Clerk at the Office of Chief Counsel, Mail Stop 10, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; please refer to Docket No. FRA–2009–0007. FRA welcomes comments on this document.

The concrete tie standards are intended to avoid a relatively new type of derailment where a train traveling over concrete ties causes the rail to roll to the outside of a curve, because the rail seat has worn away (abraded). The proposed rule clarifies what constitutes an effective concrete tie and fastening system, and also requires railroads, other than small entities, to conduct automated inspections of the concrete ties.

For those automated inspection cars with a sufficient number of sensors to measure rail cant, but that do not currently measure rail cant, the owner, either a railroad or contractor, would have to modify the software to calculate rail cant and provide alarms for rail cant in excess of limits. This is the basic cost burden associated with this NPRM. FRA believes that measuring the rail cant

will avoid future accidents such as the accident near Home Valley, Washington, described above, in which 30 people (22 passengers and 8 employees) sustained minor injuries; 14 of those people were taken to local hospitals. Two of the injured passengers were kept overnight for further observation; the rest were released. Track and equipment damages, in addition to clearing costs associated with the accident, totaled about $854,000.

FRA is confident that implementation of the proposed rule would result in safety benefits of $124,800 annually after an initial cost of $1,400,000. Over 20 years, the discounted total benefit would be $1,414,682 at a 7 percent annual discount rate and $1,912,410 at a 3 percent annual discount rate. The costs are not discounted because they are incurred in the initial year, so the discounted net benefit will be $14,682 at a 7 percent annual discount rate and $512,410 at a 3 percent annual discount rate. Safety benefits would justify the initial investment. Based on a 7 percent discount rate, the benefits are slightly higher than the costs, and there is a meaningful reduction in safety risk, which is not fully quantified because some accident costs were not quantified. The net benefits are more significant at the 3 percent discount rate.

B. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 (the Act) (5 U.S.C. 601 *et seq.*) and Executive Order 13272 require a review of proposed and final rules to assess their impact on small entities. An agency must prepare an initial regulatory flexibility analysis unless it determines and certifies that a rule, if promulgated, would not have a significant impact on a substantial number of small entities.

The U.S. Small Business Administration (SBA) stipulates in its "Size Standards" that the largest a railroad business firm that is "for-profit" may be, and still be classified as a "small entity," is 1,500 employees for "Line-Haul Operating Railroads" and 500 employees for "Switching and Terminal Establishments." 13 CFR part 121. "Small entity" is defined in the Act as a small business that is independently owned and operated, and is not dominant in its field of operation. 5 U.S.C. 601. Additionally, 5 U.S.C. 601(5) defines "small entities" as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000. SBA's "Size Standards" may be altered by Federal agencies after consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final policy that formally establishes "small entities" as Class III railroads, contractors, and shippers meeting the economic criteria established for Class III railroads in 49 CFR 1201.1–1, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. 49 CFR part 209, app. C. FRA believes that no shippers, contractors, or small governmental jurisdictions would be affected by this proposal. At present there are no commuter railroads that would be considered small entities. The revenue requirement for Class III railroads is currently nominally $20 million or less in annual operating revenue. The $20-million limit (which is adjusted by applying the railroad revenue deflator adjustment) is based on the Surface Transportation Board's threshold for a Class III railroad carrier. FRA uses the same revenue dollar limit to determine whether a railroad or shipper or contractor is a small entity.

Class I railroads have significant segments of concrete crossties, and own the overwhelming majority of all installed crossties. About a dozen Class II railroads that were formerly parts of Class I systems may have limited segments, and some Class III railroads may have remote locations with concrete crossties, typically in turnouts. Small railroads were consulted during the RSAC Working Group deliberations, and their interests have been taken into consideration in this NPRM. The provisions requiring automated inspections do not apply to Class III railroads or any commuter railroads that may be considered small entities. Such entities would only be subject to new requirements for tie and fastener conditions; however, small railroads typically do not have large numbers of concrete ties, and the cost associated with meeting such requirements is not significant. Therefore, FRA is certifying that it expects there will be no significant economic impact on a substantial number of small entities.

FRA seeks comments on all aspects of this assessment and certification.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The section that contains the new information collection requirements is noted below, and the estimated burden time to fulfill each requirement is as follows:

49 CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
213.234–Automated Inspection of Track Constructed with Concrete Crossties:				
—Exception Reports	18 Railroads	150 reports	8 hours	1,200
—Field-Verified Exception Reports	18 Railroads	150 field verifications	2 hours	300
—Records of Inspection Data and Exception Records.	18 Railroads	150 records	30 minutes	75
—Procedures for Maintaining Data Integrity Collected by Measurement System.	18 Railroads	18 procedures	4 hours	72
—Training of Employees in Handling Seat Deterioration.	18 Railroads	2,000 trained employees.	8 hours	16,000

All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information. Pursuant to 44 U.S.C. 3506(c)(2)(B), FRA solicits comments concerning the following: Whether these information collection requirements are necessary for the proper performance of the functions of FRA, including whether the information has practical utility; the accuracy of FRA's estimates of the burden of the information collection requirements; the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology,

may be minimized. For information or a copy of the paperwork package submitted to OMB, contact Mr. Robert Brogan, Office of Railroad Safety, Information Clearance Officer, at 202–493–6292, or Ms. Kimberly Toone, Office of Financial Management and Administration, Information Clearance Officer, at 202–493–6132.

Organizations and individuals desiring to submit comments on the collection of information requirements should direct them to Mr. Robert Brogan or Ms. Kimberly Toone, Federal Railroad Administration, 1200 New Jersey Avenue, SE., 3rd Floor, Washington, DC 20590. Comments may also be submitted via e-mail to Mr. Brogan or Ms. Toone at the following address: *Robert.brogan@dot.gov; Kimberly.toone@dot.gov*

OMB is required to make a decision concerning the collection of information requirements contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The final rule and associated information collection submission will respond to any OMB or public comments on the information collection requirements contained in this proposal.

FRA is not authorized to impose a penalty on persons for violating information collection requirements that do not display a current OMB control number, if required. FRA intends to obtain current OMB control numbers for any new information collection requirements resulting from this rulemaking action prior to the effective date of the eventual final rule. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

D. Environmental Impact

FRA has evaluated this NPRM in accordance with its "Procedures for Considering Environmental Impacts" (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this action is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28547, May 26, 1999. In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this NPRM that might trigger the need for a more detailed environmental review. As a result, FRA finds that this NPRM is not a major Federal action significantly affecting the quality of the human environment.

E. Federalism Implications

Executive Order 13132, "Federalism" (64 FR 43255, Aug. 10, 1999), requires FRA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

FRA has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13132. If adopted, this proposed rule would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. FRA has also determined that this proposed rule would not impose substantial direct compliance costs on State and local governments. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Moreover, FRA notes that RSAC, which endorsed and recommended the majority of this proposed rule, has as permanent members, two organizations representing State and local interests: AASHTO and ASRSM. Both of these State organizations concurred with the RSAC recommendation made in this rulemaking. RSAC regularly provides recommendations to the Administrator of FRA for solutions to regulatory issues that reflect significant input from its State members. To date, FRA has received no indication of concerns about the federalism implications of this rulemaking from these representatives or from any other representatives of State government.

However, if adopted, this proposed rule could have preemptive effect by operation of law under 49 U.S.C. 20106 (Sec. 20106). Sec. 20106 provides that States may not adopt or continue in effect any law, regulation, or order related to railroad safety or security that covers the subject matter of a regulation prescribed or order issued by the Secretary of Transportation (with respect to railroad safety matters) or the Secretary of Homeland Security (with respect to railroad security matters), except when the State law, regulation, or order qualifies under the "local safety or security hazard" exception to Sec. 20106.

In sum, FRA has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13132. As explained above, FRA has determined that this proposed rule has no federalism implications, other than the possible preemption of State laws under Sec. 20106. Accordingly, FRA has determined that preparation of a federalism summary impact statement for this proposed rule is not required.

F. Unfunded Mandates Reform Act of 1995

Pursuant to Sec. 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency "shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)." Sec. 202 of the Act (2 U.S.C. 1532) further requires that "before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) [currently $140,800,000] in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement" detailing the effect on State, local, and tribal governments and the private sector. This NPRM will not result in the expenditure, in the

aggregate, of $140,800,000 or more in any one year, and thus preparation of such a statement is not required.

G. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any "significant energy action." *See* 66 FR 28355 (May 22, 2001). Under the Executive Order a "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this NPRM in accordance with Executive Order 13211. FRA has determined that this NPRM is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this NPRM is not a "significant energy action" within the meaning of the Executive Order.

H. Privacy Act Statement

Anyone is able to search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (Volume 65, Number 70, Pages 19477–78), or you may visit *http://DocketsInfo.dot.gov.*

List of Subjects in 49 CFR Part 213

Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend part 213 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 213—[AMENDED]

1. The authority citation for part 213 is revised to read as follows:

Authority: 49 U.S.C. 20102–20114 and 20142; Sec. 403, Div. A, Public Law 110–432, 122 Stat. 4885; 28 U.S.C. 2461, note; and 49 CFR1.49.

§ 213.2 [Removed]

2. Section 213.2, Preemptive effect, is removed.

3. Section 213.109 is revised to read as follows:

§ 213.109 Crossties.

(a) Crossties shall be made of a material to which rail can be securely fastened.

(b) Each 39-foot segment of track shall have at a minimum—

(1) A sufficient number of crossties that in combination provide effective support that will—

(i) Hold gage within the limits prescribed in § 213.53(b);

(ii) Maintain surface within the limits prescribed in § 213.63; and

(iii) Maintain alinement within the limits prescribed in § 213.55;

(2) The minimum number and type of crossties specified in paragraph (b)(4) of this section and described in paragraph (c) or (d), as applicable, of this section effectively distributed to support the entire segment;

(3) At least one nondefective crosstie of the type specified in paragraphs (c) and (d) of this section that is located at a joint location as specified in paragraph (e) of this section; and

(4) The minimum number of crossties as indicated in the following table.

FRA track class	Tangent track, turnouts, and curves	
	Tangent track and curved track less than or equal to 2 degrees	Turnouts and curved track greater than 2 degrees
Class 1	5	6
Class 2	8	9
Class 3	8	10
Class 4 and 5	12	14

(c) Crossties, other than concrete, counted to satisfy the requirements set forth in paragraph (b)(4) of this section shall not be—

(1) Broken through;

(2) Split or otherwise impaired to the extent the crosstie will allow the ballast to work through, or will not hold spikes or rail fasteners;

(3) So deteriorated that the crosstie plate or base of rail can move laterally ½; inch relative to the crosstie; or

(4) Cut by the crosstie plate through more than 40 percent of a crosstie's thickness.

(d) Concrete crossties counted to satisfy the requirements set forth in paragraph (b)(4) of this section shall not be—

(1) Broken through or deteriorated to the extent that prestressing material is visible;

(2) Deteriorated or broken off in the vicinity of the shoulder or insert so that the fastener assembly can either pull out or move laterally more than ⅜ inch relative to the crosstie;

(3) Deteriorated such that the base of either rail can move laterally more than ⅜ inch relative to the crosstie on curves of 2 degrees or greater; or can move laterally more than ½ inch relative to the crosstie on tangent track or curves of less than 2 degrees;

(4) Deteriorated or abraded at any point under the rail seat to a depth of ½ inch or more;

(5) Deteriorated such that the crosstie's fastening or anchoring system is unable to maintain longitudinal rail restraint, or maintain rail hold down, or maintain gage due to insufficient fastener toeload; or

(6) Configured with less than two fasteners on the same rail except as provided in § 213.127(c).

(e) Class 1 and 2 track shall have one crosstie whose centerline is within 24 inches of each rail joint (end) location. Class 3, 4, and 5 track shall have either one crosstie whose centerline is within 18 inches of each rail joint location or two crossties whose centerlines are within 24 inches either side of each rail joint location. The relative position of these crossties is described in the following three diagrams:

Each rail joint in Class 1 and 2 track shall be supported by at least one crosstie specified in paragraphs (c) and (d) of this section whose centerline is within 48 inches as shown in Figure 1.

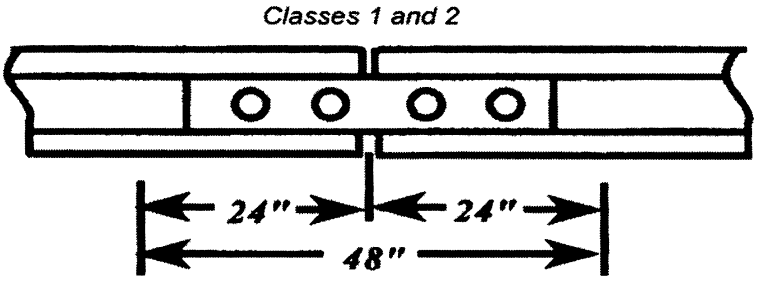

Figure 1

Each rail joint in Class 3, 4, and 5 track shall be supported by either at least one crosstie specified in paragraphs (c) and (d) of this section whose centerline is within 36 inches as shown in Figure 2, or:

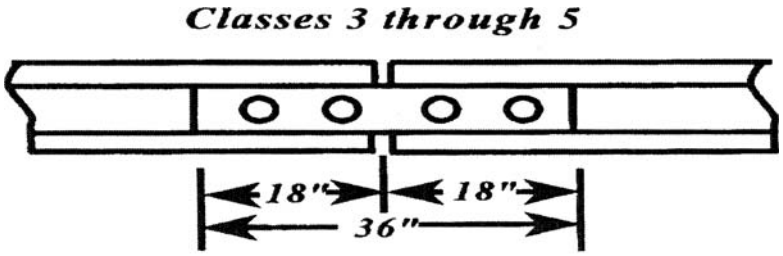

Figure 2

Two crossties, one on each side of the rail joint, whose centerlines are within 24 inches of the rail joint location as shown in Figure 3.

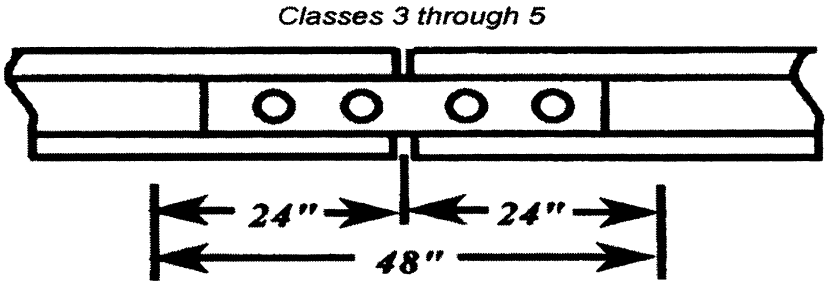

Figure 3

(f) For track constructed without crossties, such as slab track, track connected directly to bridge structural components, track over servicing pits, etc., the track structure shall meet the requirements of paragraph (b)(1) of this section.

4. Section 213.127 is revised to read as follows:

§ 213.127 Rail fastening systems.

(a) Track shall be fastened by a system of components that effectively maintains gage within the limits prescribed in § 213.53(b). Each component of each such system shall be evaluated to determine whether gage is effectively being maintained.

(b) If rail anchors are applied to concrete crossties, the combination of the crossties, fasteners, and rail anchors must provide effective longitudinal restraint.

(c) Where fastener placement impedes insulated joints from performing as intended, the fastener may be modified or removed, provided that the crosstie supports the rail.

5. New § 213.234 is added to read as follows:

§ 213.234 Automated inspection of track constructed with concrete crossties.

(a) *General.* Except for track described in paragraph (c) of this section, in addition to the track inspection required under § 213.233, for Class 3 main track constructed with concrete crossties over which regularly scheduled passenger service trains operate, and for Class 4 and 5 main track constructed with concrete crossties, automated inspection technology shall be used as indicated in paragraph (b) of this section, as a supplement to visual inspection, by Class I railroads (including Amtrak),

Class II railroads, other intercity passenger railroads, and commuter railroads or small governmental jurisdictions that serve populations greater than 50,000. Automated inspection shall identify and report exceptions to conditions described in § 213.109(d)(4).

(b) *Frequency of automated inspections.* Automated inspections shall be conducted at the following frequencies:

(1) If annual tonnage on Class 4 and 5 main track and Class 3 main track with regularly scheduled passenger service, exceeds 40 million gross tons (mgt) annually, at least twice each calendar year, with no less than 160 days between inspections.

(2) If annual tonnage on Class 4 and 5 main track and Class 3 main track with regularly scheduled passenger service is equal to or less than 40 mgt annually, at least once each calendar year.

(3) On Class 3, 4, and 5 main track with exclusively passenger service, either an automated inspection or walking inspection must be conducted once per calendar year.

(4) Track not inspected in accordance with paragraph (b)(1) or (b)(2) of this section because of train operation interruption shall be reinspected within 45 days of the resumption of train operations by a walking or automated inspection. If this inspection is conducted as a walking inspection, the next inspection shall be an automated inspection as prescribed in this paragraph.

(c) *Nonapplication.* Sections of tangent track 600 feet or less constructed of concrete crossties, including, but not limited to, isolated track segments, experimental or test track segments, highway-rail crossings, and wayside detectors, are excluded from the requirements of this section.

(d) *Performance standard for automated inspection measurement system.* The automated inspection measurement system must be capable of measuring and processing rail cant requirements that specify the following:

(1) An accuracy angle, in degrees, to within ½ of a degree;

(2) A distance-based sampling interval, which shall not exceed two feet; and

(3) Calibration procedures and parameters assigned to the system, which assure that measured and recorded values accurately represent rail cant.

(e) *Exception reports to be produced by system; duty to field-verify exceptions.* The automated inspection measurement system shall produce an exception report containing a systematic listing of all exceptions to § 213.109(d)(4), identified so that an appropriate person(s) designated as fully qualified under § 213.7 can field-verify each exception.

(1) Each exception must be located and field verified no later than 48 hours after the automated inspection.

(2) All field-verified exceptions are subject to all the requirements of this part.

(f) *Recordkeeping requirements.* The track owner shall maintain a record of the inspection data and the exception record for the track inspected in accordance with this paragraph for a minimum of two years. The exception reports must include the following:

(1) Date and location of limits of the inspection;

(2) Type and location of each exception; and

(3) Results of field verification, and remedial action if required.

(g) *Procedures for integrity of data.* The track owner shall institute the necessary procedures for maintaining the integrity of the data collected by the measurement system. At a minimum, the track owner shall do the following:

(1) Maintain and make available to FRA documented calibration procedures of the measurement system that, at a minimum, specify an instrument verification procedure that ensures correlation between measurements made on the ground and those recorded by the instrumentation; and

(2) Maintain each instrument used for determining compliance with this section such that it is accurate to within ⅛ of an inch for rail seat deterioration.

(h) *Training.* The track owner shall provide training in handling rail seat deterioration exceptions to all persons designated as fully qualified under § 213.7 and whose territories are subject to the requirements of § 213.234. At a minimum, the training shall address the following:

(1) Interpretation and handling of the exception reports generated by the automated inspection measurement system;

(2) Locating and verifying exceptions in the field and required remedial action; and

(3) Recordkeeping requirements.

Issued in Washington, DC, on August 23, 2010.

Joseph C. Szabo,

Administrator.

[FR Doc. 2010–21301 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–06–P

Notices

Federal Register

Vol. 75, No. 165

Thursday, August 26, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0055]

Notice of Request for Approval of an Information Collection; National Animal Health Monitoring System; Dairy Heifer Raiser 2010 Study

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to initiate an information collection to support the National Animal Health Monitoring System Dairy Heifer Raiser 2010 Study.

DATES: We will consider all comments that we receive on or before October 25, 2010.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0055*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0055, 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-2010-0055.

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: For information on the Dairy Heifer Raiser 2010 Study, contact Ms. Sandra Warnken, Management and Program Analyst, Centers for Epidemiology and Animal Health, VS, APHIS, 2150 Centre Avenue, Building B MS 2E3, Fort Collins, CO 80526; (970) 494-7193. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

SUPPLEMENTARY INFORMATION: *Title:* National Animal Health Monitoring System; Dairy Heifer Raiser 2010 Study.

OMB Number: 0579-xxxx.

Type of Request: Approval of a new information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) is authorized, among other things, to protect the health of our Nation's livestock and poultry populations by preventing the introduction and interstate spread of serious diseases and pests of livestock and for eradicating such diseases from the United States when feasible. In connection with this mission, APHIS operates the National Animal Health Monitoring System (NAHMS), which collects nationally representative, statistically valid, and scientifically sound data on the prevalence and economic importance of livestock diseases and associated risk factors.

NAHMS' national studies have evolved into a collaborative industry and government initiative to help determine the most effective means of preventing and controlling diseases of livestock. APHIS is the only agency responsible for collecting data on livestock health. Participation in any NAHMS study is voluntary, and all data are confidential.

APHIS plans to conduct the Dairy Heifer Raiser 2010 Study in cooperation with the Dairy Calf and Heifer Association (DCHA) and participating States. Because the respondent universe or population cannot be precisely defined, APHIS has asked DCHA and participating States to assist in identifying and contacting dairy heifer raising operations. This is a small population that has never been studied previously. We believe this population, which includes small farm operations, is important because the movement of animals between these operations and commercial dairy operations could potentially facilitate the transmission of critically important diseases, such as tuberculosis (TB) and bovine viral diarrhea (BVD). The 17 States targeted for the study participated in the NAHMS Dairy 2007 Study and account for approximately 82 percent of the dairy cow population in the United States and 80 percent of U.S. operations with dairy cows.

The purpose of this study is to collect information through a questionnaire to:

- Provide preliminary information on animal health and management practices for dairy heifer raising operations.
- Evaluate the biosecurity risks associated with the dairy heifer raising operations, e.g., commingling cattle from multiple operations and exposing young cattle to Mexican cattle.
- Assist in the development of a biosecurity assessment that can be used to evaluate the risk of disease transmission, e.g., TB and BVD, on dairy heifer raising operations.

The study will consist of a questionnaire to be mailed to and completed by participating producers or administered by APHIS-designated data collectors (primarily personnel from participating States). The information collected through the Dairy Heifer Raiser 2010 Study will be analyzed and organized into descriptive reports for DCHA members and each participating State and a summary report. Information will be disseminated to and used by a variety of constituents, including producers, veterinarians, stakeholders, academia, and others. The data will help APHIS address emerging issues and examine the impact of selected animal health management practices.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for 3 years.

The purpose of this notice is to solicit comments from the public (as well as agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.878 hours per response.

Respondents: Dairy heifer raisers in 17 States.

Estimated annual number of respondents: 1,000.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 1,000.

Estimated total annual burden on respondents: 878 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 20th day of August 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–21292 Filed 8–25–10; 8:45 am]

BILLING CODE 3410–34–S

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0073]

Fiscal Year 2011 Veterinary Import/Export Services, Veterinary Diagnostic Services, and Export Certification for Plants and Plant Products User Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to user fees charged for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors; for certain veterinary diagnostic services; and for export certification of plants and plant products. The purpose of this notice is to remind the public of the user fees for fiscal year 2011 (October 1, 2010, through September 30, 2011).

FOR FURTHER INFORMATION CONTACT: For information on Veterinary Diagnostic program operations, contact Dr. Elizabeth Lautner, Director, National Veterinary Services Laboratories, VS, APHIS, 1800 Dayton Avenue, Ames, IA 50010; (515) 663-7301.

For information on Veterinary Services import and export program operations, contact Ms. Carol A. Tuszynski, Director, Planning, Finance & Strategy, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-0832.

For information on plant and plant product export certification program operations, contact Mr. William E. Thomas, Director, Quarantine Policy, Analysis & Support, PPQ, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-5214.

For information concerning user fee rate development, contact Mrs. Kris Caraher, Section Head, User Fees Section, Financial Services Branch, FMD, MRPBS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737; (301) 734-0882.

SUPPLEMENTARY INFORMATION:

Background

Veterinary Import/Export User Fees

The regulations in 9 CFR part 130 (referred to below as the regulations) list user fees for import- and export-related services provided by the Animal and Plant Health Inspection Service (APHIS) for animals, animal products, birds, germ plasm, organisms, and vectors.

These user fees are authorized by section 2509(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a), which provides that the Secretary of Agriculture may establish and collect fees that will cover the cost of providing import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors.

The veterinary import/export user fees are found in §§ 130.2 through 130.11 and §§ 130.20 through 130.30 of the regulations and cover the following:

- Any service rendered by an APHIS representative for each animal or bird receiving standard housing, care, feed, and handling while quarantined in an APHIS-owned or -operated animal import center or quarantine facility;
- Birds or poultry, including zoo birds or poultry, receiving nonstandard housing, care, or handling to meet special requirements while quarantined in an APHIS-owned or -operated animal import center or quarantine facility;
- Exclusive use of space at APHIS Animal Import Centers;
- Processing import permit applications;
- Any service rendered by an APHIS representative for live animals presented for importation or entry into the United States through a land border port along the United States-Mexico border;
- Any service rendered for live animals at land border ports along the United States-Canada border;
- Miscellaneous services;
- Pet birds quarantined in an animal import center or other APHIS-owned or supervised quarantine facility;
- The inspection of various import and export facilities and establishments;
- The endorsement of export health certificates that do not require the verification of tests or vaccinations;
- The endorsement of export health certificates that require the verification of tests and vaccinations; and
- Hourly rate and minimum user fees.

On October 1, 2010, the veterinary import/export user fees for fiscal year 2011 will take effect. You may view the regulations in 9 CFR part 130, which includes charts showing all of the fiscal year 2011 veterinary import/export user fees, on the Internet at Regulation.gov, at (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0073*).

Veterinary Diagnostic Services User Fees

User fees to reimburse APHIS for the costs of providing veterinary diagnostic services are also contained in 9 CFR part 130. These user fees are authorized by section 2509(c) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a), which provides that the Secretary of Agriculture may, among other things, prescribe regulations and collect fees to recover the costs of veterinary diagnostics relating to the control and eradication of communicable diseases of livestock and poultry within the United States.

Veterinary diagnostics is the work performed in a laboratory to determine whether a disease-causing organism or chemical agent is present in body tissues or cells and, if so, to identify

those organisms or agents. Services in this category include: (1) Performing identification, serology, and pathobiology tests and providing diagnostic reagents and other veterinary diagnostic materials and services for the National Veterinary Services Laboratories (NVSL) in Ames, IA; and (2) performing laboratory tests and providing reagents and other veterinary diagnostic materials and services at the NVSL Foreign Animal Disease Diagnostic Laboratory (NVSL FADDL) in Greenport, NY.

The veterinary diagnostic services user fees are found in §§ 130.12 through 130.19 and cover the following:

- Virology identification tests performed at NVSL (excluding FADDL) or other authorized sites;
- Bacteriology serology tests performed at NVSL (excluding FADDL) or other authorized sites;
- Virology serology tests performed at NVSL (excluding FADDL) or other authorized sites;
- Veterinary diagnostic tests performed at the Pathobiology Laboratory at NVSL (excluding FADDL) or other authorized sites;
- Bacteriology reagents produced by the Diagnostic Bacteriology Laboratory at NVSL (excluding FADDL) or other authorized sites;
- Virology reagents produced by the Diagnostic Virology Laboratory at NVSL (excluding FADDL) or other authorized sites; and
- Other veterinary diagnostic services or materials available from NVSL (excluding FADDL).

On October 1, 2010, the veterinary diagnostic services user fees for fiscal year 2011 will take effect. You may view the regulations in 9 CFR part 130, which includes charts showing all of the fiscal year 2011 veterinary import/export user fees, on the Internet at Regulation.gov, at (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0073*).

User Fees for Export Certificates for Plants and Plant Products

User fees for the issuance of export certificates for plants and plant products are contained in 7 CFR part 354. Export certificates issued in accordance with the regulations certify agricultural products as being considered free from plant pests, according to the phytosanitary requirements of the foreign countries to which the plants and plant products may be exported. Export certificates are also issued to certify that reexported plants or plant products conform to the most current phytosanitary requirements of the importing country and that, during storage in the United States, the consignment has not been subjected to risk of infestation or infection. These export certificates must be issued in accordance with 7 CFR part 353 to be accepted in international commerce.

In a final rule published in the **Federal Register** on July 8, 2009 (74 FR 32391-32400, Docket No. APHIS-2006-0137), and effective October 1, 2009, we established, for fiscal years 2007 through 2012 and beyond, user fees charged for export certification of plants and plant products. Services for this category include: (1) Certification for export or reexport of a commercial shipment; (2) certification for export or reexport of a low-value commercial or noncommercial shipment; and (3) replacement of any certificate for export or reexport.

The user fees charged for export certificates for plants and plant products are found in § 354.3 and cover the following:

- Administrative fee for exporters who receive a certificate issued on behalf of APHIS by a designated State or county inspector;
- Fee for export or reexport certificate for a commercial shipment;
- Fee for an export or reexport certification for a low-value commercial shipment;
- Fee for an export or reexport certification for a noncommercial shipment; and
- Fee for replacing any certificate.

On October 1, 2010, the user fees charged for export certificates for plants and plant products for fiscal year 2011 will take effect. You may view the regulations in 7 CFR part 354, which includes charts showing all of the fiscal year 2011 user fees charged for export certificates for plants and plant products, on the Internet at Regulation.gov, at (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0073*).

Done in Washington, DC, this 20th day of August 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–21293 Filed 8–25–10; 8:45 am]

BILLING CODE 3410–34–S

DEPARTMENT OF AGRICULTURE

Forest Service

Yavapai County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Yavapai County Resource Advisory Committee (RAC) will meet in Prescott, Arizona. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to finalize the operating guidelines, project proposal criteria, and operting costs for the Yavapai County RAC.

DATES: The meeting will be held September 22, 2010; 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Prescott Fire Center, 2400 Melville Dr, Prescott, AZ 86301.

FOR FURTHER INFORMATION CONTACT: Debbie Maneely, RAC Coordinator, Prescott National Forest, 344 S. Cortez, Prescott, AZ 86301; (928) 443–8130 or *dmaneely@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Approve August meeting minutes; (2) discuss the Grants and Agreements process; (3) finalize the operating guidelines and project proposal tips and criteria; (4) create project evaluation criteria; (5) review draft news release for project proposals; (6) followup on bin items from last meeting; and (7) next meeting agenda, location, and date.

Dated: August 21, 2010.

Alan Quan,

Forest Supervisor.

[FR Doc. 2010–21299 Filed 8–25–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Missoula County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Lolo National Forest's Missoula County Resource Advisory Committee (RAC) will meet on Thursday, October 14, 2010 from 4 p.m. to 6 p.m., in Missoula, Montana. The purpose of the meeting is to review and vote on submitted proposals, and receive public comment on the meeting subjects and proceedings.

DATES: Thursday, October 14, 2010 from 4 p.m. to 6 p.m.

ADDRESSES: Missoula County Courthouse, Room 201; 200 W. Broadway, Missoula, MT 59802.

FOR FURTHER INFORMATION CONTACT: Boyd Hartwig; Address: Lolo National Forest, Building 24A Fort Missoula, Missoula, Montana 59804; Phone: 406–329–1024; e-mail: *bchartwig@fs.fed.us*.

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review of individual member proposal rankings; (2) brief discussion of proposals; (3) vote on proposals in order of ranking; (4) receive public comment; (5) review old business. There will be an open comment period for the public at the start of the meeting.

Dated: August 18, 2010.

Paul Matter,

Missoula District Ranger.

[FR Doc. 2010–21189 Filed 8–25–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Scale and Catch Weighing Requirements.

OMB Control Number: 0648–0330.

Form Number(s): NA.

Type of Request: Regular submission (renewal of a currently approved information collection).

Number of Respondents: 61.

Average Hours per Response: 21 hours for scale type evaluation; 45 minutes for records for daily flow scale tests; 45 minutes for records for daily automatic hopper scale tests; 1 minute for printed output, at-sea scales; 6 minutes for at-sea inspection request; 2 hours for at-sea scale approval report/sticker; 2 hours for observer sampling station inspection request; 1 hour for video monitoring system; 2 hours for bin monitoring inspection request; 2 minutes to notify observer of scale tests; 5 minutes to notify observer of offload schedule for BSAI pollock; 16 hours for crab catch monitoring plan; 40 hours for inshore catch monitoring and control plan (CMCP); 5 minutes for inshore CMCP inspection request; 1 minute for Alaska State scale printed output; and 8 hours for inshore CMCP addendum.

Burden Hours: 6,548.

Needs and Uses: The National Marine Fisheries Service (NMFS) scale and catch weighing requirements address performance standards designed to ensure that all catch delivered to the processor is accurately weighed and accounted for. As part of Fishery Management Plans developed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), scale and catch-weighing monitoring is required for Western Alaska Community Development Quota Program (CDQ) catcher/processors, American Fisheries Act (AFA) catcher/processors, AFA motherships, AFA shoreside processors and stationary floating processors, non-AFA trawl catcher/processors regulated under the annual Groundfish Retention Standard, and Crab Rationalization crab catcher/processors and Registered Crab Receivers.

NMFS has identified three primary objectives for monitoring catch. First, monitoring must ensure independent verification of catch weight, species composition, and location data for every delivery by a catcher vessel or every pot by a catcher/processor. Second, all catch must be weighed accurately using NMFS-approved scales to determine the weight of total catch. Third, the system must provide a verifiable record of the weight of each delivery. In addition, operators of these vessels must ensure that each haul is observed by a NMFS-approved observer for verification that all fish are weighed. To effectively manage fisheries, NMFS must have data that will provide reliable independent estimates of the total catch.

The catch weighing and monitoring system developed by NMFS for catcher/processors and motherships is based on the vessel meeting a series of design criteria. Because of the wide variations in factory layout for inshore processors, NMFS requires a performance-based catch monitoring system for inshore processors.

Affected Public: Business or other for-profit organizations.

Frequency: Annually, daily during fishing time, and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

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 6616, 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 David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: August 20, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–21183 Filed 8–25–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Annual Capital Expenditures Survey

AGENCY: U.S. Census Bureau.

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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before October 25, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 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(s) and instructions should be directed to Valerie Strang, Census Bureau, Room 6K171—South Building, Washington, DC 20233 (or via the Internet at *valerie.cherry.strang@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to conduct the 2010 through 2012 Annual Capital Expenditures Survey (ACES). The annual survey collects data on fixed assets and depreciation, sales and receipts, capitalized computer software, and capital expenditures for new and used structures and equipment. The ACES is the sole source of detailed comprehensive statistics on actual business spending for non-farm, non-governmental companies, organizations, and associations operating in the United

States. Both employer and nonemployer companies are included in the survey.

The Bureau of Economic Analysis, the primary Federal user of the ACES data, uses these data in refining and evaluating annual estimates of investment in structures and equipment in the national income and product accounts, compiling annual input-output tables, and computing gross domestic product by industry. The Federal Reserve Board uses these data to improve estimates of investment indicators for monetary policy. The Bureau of Labor Statistics uses these data to improve estimates of capital stocks for productivity analysis.

Industry analysts use these data for market analysis, economic forecasting, identifying business opportunities, product development, and business planning.

Changes from the previous ACES are the elimination of detailed capital expenditures by type of structure and type of equipment. These data, collected once every five years, were collected in the 2008 ACES and will not be collected again until the 2013 ACES, which is not included in the scope of the present requests for comments.

II. Method of Collection

The Census Bureau will primarily use mail out/mail back survey forms to collect data. Companies can respond via Centurion (The Bureau's online reporting system), by mail, or by using our toll-free number to reply via secure facsimile machine. Companies will be asked to respond to the survey within 30 days of the initial mailing. Letters and/or telephone calls encouraging participation will be directed to respondents that have not responded by the designated time.

Employer companies will be mailed one of three forms based on their diversity of operations and number of industries with payroll. Companies operating in only one industry will receive an ACE–1(S) form. Companies operating in more than one, but less than nine industries will receive an ACE–1(M) form. And, companies that operate in nine or more industries will receive an ACE–1(L). All nonemployer companies will receive an ACE–2 form.

III. Data

OMB Control Number: 0607–0782.

Form Number: ACE–1(S), ACE–1(M), ACE–1(L) and ACE–2.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations, non-profit institutions, small businesses or organizations, and self-employed individuals.

Estimated Number of Respondents: Approximately 77,000 (47,000 employer companies, and 30,000 nonemployer companies).

Estimated Time per Response: The average for all respondents is 1.99 hours. For employer companies completing form ACE–1, the range is 2 to 16 hours, averaging 2.56 hours. For companies completing form ACE–2, the range is less than 1 hour to 2 hours, averaging 1 hour.

Estimated Total Annual Burden Hours: 153,300.

Estimated Total Annual Cost: $4.4 million.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. 182, 224, and 225.

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: August 20, 2010.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–21205 Filed 8–25–10; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Information and Communication Technology Survey

AGENCY: U.S. Census Bureau.

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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before October 25, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 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(s) and instructions should be directed to Valerie Strang, Census Bureau, Room 6K171—South Building, Washington, DC 20233 (or via the Internet at *valerie.cherry.strang@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to conduct the 2010 through 2012 Information and Communication Technology Survey (ICTS). The annual survey collects data on two categories of non-capitalized expenses (purchases; and operating leases and rental payments) for four types of information and communication technology equipment and software (computers and peripheral equipment; ICT equipment, excluding computers and peripherals; electromedical and electrotherapeutic apparatus; and computer software, including payroll associated with software development). The survey also collects capital expenditures data on the four types of ICT equipment and software cited above. Only non-farm, non-governmental companies, organizations, and associations operating in the United States are included in this survey.

The Bureau of Economic Analysis (BEA), Federal Reserve Board, Bureau of Labor Statistics and industry analysts use these data to evaluate productivity and economic growth prospects. In addition, the ICTS provides improved source data significant to BEA's estimate of the investment component of Gross Domestic Product, capital stock estimates, and capital flow tables.

II. Method of Collection

The Census Bureau will primarily use mail out/mail back survey forms to collect data. Companies can respond via Centurion (the Bureau's online reporting system), by mail, or by using our toll-free number to reply via secure

facsimile machine. Companies will be asked to respond to the survey within 30 days of the initial mailing. Letters and/or telephone calls encouraging participation will be directed to respondents that have not responded by the designated time.

Employer companies will be mailed one of three forms based on their diversity of operations and number of industries with payroll. Companies operating in only one industry will receive an ICT–1(S) form. Companies operating in more than one, but less than nine industries will receive an ICT–1(M) form. And, companies that operate in nine or more industries will receive an ICT–1(L).

III. Data

OMB Control Number: 0607–0909.

Form Number: ICT–1(S), ICT–1(M), and ICT–1(L).

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations, non-profit institutions, small businesses or organizations.

Estimated Number of Respondents: Approximately 47,000 employer companies.

Estimated Time per Response: The average for all respondents is 1.80 hours with the range from less than 1 hour to 21 hours.

Estimated Total Annual Burden Hours: 84,610.

Estimated Total Annual Cost: $2.5 million.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 182, 224, and 225.

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: August 20, 2010.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–21204 Filed 8–25–10; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Potassium Permanganate from the People's Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order

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

DATES: *Effective Date:* August 26, 2010.

SUMMARY: On May 3, 2010, the Department of Commerce ("Department") initiated a sunset review of the antidumping duty order on potassium permanganate from the People's Republic of China ("PRC"). On the basis of a timely notice of intent to participate and an adequate substantive response filed on behalf of a domestic interested party, as well as a lack of response from respondent interested parties, the Department conducted an expedited sunset review. As a result of the sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Review* section of this notice.

FOR FURTHER INFORMATION CONTACT: Alexis Polovina, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–3927.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 2010, the Department published the notice of initiation of the sunset review of the antidumping duty order on potassium permanganate from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). *See Initiation of Five-Year ("Sunset") Review,* 75 FR 23240 (May 3, 2010). On May 6, 2010, the Department received a notice of intent to participate from a domestic producer, Carus Corporation ("Carus," "domestic interested party," or "Petitioner"). Submission of the notice of intent to participate filed by Petitioner was within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. The domestic interested party claimed interested party status under section 771(9)(C) of the Act, as Carus is a domestic manufacturer of potassium permanganate in the United States. On May 28, 2010, the Department received a substantive response from the domestic interested party within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive substantive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct an expedited review of the order.

Scope of the Order

Imports covered by the order are shipments of potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. Potassium permanganate is currently classifiable under item 2841.61.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the "Issues and Decision Memorandum" ("Decision Memorandum") from Edward C. Yang, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated August 19, 2010, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room 1117 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty order on potassium permanganate from the PRC

would be likely to lead to continuation or recurrence of dumping at the following percentage margins:

Manufacturers/producers/exporters	Margin (percent)
PRC-Wide	128.94

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

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

Dated: August 19, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–21288 Filed 8–25–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY43

Fisheries of the Gulf of Mexico and South Atlantic; Southeast Data, Assessment, and Review for Highly Migratory Species Fisheries Sandbar, Dusky, and Blacknose Sharks

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

ACTION: Notice of Southeast Data, Assessment, and Review (SEDAR 21) workshops for Highly Migratory Species (HMS) of sandbar, dusky, and blacknose sharks assessment webinar.

SUMMARY: The SEDAR 21 assessments of the HMS stocks of sandbar, dusky, and blacknose sharks will consist of a series of workshops and webinars: a Data Workshop, a series of Assessment webinars, and a Review Workshop (see **SUPPLEMENTARY INFORMATION**).

DATES: The SEDAR 21 Assessment Process I webinars will be held between September 14th and December 8th, 2010. Please see **SUPPLEMENTARY INFORMATION** for exact dates and times. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information.

FOR FURTHER INFORMATION CONTACT: Julie A Neer, SEDAR Coordinator, 4055 Faber Place, Suite 201, North Charleston, SC 29405; phone (843) 571–4366. Email: *Julie.neer@safmc.net*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop, (2) Assessment Process utilizing webinars and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and Federal agencies.

SEDAR 21 Assessment Process I Webinar Series

Using datasets recommended from the Data Workshop, participants will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

MEETING SCHEDULE

Webinar	Date	Day	Time (Eastern)
1	September 14, 2010	Tuesday	10 a.m. - 2 p.m.
2	September 16, 2010	Thursday	10 a.m. - 2 p.m.
3	September 30, 2010	Thursday	1 p.m. - 5 p.m.
4	October 5, 2010	Tuesday	9:30 a.m. - 12:30 p.m.
5	October 8, 2010	Friday	10 a.m. - 2 p.m.
6	October 26, 2010	Tuesday	10 a.m. - 2 p.m.
7	October 28, 2010	Thursday	10 a.m. - 2 p.m.
8	November 2, 2010	Tuesday	10 a.m. - 2 p.m.

MEETING SCHEDULE—Continued

Webinar	Date	Day	Time (Eastern)
9	November 4, 2010	Thursday	10 a.m. - 2 p.m.
10	November 8, 2010	Monday	10 a.m. - 2 p.m.
11	November 10, 2010	Wednesday	10 a.m. - 2 p.m.
12	December 8, 2010	Wednesday	10 a.m. - 2 p.m.

The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to the meeting.

August 23, 2010.

William D. Chappell,

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

[FR Doc. 2010–21237 Filed 8–25–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY42

North Pacific Fishery Management Council; Notice of Public Meeting

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

ACTION: Meetings of the North Pacific Fishery Management Council's Crab Plan Team (CPT).

SUMMARY: The CPT will meet September 13–16, 2010, at the Alaska Fishery Science Center. The agenda of these meetings are discussed in the **SUPPLEMENTARY INFORMATION** section of this document.

DATES: The meetings will be held September 13–16, 2010; 9 a.m. 5 p.m.

ADDRESSES: Alaska Fishery Science Center, 7600 Sand Point Way NE, Bldg 4, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Stram, at 907–271–2809.

SUPPLEMENTARY INFORMATION: The CPT will discuss: results of the 2010 survey; snow crab spatial model and management strategy evaluation projects; discuss progress of handling mortality studies; review the final stock assessment and fishery evaluation report; review Bristol Bay red king crab CIE report, review and recommend approaches for Tanner crab model, review and recommend approaches for Pribilof Islands blue king crab and red king crab models, receive an update on the Aleutian Islands golden king crab model; review the ACL analysis and recommend a preferred approach; review the snow crab rebuilding analysis and recommend a preferred approach; review Pribilof Islands blue king crab rebuilding plan; review Ecosystem Considerations chapter; and receive presentations on the Economic SAFE and aspects of the crab rationalization program.

The Agenda is subject to change, and the latest version will be posted at *http://www.alaskafisheries.noaa.gov/npfmc/*

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: August 23, 2010.

William D. Chappell,

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

[FR Doc. 2010–21236 Filed 8–25–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1702]

Reorganization of Foreign-Trade Zone 176 Under Alternative Site Framework, Rockford, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) in December 2008 (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09) as an option for the establishment or reorganization of general-purpose zones;

Whereas, the Greater Rockford Airport Authority, grantee of Foreign-Trade Zone 176, submitted an application to the Board (FTZ Docket 1–2010, filed 1/6/2010) for authority to reorganize under the ASF with a service area that includes Winnebago, Stephenson, Ogle, Lee, DeKalb, and Boone Counties, and portions of Bureau, McHenry and Kane Counties, Illinois, within and adjacent to the Rockford Customs and Border Protection port of entry, and FTZ 176's existing sites would be categorized as magnet sites;

Whereas, notice inviting public comment was given in the **Federal Register** (75 FR 2487, 1/15/10) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 176 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and to a five-year ASF sunset provision

for magnet sites that would terminate authority for Sites 3, 4 and 6 through 12 if not activated by August 31, 2015.

Signed at Washington, DC, this 19th day of August 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2010–21291 Filed 8–25–10; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

Acceptance of Public Submissions on the Wall Street Reform and Consumer Protection Act and the Rulemakings That Will Be Proposed by the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; Acceptance of public submissions.

SUMMARY: The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") was enacted on July 21, 2010. The Dodd-Frank Act, among other things, will bring comprehensive regulation to the over-the-counter ("OTC") derivatives marketplace for the first time. The Commodity Futures Trading Commission ("CFTC" or "Commission") will be implementing the Dodd-Frank Act by adopting rules to regulate the OTC derivatives market. The Commission welcomes the views of interested parties on the Dodd-Frank Act and the rulemakings that it will implement thereunder. The views of interested parties may be considered in the pre-proposal process but will not be treated as official comments on specific proposed rulemakings. As discussed in this notice, the Commission has made electronic mailboxes available for any submissions interested parties wish to make. Interested parties are advised that all submissions will be published on the Commission's Web site without review and without removal of the submitter's identifying information.

DATES: The Commission will accept submissions on each rulemaking topic until it publishes a proposed rulemaking for that topic in the **Federal Register**. Thereafter, the Commission will accept official comments on the proposed rulemaking until the close of the rulemaking's official comment period.

ADDRESSES: Submissions should be made to David Stawick, Secretary, Commodity Futures Trading Commission, by electronic mail to the electronic mailboxes specified herein. All submissions should be in English, or if not, accompanied by an English translation. Reference should be made in the subject line of the electronic mail to the rulemaking category on which views are being submitted, which is provided with their associated mailboxes.

FOR FURTHER INFORMATION CONTACT: Beverly E. Loew, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. *Telephone:* (202) 418–5648.

SUPPLEMENTARY INFORMATION:

On July 21, 2010, The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), Public Law 111–203, was enacted. The Dodd-Frank Act will bring comprehensive regulation to the OTC market. The Dodd-Frank Act authorizes the Commission to, among other things:

- Regulate OTC derivatives dealers by subjecting them to capital and margin requirements to lower risk in the financial system, by requiring them to meet robust business conduct standards to lower risk and promote market integrity, and by requiring them to meet recordkeeping and reporting requirements so that regulators can police the markets.
- Increase transparency in the derivatives marketplace by requiring standardized derivatives to be traded on regulated exchanges or swap execution facilities, instead of trading out of sight of the public.
- Lower risk by moving standardized derivatives into central clearinghouses.

The Commission has identified 30 areas in the Dodd-Frank Act in which rulemaking will be necessary and has received inquiries from interested persons wishing to submit their views on those areas. The Commission welcomes the views of all interested parties.

The Commission has established electronic mailboxes for 29 of the 30 rulemaking areas to facilitate the acceptance of submissions from interested parties. In addition, the Commission has established a mailbox for general comments on the Commission's rulemakings under the Dodd-Frank Act that either do not fit into one of the issue areas or that cover more than one area. The Commission is no longer accepting public submissions in the Retail Off-Exchange Foreign Currency area because the official public comment period for that proposed rulemaking closed on March 22, 2010. Prior to the publication of proposed rulemakings and commencement of official comment periods on regulations proposed under the Dodd-Frank Act, persons interested in making their views known on a particular rulemaking area may submit them by electronic mail to the mailbox associated with the area. The 30 rulemaking areas identified by the Commission are available on the Commission's Web site at *http://www.cftc.gov/LawRegulation/OTCDerivatives/otc_rules.html*. The electronic mail addresses for each rulemaking area are available by clicking on the hyperlink available for each area and additionally are provided herein:

- Comprehensive Regulation of Swap Dealers & Major Swap Participants

Registration	*OTCRegistration@CFTC.gov*
Definitions, such as Swap Dealer, Major Swap Participant, Security-Based Swap Dealer, and Major Security-Based Swap Participant, to be Written Jointly with SEC.	*OTCDefinitions@CFTC.gov*
Business Conduct Standards with Counterparties	*BusConductStandardsCP@CFTC.gov*
Internal Business Conduct Standards	*BusConductStandardsInternal@CFTC.gov*
Capital & Margin for Non-banks	*CapMargin@CFTC.gov*
Segregation & Bankruptcy for both Cleared and Uncleared Swaps	*SegBankruptcy@CFTC.gov*

- Clearing

DCO Core Principle Rulemaking, Interpretation & Guidance	*DCORules@CFTC.gov*
Process for Review of Swaps for Mandatory Clearing	*SwapReview@CFTC.gov*
Governance & Possible Limits on Ownership & Control	*DCOGovernance@CFTC.gov*

Systemically Important DCO Rules Authorized Under Title VIII	*SystemicDCO@CFTC.gov*
End-user Exception	*EndUser@CFTC.gov*

- Trading

DCM Core Principle Rulemaking, Interpretation & Guidance	*DCMRules@CFTC.gov*
SEF Registration Requirements and Core Principle Rulemaking, Interpretation & Guidance	*SEFRules@CFTC.gov*
New Registration Requirements for Foreign Boards of Trade	*FBOTRegistration@CFTC.gov*
Rule Certification & Approval Procedures (applicable to DCMs, DCOs, SEFs)	*RuleApproval@CFTC.gov*

- Data

Swap Data Repositories Registration Standards and Core Principle Rulemaking, Interpretation & Guidance.	*SwapDataRepositories@CFTC.gov*
Data Recordkeeping & Reporting Requirements	*Recordkeeping@CFTC.gov*
Real Time Reporting	*RealTimeReporting@CFTC.gov*

- Particular Products

Agricultural Swaps	*AgSwaps@CFTC.gov*
Foreign Currency (Retail Off-Exchange)	Comment period closed on March 22, 2010.
Joint Rules with SEC, such as "Swap" and "Security-Based Swap"	*JointSEC@CFTC.gov*
Portfolio Margining Procedures	*PortfolioMargining@CFTC.gov*

- Enforcement

Anti-Manipulation	*OTCManipulation@CFTC.gov*
Disruptive Trading Practices	*DisruptiveTrading@CFTC.gov*
Whistleblowers	*Whistleblowers@CFTC.gov*

- Position Limits

Position Limits, including Large Trader Reporting, Bona Fide Hedging Definition & Aggregate Limits	*PosLimits@CFTC.gov*

- Other Titles and General Comments

Investment Adviser Reporting	*InvestAdviser@CFTC.gov*
Volcker Rule	*VolckerRule@CFTC.gov*
Reliance on Credit Ratings	*CreditRatings@CFTC.gov*
Fair Credit Reporting Act and Disclosure of Nonpublic Personal Information	*FCRA@CFTC.gov*
Submissions on the Dodd-Frank Act Rulemakings Not Falling into	*dfarulemakings@cftc.gov*

Interested parties are hereby advised that the views they submit in the pre-proposal process to the Commission will not be treated as official comments on any of the proposed rulemakings. Interested parties who wish to submit official comments on a rulemaking should submit them during the comment period commencing with the notice of proposed rulemaking published by the Commission in the **Federal Register**.

Interested parties also should be advised that all submissions provided in any electronic form or on paper will be published on the Commission's Web site. The submissions will not be subject to pre-publication review, and personally identifying information will not be removed. Interested parties therefore should not submit any information to the Commission that they do not wish to be made public. All submissions are subject to the CFTC Privacy Policy, which is available at *http://www.cftc.gov/WebPolicy/index.htm#Privacy*.

Issued in Washington, DC, on August 20, 2010, by the Commission.

David Stawick,

Secretary of the Commission.

[FR Doc. 2010–21269 Filed 8–25–10; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2010–OS–0116]

Privacy Act of 1974; System of Records

AGENCY: Department of Defense (DoD).

ACTION: Notice to add a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add 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: This proposed action would be effective without further notice on September 27, 2010, unless comments are received which 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, Room 3C843 Pentagon, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records 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 Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington DC 20301–1155.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 16, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on 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: August 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHA 19

SYSTEM NAME:

Defense Occupational & Environmental Health Readiness System—Industrial Hygiene (DOEHRS–IH).

SYSTEM LOCATION:

Defense Information Systems Agency, Defense Enterprise Computing Center—Detachment, Kelly Air Force Base, 450 Duncan Drive, San Antonio, Texas 78241–5940.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty members, Reserve members, National Guard members, DoD employees, foreign affiliates, DoD OCONUS hires, and Foreign Nationals who work in areas which require longitudinal data related to occupational health.

CATEGORIES OF RECORDS IN THE SYSTEM:

Environmental monitoring data, military theater environmental monitoring data, personal protective equipment usage data, observation of work practices data, and employee health hazard educational data.

Records include the name, Social Security Number (SSN), date of birth, gender, address, telephone number, and Department of Defense (DoD) Electronic Data Interchange Personal Identifier (EDIPI) of individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C Chapter 55, Medical and Dental Care; 29 CFR 1910.1020, Access to Employee Exposure and Medical Records; 45 CFR Parts 160 and 164, Health Insurance Portability and Accountability Act, Privacy and Security Rules; DoDI 6055.1, Sec. 4.1, DoD Safety and Occupational Health Program; DoDI 6055.5, Industrial Hygiene and Occupational Health, reissued May 6, 1996; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

For longitudinal exposure recordkeeping and reporting to support the risk management process and occupational illness evaluation during all phases of military operations.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD "Blanket Routine Uses" statement set forth at the beginning of the Office of the Secretary of Defense compilation of systems of records notices apply to this system, except as identified below:

Note 1: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

Note 2: Personal identity, diagnosis, prognosis of any patient maintained in connection with the performance of any program 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, except as per 42 U.S.C. 290dd–2, treated as confidential and disclosed only for the purposes and under the circumstances expressly authorized under 42 U.S.C. 290dd–2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

By individual Social Security Number (SSN) and/or name.

SAFEGUARDS:

Physical access to system location restricted by cipher locks, visitor escort, access rosters, and photo identification. Adequate locks on doors and server components secured in a locked computer room with limited access. Each system end user device protected within a locked storage container, room, or building outside of normal business hours. All visitors and other persons that require access to facilities that house servers and other network devices supporting the system that do not have authorization for access escorted by appropriately screened/cleared personnel at all times.

The system provides two-factor authentication. The environment is Common Access Card enforced. Passwords must be renewed every sixty (60) days. Authorized personnel must have appropriate Information Assurance training, Health Insurance Portability and Accountability Act training, and Privacy Act of 1974 training.

RETENTION AND DISPOSAL:

Review each file at the end of the calendar year and cut off inactive materials; retire in the current files area for ten (10) years and retire to Washington National Records Center; destroy forty (40) years after cut-off.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Defense Health Services Systems, 5201 Leesburg Pike,

Suite 900, Falls Church, Virginia 22041–3208.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, *Attn:* TMA Privacy Officer, 5111 Leesburg Pike, Suite 810, Falls Church, Virginia, 22041–3206.

Requests must contain the individual's full name, Social Security Number (SSN), current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written requests to the TRICARE Management Activity, *Attn:* Freedom of Information Act Requester Service Center, 16401 Centretech Parkway, Aurora, Colorado 80011–9066.

Requests should contain the individual's full name, Social Security Number (SSN), and date of birth.

CONTESTING RECORD PROCEDURES:

OSD Administrative Instruction 81; 32 CFR Part 311, contains the published rules for records access, contests to content, and appeals to initial agency determinations. The system manager is also a resource for requests for this publication.

RECORD SOURCE CATEGORIES:

Selected electronic data elements extracted from the Defense Enrollment Eligibility Reporting System.

EXEMPTIONS CLAIMED:

None.

[FR Doc. 2010–21270 Filed 8–25–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2010–OS–0119]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on September 27, 2010, unless comments are received which 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, Room 3C843 Pentagon, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency 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 Privacy Act Officer, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Stop 16443, Fort Belvoir, VA 22060–6221.

The proposed system report, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, was submitted on August 16, 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: August 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S800.10 DLSC

SYSTEM NAME:

Federal Property End Use Files (January 20, 2000; 73 FR 3222).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with "S640.45."

SYSTEM NAME:

Delete entry and replace with "End Use Certificates."

SYSTEM LOCATION:

Delete entry and replace with "Records are maintained by the Commander, Defense Reutilization and Marketing Service, 74 Washington Avenue North, Battle Creek, MI 49017–3092."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Applicant's name, address, date and place of birth, Social Security Number (SSN), citizenship, alien registration data, telephone number, company affiliation, identity of firm officials, nature of business, firm's identification/tax number, sales number, and Bidder Identification Number and information on the intended end use of the property. File may also include a copy of the individual's current driver's license and/or state issued ID, passport, and naturalization/immigration documents."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 133, Under Secretary of Defense for Acquisition, Technology, and Logistics; 22 U.S.C. 2751–2799, Arms Export Control; 50 App. U.S.C. 2401 *et seq.,* Export Administration; E.O. 12738 and E.O. 12981, Export Controls; 22 CFR part 122, Registration of Manufacturers and Exporters; 15 CFR part 762, Export Administration Regulations Recordkeeping; 41 CFR part 101, Federal Property Management Regulations; 41 CFR part 102, Federal Management Regulations; DoD Directive 2040.3, End Use Certificates (EUCS); DoD Instruction 2030.08, Implementation of Trade Security Controls (TSC) for Transfers of DoD U.S. Munitions List (USML) and Commerce Control List (CCL) Personal Property to Parties Outside DoD Control; DoD Instruction 2040.02, International Transfers of Technology, Articles, and Services; and DoD Instruction 4161.2, Management, Control and Disposal of Government Property in the Possession of Contractors; DoD 4160.21–M, Defense Materiel Disposition Manual; DoD 4160.21–M–1, Defense Demilitarization Manual and E.O. 9397 (SSN), as amended."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Records are retrieved by subject individual's name, Social Security Number (SSN), company name, sales number, and Bidder Identification Number."

SAFEGUARDS:

Delete entry and replace with "Records are maintained in areas accessible only to DLA personnel who must access the records to perform their official duties. Physical entry is restricted by the use of guards, locks, and administrative procedures. System is password controlled with system-generated, forced password-change protocols and also equipped with "Smart Card" technology that requires the insertion of an embedded identification card and entry of a PIN. In addition, computer screens lock after a preset period for inactivity with re-entry controlled by passwords. Employees have been briefed on their responsibilities regarding privacy information and are required to take annual Privacy Act Information training."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are destroyed 7 years after bid award date. Sales records involving violation of law or regulation are destroyed 15 years after case adjudication is completed."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Staff Director, DLA Accountability Office (DA), Investigation Division, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2358, Fort Belvoir, VA 22060–6221."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the DLA HQ FOIA/Privacy Act Office, Defense Logistics Agency Headquarters, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain the subject individual's full name, Social Security Number (SSN), their company's name, sales number, and Bidder Identification Number."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the DLA HQ FOIA/Privacy Act Office, Defense Logistics Agency Headquarters, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain the subject individual's full name, Social Security Number (SSN), their company's name, sales number, and Bidder Identification Number."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the DLA HQ FOIA/Privacy Act Office, Defense Logistics Agency Headquarters, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221."

* * * * *

S640.45

SYSTEM NAME:

End Use Certificates.

SYSTEM LOCATION:

Records are maintained by the Commander, Defense Reutilization and Marketing Service, 74 Washington Avenue North, Battle Creek, MI 49017–3092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, businesses, and organizations who bid on or participate in the DoD surplus personal property sales program or the excess contractor inventory sales program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant's name, address, date and place of birth, Social Security Number (SSN), citizenship, alien registration data, telephone number, company affiliation, identity of firm officials, nature of business, firm's identification/tax number, sales number, and Bidder Identification Number and information on the intended end use of the property. File may also include a copy of the individual's current driver's license and/or state issued ID, passport, and naturalization/immigration documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133, Under Secretary of Defense for Acquisition, Technology, and Logistics; 22 U.S.C. 2751–2799, Arms Export Control; 50 App. U.S.C. 2401 *et seq.,* Export Administration; E.O. 12738 and E.O. 12981, Export Controls; 22 CFR part 122, Registration of Manufacturers and Exporters; 15 CFR part 762, Export Administration Regulations Recordkeeping; 41 CFR part 101, Federal Property Management Regulations; 41 CFR part 102, Federal Management Regulations; DoD Directive 2040.3, End Use Certificates (EUCS); DoD Instruction 2030.08, Implementation of Trade Security Controls (TSC) for Transfers of DoD U.S. Munitions List (USML) and Commerce Control List (CCL) Personal Property to Parties Outside DoD Control; DoD Instruction 2040.02, International Transfers of Technology, Articles, and Services; and DoD Instruction 4161.2, Management, Control and Disposal of Government Property in the Possession of Contractors; DoD 4160.21–M, Defense Materiel Disposition Manual; DoD 4160.21–M–1, Defense Demilitarization Manual and E.O. 9397 (SSN), as amended.

PURPOSE(S):

Records are used in the management of the property disposal programs to determine bidder eligibility to participate in the programs and to ensure that property recipients comply with the terms of the sale regarding end use of the property.

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

In addition to the disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of the Treasury to ensure that recipients comply with U.S. Customs rules and regulations regarding movement of the property.

To the Department of Transportation to ensure compliance with rules regarding Federal Aviation Administration airworthiness certificates for surplus military aircraft.

To the General Services Administration to determine the presence of debarment proceedings against a bidder.

To the Department of State to ensure compliance with the International Traffic in Arms regulations.

To the Department of Commerce to ensure compliance with the Export Administration regulations.

To the Department of Justice for asset identification, location and recovery; and for immigration and naturalization data verification.

The DoD "Blanket Routine Uses" apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on paper and/or on electronic storage media.

RETRIEVABILITY:

Records are retrieved by subject individual's name, Social Security Number (SSN), company name, sales number, and Bidder Identification Number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who must access the records to perform their official duties. Physical entry is restricted by the use of guards, locks, and administrative procedures. System is password controlled with system-generated, forced password-change protocols and also equipped with "Smart Card" technology that requires the insertion of an embedded identification card and entry of a PIN. In addition, computer screens lock after a preset period for inactivity with re-entry controlled by passwords. Employees have been briefed on their responsibilities regarding privacy information and are required to take annual Privacy Act Information training.

RETENTION AND DISPOSAL:

Records are destroyed 7 years after bid award date. Sales records involving violation of law or regulation are destroyed 15 years after case adjudication is completed.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, DLA Accountability Office (DA), Investigation Division, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2358, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the DLA HQ FOIA/Privacy Act Office, Defense Logistics Agency Headquarters, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain the subject individual's full name, Social Security Number (SSN), their company's name, sales number, and Bidder Identification Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the DLA HQ FOIA/Privacy Act Office, Defense Logistics Agency Headquarters, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain the subject individual's full name, Social Security Number (SSN), their company's name, sales number, and Bidder Identification Number.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the DLA HQ FOIA/Privacy Act Office, Defense Logistics Agency Headquarters, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is provided by the record subject and by Federal agencies investigating or monitoring arms trafficking, property movement, export control, or other laws and regulations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–21273 Filed 8–25–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2010–OS–0117]

Privacy Act of 1974; System of Records

AGENCY: Department of Defense (DoD).

ACTION: Notice to delete a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to delete a system of records notice from its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on September 27, 2010, unless comments are received which 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, Room 3C843 Pentagon, 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: Mrs. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense 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 Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

The Office of the Secretary of Defense proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: August 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION:

WUSU 16

SYSTEM NAME:

USUHS Home Town News Release Background Data File (February 22, 1993; 58 FR 10920).

REASON:

After review of WUSU 16, it has been determined that the system can be deleted. The SORN is covered by the services F035 AF AFNEWS A (Army/Air Force) and NM–05724–1 (Navy, Marine and Coast Guard).

[FR Doc. 2010–21274 Filed 8–25–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2010–OS–0118]

Privacy Act of 1974; System of Records

AGENCY: Department of Defense (DoD).

ACTION: Notice to delete a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to delete a system of records notice from its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on September 27, 2010, unless comments are received which 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, Room 3C843 Pentagon, 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: Mrs. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense 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 Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

The Office of the Secretary of Defense proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: August 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION:

DPR 36.

SYSTEM NAME:

Defense Integrated Military Human Resources System (DIMHRS) Records (November 12, 2008; 73 FR 66849).

REASON:

The DIMHRS System (DPR 36) has been deleted per order from the Secretary of Defense, and no records have been entered into the database.

[FR Doc. 2010–21278 Filed 8–25–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice of closed meeting.

SUMMARY: The Chief of Naval Operations (CNO) Executive Panel will report on the findings and recommendations of the Cyber Warfare Subcommittee to the CNO. The meeting will consist of discussions of current and future Navy strategy, plans, and policies in support of the organizing, manning, training, and equipping of Cyber Warfare forces for current and future operations.

DATES: The meeting will be held on September 23, 2010, from 9 a.m. to 11 a.m.

ADDRESSES: The meeting will be held at CNA Building, 4825 Mark Center Drive, Alexandria, VA 22311–1846, Boardroom.

FOR FURTHER INFORMATION CONTACT: Commander Eric Taylor, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311–1846, (703) 681–4909.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy 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, United States Code.

Individuals or interested groups may submit written statements for consideration by the CNO Executive Panel at any time or in response to the agenda of a scheduled meeting. All requests must be submitted to the Designated Federal Officer at the address detailed below.

If the written statement is in response to the agenda mentioned in this meeting notice, then the statement, if it is to be considered by the Panel for this meeting, must be received at least five days prior to the meeting in question.

The Designated Federal Officer will review all timely submissions with the CNO Executive Panel Chairperson, and ensure they are provided to members of the CNO Executive Panel before the meeting that is the subject of this notice.

To contact the Designated Federal Officer, write to Executive Director, CNO Executive Panel (N00K), 4825 Mark Center Drive, 2nd Floor, Alexandria, VA 22311–1846.

Dated: August 18, 2010.

D.J. Werner,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2010–21275 Filed 8–25–10; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2010–0031]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Navy proposes to add a system of records in 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 September 27, 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, Room 3C843 Pentagon, 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: Robin Patterson, (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy 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 Robin Patterson, FOIA/Privacy Act Policy Branch, the Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000.

The proposed systems report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 18, 2010, to the House Committee on Government Report, 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: August 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05726–1

SYSTEM NAME:

Leaders to Sea Database

SYSTEM LOCATION:

Primary location: Office of the Chief of Navy Information, 2000 Navy Pentagon, Washington, DC 20350–2000.

Secondary locations: Public Affairs Officers for the Navy aircraft carriers, ships, or submarines on which the individual is embarking. Official mailing addresses are published in the Standard Navy Distribution List available at *http://doni.daps.dla.mil/sndl.aspx.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Visitors, volunteers, guests, and invitees to U.S. Navy aircraft carriers, ships, and submarines.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of name, date and place of birth, personal address, home and cell phone numbers, personal e-mail address, occupation, gender, medical information (current medications and dosage; medical alert tag status and reason; existence of medical conditions or history such as asthma, diabetes, stroke, etc.; and consent to treatment), emergency contact information, food restrictions, and occupation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; DoD Instruction 5400.13, Public Affairs (PA) Operations; and OPNAV Instruction 5726.8, Outreach: America's Navy.

PURPOSE(S):

To vet individuals who will be embarking Navy ships and submarines to participate in the Navy's long standing "Leaders to Sea" public affairs program and to provide emergency contact and medical information which may become necessary if emergency care is required while embarked. Individuals submitting the information will also have the option to indicate whether they would like to receive future updates on Navy operations and events.

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" that appear at the beginning of the Navy's compilation of system of record notices also apply to this system.

NOTE: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name, home address, and occupation.

SAFEGUARDS:

Access is limited to those individuals who require the records in performance of their official duties. Access is further restricted by the use of passwords which are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures.

RETENTION AND DISPOSAL:

Destroy when no longer needed or after two years, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief of Information for Community Outreach, Office of the Chief of Navy Information, 2000 Navy Pentagon, Washington, DC 20350–2000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the System Manager listed above.

The request must be signed, and include current address and telephone number. The system manager will require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to determine if the system contains records about them.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system of records should address written inquiries to the System Manager listed above.

The request must be signed, and include current address and telephone number. The system manager will require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–21277 Filed 8–25–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–482–000]

Columbia Gas Transmission, LLC; Prior Notice of Activity Under Blanket Certificate

August 19, 2010.

On August 9, 2010, Columbia Gas Transmission, LLC (Columbia) filed with the Federal Energy Regulatory Commission (Commission) an application under section 7 of the Natural Gas Act and Sections 157.205, 157.213(b), and 157.216(b) of the Commission's regulations, and

Columbia's authorization in Docket No. CP83–76–000, 22 FERC ¶62,029 (1983) for authority to construct, modify and abandon certain natural gas facilities at its Benton Storage Field located in Hocking and Vinton Counties, Ohio, as more fully detailed in the Application.

Questions concerning this application may be directed to Fredric J. George, Senior Counsel, Columbia Gas Transmission, LLC, P.O. Box 1273, Charleston, West Virginia 22030–0146, by calling 304–357–2359 or faxing 304–357–3206.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

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 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.fere.gov.* Persons unable to file electronically should submit an original and seven 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.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21165 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13804–000]

White River Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

August 19, 2010.

On July 1, 2010, and supplemented July 15, 2010, White River Hydro, 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 White River Hydroelectric Project, located on the White River in Pierce County, Washington. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 352-foot-long, 11-foot-high timber constructed dam with a 7-foot-high aluminum flashboard; (2) a fish recovery pond containing a 5-foot-wide, 50-foot-long channel and nine screen bays; (3) a 200-foot-long, 17-foot-high fish screen facility, which returns fish to the White River; (4) a 1,000-foot-long trapezoidal concrete channel; (5) two 5.5- to 10-foot-diameter, 11,200-foot-long pipelines; (6) a valve house to convey the water to an approximately 1.5-mile-long riprapped channel; (7) Lake Tapps, which has a surface area of 2,700 acres and a storage capacity of 48,258 acre-feet at elevation 543 feet above mean sea level; (8) a tunnel intake structure; (9) a 12-foot-diameter, 2,842-foot-long concrete tunnel; (10) a 73-foot-deep forebay; (11) three 5.4- to 6-foot-diameter, 3,000-foot-long penstocks; (12) an 85-foot-wide, 255-foot-long, and 55-foot-high powerhouse containing two 10-megawatt (MW) turbine/generator units, one 15-MW turbine/generator unit, and one 28-MW turbine/generator unit, for a total generating capacity of 63 MW; (13) an approximately 34-foot-wide, 2,200-foot-long tailrace discharging to White River; (14) a 4,181-foot-long, 115-kilovolt transmission line; and (15) appurtenant facilities. The proposed White River Project will have an average annual generation of 100 gigawatt-hours.

Applicant Contact: Mr. Thom A. Fischer, White River Hydro, LLC, 3633 Alderwood Ave., Bellingham, WA 98225; phone: (360) 739–9777.

FERC Contact: Jennifer Harper, (202) 502–6136.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 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/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven 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–13804) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21170 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

August 19, 2010.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC10–85–000.
Applicants: Mystic Development, LLC, Boston Generating, LLC, Mystic I, LLC, Fore River Development, LLC, Constellation Mystic Power, LLC.
Description: Joint Application for Authorization of Disposition of Jurisdictional Facilities of Fore River Development, LLC, *et al.*
Filed Date: 08/18/2010.
Accession Number: 20100818–5113.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–1005–013; ER09–304–004.
Applicants: Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company.
Description: Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company Notice of Non-Material Change in Status.
Filed Date: 08/18/2010.
Accession Number: 20100818–5112.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–1881–001.
Applicants: Stuyvesant Energy L.L.C.
Description: Amendment to Application of Stuyvesant Energy L.L.C.
Filed Date: 08/18/2010.
Accession Number: 20100818–5111.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–1757–001.
Applicants: Florida Power Corporation.
Description: Florida Power Corporation submits tariff filing per 35.17(b): Florida Power Corporation Cost-Based Rate Tariff No. 1 Amendment to be effective 7/13/2010.
Filed Date: 08/19/2010.
Accession Number: 20100819–5021.
Comment Date: 5 p.m. Eastern Time on Thursday, September 9, 2010.

Docket Numbers: ER00–2529–004.
Applicants: Dow Pipeline Company.
Description: Dow Pipeline Company submits Order No 697 Compliance Filing, updated market power analysis, revisions to market-based rate tariff, and request to file out of time.
Filed Date: 08/18/2010.
Accession Number: 20100819–0203.
Comment Date: 5 p.m. Eastern Time on Monday, October 18, 2010.

Docket Numbers: ER10–2202–000.
Applicants: Central Maine Power Company.
Description: Central Maine Power Co. submits a Notice of Cancellation of Interconnection Agreement.
Filed Date: 08/12/2010.
Accession Number: 20100812–0206.
Comment Date: 5 p.m. Eastern Time on Thursday, September 2, 2010.

Docket Numbers: ER10–2204–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. submits a Capital Budget Quarterly filing for second quarter of 2010.
Filed Date: 08/12/2010.
Accession Number: 20100812–0207.
Comment Date: 5 p.m. Eastern Time on Thursday, September 2, 2010.

Docket Numbers: ER10–2280–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits Schedule 1 of the Amended and Restated Operating Agreement.
Filed Date: 08/18/2010.
Accession Number: 20100819–0204.
Comment Date: 5 p.m. Eastern Time on Thursday, September 2, 2010.

Docket Numbers: ER10–2281–000.
Applicants: Constellation Mystic Power, LLC.
Description: Constellation Mystic Power, LLC submits an Application for Order Authorizing Market-Based Rates, Certain Waivers, and Blanket Authorizations.
Filed Date: 08/18/2010.
Accession Number: 20100819–0201.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2282–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2010–08–19 CAISO Service Agreement 1647, LGIA for SCE and Desert Sunlight to be effective 8/10/2010.
Filed Date: 08/19/2010.
Accession Number: 20100819–5084.
Comment Date: 5 p.m. Eastern Time on Thursday, September 9, 2010.

Docket Numbers: ER10–2283–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35: SECA Compliance to be effective 7/28/2010.
Filed Date: 08/19/2010.
Accession Number: 20100819–5095.
Comment Date: 5 p.m. Eastern Time on Thursday, September 9, 2010.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES10–54–000.
Applicants: MDU Resources Group, Inc.
Description: Application of MDU Resources Group, Inc. under New Docket for authority to issue up to $1 billion worth of various securities for the next 2 years.
Filed Date: 08/19/2010.
Accession Number: 20100819–5050.
Comment Date: 5 p.m. Eastern Time on Thursday, September 9, 2010.

Any person desiring to intervene or to protest in any of the above proceedings 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) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

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 proceedings 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 email 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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–21231 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

August 18, 2010.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG10–58–000.
Applicants: Constellation Mystic Power, LLC.
Description: Self-Certification of EWG Status of Constellation Mystic Power, LLC.
Filed Date: 08/18/2010.
Accession Number: 20100818–5089.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER07–903–006; ER99–2781–015; ER98–4138–013; ER08–1336–004; ER05–1054–007; ER04–472–013; ER00–1770–023; ER98–3096–019; ER96–1361–017.
Applicants: Bethlehem Renewable Energy, LLC; Delmarva Power & Light Company; Potomac Electric Power Company; Energy Systems North East LLC; Eastern Landfill Gas, LLC; Fauquier Landfill Gas, LLC; Potomac Power Resources, Inc.; Conectiv Energy Supply, Inc.; Pepco Energy Services, Inc; Atlantic City Electric Company.
Description: Supplemental Information to Notification of Change in Status of PHI Holdings, Inc.
Filed Date: 08/16/2010.
Accession Number: 20100816–5166.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2256–000.
Applicants: The Trustees of the University of Pennsylvania.
Description: Petition for acceptance of initial tariff, waivers and blanket authority of The Trustees of the University of Pennsylvania, a Pennsylvania non-profit corporation D/B/A University of Pennsylvania.
Filed Date: 08/17/2010.
Accession Number: 20100817–0201.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2267–000.
Applicants: Entergy Arkansas, Inc.
Description: Entergy Arkansas, Inc. submits tariff filing per 35.13(a)(2)(iii): Unexecuted NITSA Between ESI and LEPA to be effective 9/1/2010.
Filed Date: 08/17/2010.
Accession Number: 20100817–5107.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2268–000.
Applicants: FC Landfill Energy, LLC.
Description: FC Landfill Energy, LLC submits their Petition for Acceptance of Electric Tariff, Waivers and Blanket Authorization.
Filed Date: 08/17/2010.
Accession Number: 20100818–0202.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2269–000.
Applicants: Carthage Energy, LLC.
Description: Carthage Energy, LLC submits tariff filing per 35.12: Carthage Energy Baseline eTariff Filing to be effective 8/18/2010.
Filed Date: 08/18/2010.
Accession Number: 20100818–5053.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2270–000.
Applicants: Energetix, Inc.
Description: Energetix, Inc. submits tariff filing per 35.12: Energetix Baseline eTariff Filing to be effective 8/18/2010.
Filed Date: 08/18/2010.
Accession Number: 20100818–5055.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2271–000.
Applicants: Hartford Steam Company.
Description: Hartford Steam Company submits tariff filing per 35.12: Hartford Steam Baseline eTariff Filing to be effective 8/18/2010.
Filed Date: 08/18/2010.
Accession Number: 20100818–5056.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2272–000.
Applicants: NYSEG Solutions, Inc.
Description: NYSEG Solutions, Inc. submits tariff filing per 35.12: NYSEG Solutions Baseline eTariff Filing to be effective 8/18/2010.
Filed Date: 08/18/2010.
Accession Number: 20100818–5057.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2273–000.
Applicants: PEI Power II, LLC.
Description: PEI Power II, LLC submits tariff filing per 35.12: PEI Power Baseline eTariff Filing to be effective 8/18/2010.
Filed Date: 08/18/2010.
Accession Number: 20100818–5059.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2274–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits tariff filing per 35.12: Arizona Public Service submits its Baseline WestConnect Regional Pricing Tariff to be effective 8/18/2010.
Filed Date: 08/18/2010.
Accession Number: 20100818–5075.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2275–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits tariff filing per 35.12: Arizona Public Service submits its Baseline Cost-Based Rate Tariff to be effective 8/18/2010.
Filed Date: 08/18/2010.
Accession Number: 20100818–5077.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2276–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits tariff filing per 35.12: Arizona Public Service Company submits its Baseline Market-Based Rate Tariff to be effective 8/18/2010.
Filed Date: 08/18/2010.
Accession Number: 20100818–5078.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2277–000.
Applicants: James River Cogeneration Company.
Description: James River Cogeneration Company submits tariff filing per 35.12:

James River Cogeneration MBR Tariff to be effective 8/18/2010.

Filed Date: 08/18/2010.

Accession Number: 20100818–5079.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Docket Numbers: ER10–2278–000.

Applicants: Cogentrix Virginia Leasing Corporation.

Description: Cogentrix Virginia Leasing Corporation submits tariff filing per 35.12: Congentrix Virginia Leasing MBR Tariff to be effective 8/18/2010.

Filed Date: 08/18/2010.

Accession Number: 20100818–5088.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 8, 2010.

Any person desiring to intervene or to protest in any of the above proceedings 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) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

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 proceedings 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 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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–21230 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13569–001–NV]

Southern Nevada Water Authority; Notice of Availability of Environmental Assessment

August 19, 2010.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an original license to construct the Arrow Canyon Conduit Energy Recovery Hydroturbine Project, and has prepared an environmental assessment (EA). The proposed 500-kilowatt project would operate using treated groundwater from the applicant's Coyote Spring Valley Well and Moapa Transmission System Project, a 24-inch diameter pipeline in Clark County, near the town of Glendale, Nevada. The project occupies 1.70 acres of lands administered by the Bureau of Land Management.

The EA includes staff's analysis of the potential environmental impacts of the project and concludes that licensing the project would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

Please contact Jim Fargo by telephone at (202) 502–6095 or by e-mail at *james.fargo@ferc.gov* if you have any questions.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21169 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13526–002–KS]

Bowersock Mills and Power Company; Notice of Availability of Environmental Assessment

August 19, 2010.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the application for an original license for the Bowersock Mills and Power Company's Expanded Kansas River Hydropower Project, to be located on the Kansas River, Douglas County, Lawrence, Kansas, and prepared an environmental assessment (EA). In the EA, Commission staff analyzed the potential environmental effects of licensing the project and concluded that issuing a license, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the issuance date of this notice, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix "Expanded Kansas River Hydropower Project No. 13526–002" to all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings which may be filed at *http://www.ferc.gov/docs-filing/efiling.asp. See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "eFiling" link.

For further information, contact Monte TerHaar at (202) 502–6035.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21168 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF10–21–000]

Texas Eastern Transmission, LP; Notice of Intent To Prepare an Environmental Assessment for the Planned Texas Eastern Appalachia to Market Expansion Project and Request for Comments on Environmental Issues

August 19, 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 planned Texas Eastern Appalachia to Market Expansion Project (TEAM 2012 Project) which involves the construction and operation of interstate natural gas transmission facilities by Texas Eastern Transmission, LP (Texas Eastern) in Adams, Bedford, Greene, Fayette, and Franklin Counties, Pennsylvania. This EA will be used by the Commission in its decision-making process to determine whether the TEAM 2012 Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the TEAM 2012 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 September 17, 2010.

This notice is being sent to the Commission's current environmental mailing list for the TEAM 2012 Project. State and local government representatives are asked to notify their constituents of this 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 where compensation would be determined 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*). 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

Texas Eastern has agreed to provide Range Resources—Appalachia and the Chesapeake Utilities Corporation natural gas transportation services. According to Texas Eastern, these services are required to meet a growing demand for natural gas in the northeast and to provide additional natural gas supply diversity and reliability.

To satisfy its agreements, Texas Eastern plans to install and operate approximately 17.8 miles of 36-inch-diameter natural gas transmission pipeline and associated aboveground facilities adjacent to its existing natural gas transmission pipeline system. Texas Eastern also plans to abandon approximately 11.3 miles of 24-inch-diameter natural gas transmission pipeline. The planned new pipeline facilities include:

Facility name *	Length (miles)	County
Heidlersburg Discharge Abandonment and Loop	4.0	Adams.
Holbrook East Loop	4.7	Fayette.
Chambersburg Discharge Abandonment and Loop	7.3	Franklin.
Holbrook West Loop	1.8	Greene.

* Associated aboveground facilities include main line valves, pig launchers and receivers, cathodic protection stations, and meter stations.

Additionally, Texas Eastern plans to increase the amount of compression at its Bedford Compressor Station by 20,720 horsepower (hp). Texas Eastern plans to install a 26,000 horsepower (hp) electrical compressor unit, uprate two 11,000 hp electrical units to 14,300 hp units, and abandon in-place nine reciprocating units.

The general location of the planned project facilities is shown in Appendix 1.[1]

Land Requirements for Construction

Texas Eastern anticipates temporarily disturbing approximately 303.29 acres of land during construction of the planned TEAM 2012 Project. Following construction, Texas Eastern plans to maintain approximately 161.95 acres of land for operation of the planned facilities. Of the land required for use during construction and operation of the planned facilities, approximately 141.64 acres of this land is currently utilized as Texas Eastern natural gas pipeline permanent right-of-way.

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[2] 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.

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;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Reliability and safety.

We will also evaluate possible 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 will contact numerous 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. The EA will be placed in the public record, and depending on the comments received during the scoping process, may be published and distributed to the public. A public comment period will be allotted if the EA is published for review. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section on page 5.

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.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[3] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project is further developed. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

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 comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC on or before September 17, 2010.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (PF10–21–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you by phone at (202) 502–8258 or by e-mail at *efiling@ferc.gov.*

(1) You may file your comments electronically by using the *eComment* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. With eFiling you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "*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

[1] 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 (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] "We", "us", and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Historic properties are defined in those regulations as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

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 Texas Eastern 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 in 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 the Commission will not accept requests for 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 (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.,* PF10–21–000). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support by e-mail at *FercOnlineSupport@ferc.gov* or by phone toll free at (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 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, any 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. 2010–21171 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–480–000]

Central New York Oil and Gas Company LLC; Notice of Filing

August 19, 2010.

Take notice that on August 9, 2010, Central New York Oil and Gas Company LLC (CNYOG), Two Brush Creek Boulevard, Suite 200, Kansas City, MO 64112, filed an application, pursuant to Section 7(c) of the Natural Gas Act (NGA) and Parts 157 and 284 of the Commission's Rules and Regulations for a certificate of public convenience and necessity authorizing CNYOG to construct and operate certain facilities in Bradford, Sullivan, and Lycoming Counties, Pennsylvania, to provide open-access firm and interruptible transportation service (MARC I Project). The application is on file with the Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

CNYOG proposes: (i) To construct and operate an approximately 39-mile long, 30-inch diameter pipeline between interconnects with interstate pipeline facilities of Tennessee Gas Pipeline Company (TGP) and Transcontinental Gas Pipe Line Company (Transco) in Bradford and Lycoming Counties, Pennsylvania, respectively; (ii) to construct and operate a new compression facility with 16,360 hp of gas-fired compression (M1–S) in Sullivan County, Pennsylvania, and an additional compressor unit (M1–N) with 15,300 hp of electric-powered compression in Bradford County, Pennsylvania; and (iii) appurtenant facilities. CNYOG states that it has received executed Precedent Agreements for commitments to firm transportation capacity of 550,000 Dth/day. CNYOG proposes to place the MARC I Project in service by July 1, 2012.

Any questions regarding the application are to be directed to William F. Demarest, Jr., Husch Blackwell Sanders LLP, 750 17th St., NW., Suite 1000, Washington, DC 20006; phone number (202) 378–2300 or by e-mail at *william.demarest@huschblackwell.com.*

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, 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 original and 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Motions to intervene, protests and comments 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: September 9, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21164 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF10–6–000]

Southwestern Power Administration; Notice of Filing

August 19, 2010.

Take notice that on August 17, 2010, the Department of Energy, Southwestern Power Administration, pursuant to Order 714 [1] and section 35.28(e),[2] submitted a baseline filing of its currently effective non-jurisdictional open access transmission tariff (OATT).

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. 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.

[1] *Electronic Tariff Filings,* Order No. 714, 73 FR 57515 (Oct. 3, 2008), FERC Stats. & Regs ¶ 31,276 (2008) (Order No. 714).

[2] 18 CFR 35.28 (2010).

Comment Date: 5 p.m. Eastern Time on September 7, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21166 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1281–005]

New York Independent System Operator, Inc. Notice of Filings

August 19, 2010.

Take notice that on August 13, and August 16, 2010, The Independent Electricity System Operator, The New York Independent System Operator, Inc., the International Transmission Company, and the Midwest Independent Transmission System Operator, Inc., respectively, filed comments in response to the Federal Energy Regulatory Commission's July 15, 2010 Order on Compliance Filing, *New York Independent System Operator, Inc.,* 132 FERC 61,031 (July 15, 2010).

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 September 15, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21167 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–2256–000]

The Trustees of the University of Pennsylvania; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

August 18, 2010.

This is a supplemental notice in the above-referenced proceeding, of The Trustees of the University of Pennsylvania's application for market-based rate authority, with an accompanying rate schedule, 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 September 7, 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(s) 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 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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–21232 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–2268–000]

FC Landfill Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

August 19, 2010.

This is a supplemental notice in the above-referenced proceeding, of FC Landfill Energy, LLC's application for market-based rate authority, with an accompanying rate schedule, 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 September 8, 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(s) 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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–21229 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM06–16–010; RM06–16–011]

Mandatory Reliability Standards for the Bulk-Power System; Notice of Technical Conference

August 19, 2010.

Take notice that the Federal Energy Regulatory Commission staff will hold a Technical Conference on Frequency Response in the Wholesale Electric Grid on Thursday, September 23, from 10 a.m. to approximately 4 p.m. This staff-led conference will be held in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The conference will be open for the public to attend and advance registration is not required. Members of the Commission may attend the conference.

The purpose of the conference is to discuss technical issues pertaining to frequency response. In Order No. 693 the Commission approved Reliability Standard BAL–003–0 as mandatory and enforceable and directed the ERO to develop a modification to BAL–003–0 through the Reliability Standards development process that "defines the necessary amount of Frequency Response needed for Reliable Operation for each balancing authority with methods of obtaining and measuring that the frequency response is achieved." [1] In a March 18, 2010 order, the Commission set a compliance deadline for NERC to comply with this Commission directive. Several parties sought rehearing of the March 18, 2010 order,[2] and on May 13, 2010, the Commission directed Commission staff to "convene a technical conference to provide an opportunity for a public discussion regarding technical issues pertaining to the development of a frequency response requirement." [3]

The agenda for this conference will be issued at a later date. Information on this event will be posted on the Calendar of Events on the Commission's Web site, *http://www.ferc.gov,* prior to the event.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about this conference, please contact: Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8368, *sarah.mckinley@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21163 Filed 8–25–10; 8:45 am]

BILLING CODE 6717–01–P

[1] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 375, *order on reh'g*, Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[2] *Mandatory Reliability Standards for the Bulk Power System,* 130 FERC ¶ 61,218, *order granting reh'g for further consideration and scheduling technical conference,* 131 FERC ¶ 61,136 (2010) (May 13, 2010 Order).

[3] May 13, 2010 Order, 131 FERC ¶ 61,136 at P 14.

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 proposed information collections 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 (PRA) 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 extension for three years, with revision, of the following report:

Report title: Intermittent Survey of Businesses.

Agency form number: FR 1374.

OMB control number: 7100–0302.

Frequency: On occasion.

Reporters: Businesses and state and local governments.

Estimated annual reporting hours: 205 hours.

Estimated average hours per response: 15 minutes.

Number of respondents: 250.

General description of report: This information collection is voluntary (12 U.S.C. 225a and 263) and may be given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The survey data are used by the Federal Reserve to gather information specifically tailored to the Federal Reserve's policy and operational responsibilities. There are two parts to this event-generated survey. First, the Federal Reserve staff survey business contacts as economic developments warrant. Currently, they conduct these surveys with approximately 240 business respondents for each survey. It is necessary to conduct these surveys to provide timely information to the members of the Board and to the presidents of the Reserve Banks. Usually, these surveys are conducted by Federal Reserve economists telephoning or emailing purchasing managers, economists, or other knowledgeable individuals at selected, relevant businesses. The frequency and content of the questions, as well as the entities contacted, vary depending on developments in the economy. Second, economists survey business contacts by telephone, inquiring about current business conditions. The economists conduct these surveys as economic conditions require, with approximately ten respondents for each survey.

Current actions: The Federal Reserve proposed to revise the panel to include state and local governments as economic conditions may warrant. Given that state and local governments now account for about 12 percent of total Gross Domestic Product, it may be important at times to survey these governments for up-to-date information about developments in this sector.

On June 15, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 33805) seeking public comment for 60 days on the extension, with revision, of the Intermittent Survey of Businesses. The comment period for this notice expired on August 16, 2010. The Federal Reserve did not receive any comments. The revisions will be implemented as proposed.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. *Report title:* Home Mortgage Disclosure Act (HMDA) Loan/Application Register (LAR).

Agency form number: FR HMDA–LAR.

OMB control number: 7100–0247.

Frequency: Annual.

Reporters: State member banks, subsidiaries of state member banks, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.

Estimated annual reporting hours: 151,134 hours.

Estimated average hours per response: State member banks, 242 hours; and mortgage subsidiaries, 192 hours.

Number of respondents: 519 State member banks, and 133 mortgage subsidiaries.

General description of report: This information collection is mandatory (12 U.S.C. 2803(j)). The information is not given confidential treatment, however, information that might identify individual borrowers or applicants is given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)) and section 304 (j)(2)(B) of HMDA (12 U.S.C. 2803(j)(2)(B)).

Abstract: The information reported and disclosed pursuant to this collection is used to further the purposes of HMDA. These include: (1) To help determine whether financial institutions are serving the housing needs of their communities, (2) to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed, and (3) to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.

2. *Report title:* Disclosure Requirements in Connection with Regulation CC (Expedited Funds Availability Act (EFAA)).

Agency form number: Reg CC.

OMB control number: 7100–0235.

Frequency: Event-generated.

Reporters: State member banks and uninsured state branches and agencies of foreign banks.

Annual reporting hours: 202,396 hours.

Estimated average hours per response: Banks: Specific availability policy disclosure and initial disclosures, 1 minute; notice in specific policy disclosure, 3 minutes; notice of exceptions, 3 minutes; locations where employees accept consumer deposits, 15 minutes; annual notice of new automated teller machines (ATMs), 5 hours; ATM changes in policy, 20 hours; notice of nonpayment, 1 minute; expedited recredit for consumers, 15 minutes; expedited recredit for banks, 15 minutes; consumer awareness, 1 minute. Consumers: Expedited recredit claim notice, 15 minutes.

Number of respondents: 1,060.

General description of report: This information collection is mandatory. Reg CC is authorized pursuant the EFAA, as amended, and the Check 21 Act (12 U.S.C. 4008 and 12 U.S.C. 5014, respectively). Because the Federal Reserve does not collect any information, no issue of confidentiality arises. However, if, during a compliance

examination of a financial institution, a violation or possible violation of the EFAA or the Check 21 Act is noted then information regarding such violation may be kept confidential pursuant to Section (b)(8) of the Freedom of Information Act. 5 U.S.C. 552(b)(8).

Abstract: Regulation CC requires banks to make funds deposited in transaction accounts available within specified time periods, disclose their availability policies to customers, and begin accruing interest on such deposits promptly. The disclosures are intended to alert customers that their ability to use deposited funds may be delayed, prevent unintentional (and potentially costly) overdrafts, and allow customers to compare the policies of different banks before deciding at which bank to deposit funds. The regulation also requires notice to the depositary bank and to a customer of nonpayment of a check. Model disclosure forms, clauses, and notices are appended to the regulation to ease compliance.

Current Actions: On June 15, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 33806) seeking public comment for 60 days on the extension, without revision, of the FR HMDA–LAR and Reg CC. The comment period for this notice expired on August 16, 2010. The Federal Reserve did not receive comments on the Reg CC proposal. The Federal Reserve received one comment on the FR HMDA/LAR proposal from an individual that discussed the merits of a national loan identification number, however, the points raised were beyond the scope of the PRA clearance process.

Board of Governors of the Federal Reserve System, August 23, 2010.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2010–21233 Filed 8–25–10; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Implementation of Section 5001 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) for Adjustments to the Third Quarter of Fiscal Year 2010 Federal Medical Assistance Percentage Rates for Federal Matching Shares for Medicaid and Title IV–E Foster Care, Adoption Assistance and Guardianship Assistance Programs

AGENCY: Office of the Secretary, DHHS.

ACTION: Notice.

SUMMARY: This notice provides the adjusted Federal Medical Assistance Percentage (FMAP) rate for the third quarter of Fiscal Year 2010 (FY10) as required under Section 5001 of the American Recovery and Reinvestment Act of 2009 (ARRA). Section 5001 of the ARRA provides for temporary increases in the FMAP rates to provide fiscal relief to States and to protect and maintain State Medicaid and certain other assistance programs in a period of economic downturn. The increased FMAP rates apply during a recession adjustment period that is defined in ARRA as the period beginning October 1, 2008 and ending December 31, 2010. This notice does not account for changes as a result of Public Law 111–226. However, future FMAP notices will account for these changes.

DATES: *Effective Date:* The percentages listed are for the third quarter of FY10 beginning April 1, 2010 through June 30, 2010.

A. Background

The FMAP is used to determine the amount of Federal matching for specified State expenditures for assistance payments under programs under the Social Security Act ("the Act"). Sections 1905(b) and 1101(a)(8)(B) of the Act require the Secretary of Health and Human Services to publish the FMAP rates each year. The Secretary calculates the percentages using formulas in sections 1905(b) and 1101(a)(8)(B), and statistics from the Department of Commerce of average income per person in each State and for the Nation as a whole. The percentages must be within the upper and lower limits given in section 1905(b) of the Act. The percentages to be applied to the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified separately in the Act, and thus are not based on the statutory formula that determines the percentages for the 50 States.

Section 1905(b) of the Act specifies the formula for calculating the FMAP as follows:

> The FMAP for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the FMAP shall in no case be less than 50 per centum or more than 83 per centum, and (2) the FMAP for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 50 per centum.

Section 4725 of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the FMAP for the District of Columbia for purposes of titles XIX (Medicaid) and XXI (CHIP) shall be 70 percent. The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275) amended the FMAP applied to the District of Columbia for maintenance payments under title IV–E programs to make it consistent with the 70 percent Medicaid match rate.

Section 5001 of Division B of the ARRA provides for a temporary increase in FMAP rates for Medicaid and title IV–E Foster Care, Adoption Assistance and Guardianship Assistance programs. The purpose of the increases to the FMAP rates is to provide fiscal relief to States and to protect and maintain State Medicaid and certain other assistance programs in a period of economic downturn, referred to as the "recession adjustment period." The recession adjustment period is defined as the period beginning October 1, 2008 and ending December 31, 2010.

B. Calculation of the Increased FMAP Rates Under ARRA

Section 5001 of the ARRA specifies that the FMAP rates shall be temporarily increased for the following: (1) Maintenance of FMAP rates for FY09, FY10, and first quarter of FY11, so that the FMAP rate will not decrease from the prior year, determined by using as the FMAP rate for the current year, the greater of any prior fiscal year FMAP rates between 2008–2010 or the rate calculated for the current fiscal year; (2) in addition to any maintenance increase, the application of an increase in each State's FMAP of 6.2 percentage points; and (3) an additional percentage point increase based on the State's increase in unemployment during the recession adjustment period. The resulting increased FMAP cannot exceed 100 percent. Each State's FMAP will be recalculated each fiscal quarter beginning October 2008. Availability of certain components of the increased FMAP is conditioned on States meeting statutory programmatic requirements, such as the maintenance of effort requirement, which are not part of the calculation process.

Expenditures for which the increased FMAP is not available under title XIX include expenditures for disproportionate share hospital payments, certain eligibility expansions, services received through an IHS or Tribal facility (which are already paid at a rate of 100 percent and therefore not subject to increase), and expenditures that are paid at an enhanced FMAP rate. The increased FMAP is available for expenditures under part E of title IV (including Foster Care, Adoption

Assistance and Guardianship Assistance programs) only to the extent of a maintenance increase (hold harmless), if any, and the 6.2 percentage point increase. The increased FMAP does not apply to other parts of title IV, including part D (Child Support Enforcement Program).

For title XIX purposes only, for each qualifying State with an unemployment rate that has increased at a rate above the statutory threshold percentage, ARRA provides additional relief above the general 6.2 percentage point increase in FMAP through application of a separate increase calculation. For those States, the FMAP for each qualifying State is increased by the number of percentage points equal to the product of the State matching percentage (as calculated under section 1905(b) and adjusted if necessary for the maintenance of FMAP without reduction from the prior year, and after applying half of the 6.2 percentage point general increase in the Federal percentage) and the applicable percent determined from the State unemployment increase percentage for the quarter.

The unemployment increase percentage for a calendar quarter is equal to the number of percentage points (if any) by which the average monthly unemployment rate for the State in the most recent previous 3-consecutive-month period for which data are available exceeds the lowest average monthly unemployment rate for the State for any 3-consecutive-month period beginning on or after January 1, 2006. A State qualifies for additional relief based on an increase in unemployment if that State's unemployment increase percentage is at least 1.5 percentage points.

The applicable percent is: (1) 5.5 percent if the State unemployment increase percentage is at least 1.5 percentage points but less than 2.5 percentage points; (2) 8.5 percent if the State unemployment increase percentage is at least 2.5 percentage points but less than 3.5 percentage points; and (3) 11.5 percent if the State unemployment increase percentage is at least 3.5 percentage points.

If the State's applicable percent is less than the applicable percent for the preceding quarter, then the higher applicable percent shall continue in effect for any calendar quarter beginning on or after January 1, 2009 and ending before July 1, 2010.

Under section 5001(b)(2) of ARRA, Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and America Samoa were given the option to make a special one-time election between (1) a 30 percent increase in their cap on Medicaid payments (as determined under subsections (f) and (g) of section 1108 of the Act), or (2) applying the general 6.2 percentage point increase in the FMAP plus a 15 percent increase in the cap on Medicaid payments. There is no quarterly unemployment adjustment for territories. All territories and the Commonwealth of the Northern Mariana Islands elected the 30 percent increase in their spending cap on Medicaid payments; therefore there is no recalculation of their FMAP rate.

D. Adjusted FMAPs for the Third Quarter of FY2010

ARRA adjustments to FMAPs are shown by State in the accompanying table. The hold harmless FY10 FMAP is the higher of the original FY08, FY09, or FY10 FMAP. The 6.2 percentage point increase is added to the hold harmless FY10 FMAP. The unemployment adjustment is calculated according to the unemployment tier and added to the hold harmless FY10 FMAP with the 6.2 percentage point increase.

For the third quarter of FY10, the unemployment tier is determined by comparing the average unemployment rate for the three consecutive months preceding the start of the fiscal quarter to the lowest consecutive 3-month average unemployment rate beginning January 1, 2006. If the State's applicable percent is less than the applicable percent for the second quarter of FY10, then the higher applicable percent shall continue for the third quarter of FY10.

As indicated in the August 4, 2009 **Federal Register** Notice that proposed the methodology for the FMAP unemployment adjustment calculations (74 FR 38630), we utilize annual updates to the historical Bureau of Labor Statistics (BLS) data to make changes to the States' lowest unemployment rate beginning with the third quarter FMAP rate adjustment calculation each year. As such, the rates calculated and presented in the accompanying table are based on updates to the historical BLS data used to determine the States' average lowest unemployment rate for any 3 consecutive months beginning January 1, 2006.

FOR FURTHER INFORMATION CONTACT: Carrie Shelton or Thomas Musco, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D—Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 690–6870.

(Catalog of Federal Domestic Assistance Program Nos. 93.778: Medical Assistance Program; 93.658: Foster Care; 93.659: Adoption Assistance; 93.090: Guardianship Assistance)

Dated: July 28, 2010.

Kathleen Sebelius,

Secretary.

ARRA ADJUSTMENTS TO FMAP Q3 FY10

State	Hold harmless FY10	Hold harmless FY10 FMAP with 6.2% pt increase	3rd Quarter FY10 unemployment tier	3rd Quarter FY10 unemployment adjustment	3rd Quarter FY10 FMAP unemployment adjustment	3rd Quarter FY10 FMAP unemployment hold harmless
Alabama	68.01	74.21	11.5	3.32	77.53	77.53
Alaska	52.48	58.68	8.5	3.78	62.46	62.46
Arizona	66.20	72.40	11.5	3.53	75.93	75.93
Arkansas	72.94	79.14	8.5	2.04	81.18	81.18
California	50.00	56.20	11.5	5.39	61.59	61.59
Colorado	50.00	56.20	11.5	5.39	61.59	61.59
Connecticut	50.00	56.20	11.5	5.39	61.59	61.59
Delaware	50.21	56.41	11.5	5.37	61.78	61.78
Dist of Columbia	70.00	76.20	11.5	3.09	79.29	79.29
Florida	56.83	63.03	11.5	4.61	67.64	67.64
Georgia	65.10	71.30	11.5	3.66	74.96	74.96
Hawaii	56.50	62.70	11.5	4.65	67.35	67.35
Idaho	69.87	76.07	11.5	3.11	79.18	79.18
Illinois	50.32	56.52	11.5	5.36	61.88	61.88

ARRA ADJUSTMENTS TO FMAP Q3 FY10—Continued

State	Hold harmless FY10	Hold harmless FY10 FMAP with 6.2% pt increase	3rd Quarter FY10 unemployment tier	3rd Quarter FY10 unemployment adjustment	3rd Quarter FY10 FMAP unemployment adjustment	3rd Quarter FY10 FMAP unemployment hold harmless
Indiana	65.93	72.13	11.5	3.56	75.69	75.69
Iowa	63.51	69.71	8.5	2.84	72.55	72.55
Kansas	60.38	66.58	8.5	3.10	69.68	69.68
Kentucky	70.96	77.16	11.5	2.98	80.14	80.14
Louisiana	72.47	78.67	11.5	2.81	81.48	81.48
Maine	64.99	71.19	11.5	3.67	74.86	74.86
Maryland	50.00	56.20	11.5	5.39	61.59	61.59
Massachusetts	50.00	56.20	11.5	5.39	61.59	61.59
Michigan	63.19	69.39	11.5	3.88	73.27	73.27
Minnesota	50.00	56.20	8.5	3.99	60.19	61.59
Mississippi	76.29	82.49	11.5	2.37	84.86	84.86
Missouri	64.51	70.71	11.5	3.72	74.43	74.43
Montana	68.53	74.73	11.5	3.26	77.99	77.99
Nebraska	60.56	66.76	5.5	2.00	68.76	68.76
Nevada	52.64	58.84	11.5	5.09	63.93	63.93
New Hampshire	50.00	56.20	11.5	5.39	61.59	61.59
New Jersey	50.00	56.20	11.5	5.39	61.59	61.59
New Mexico	71.35	77.55	11.5	2.94	80.49	80.49
New York	50.00	56.20	11.5	5.39	61.59	61.59
North Carolina	65.13	71.33	11.5	3.65	74.98	74.98
North Dakota	63.75	69.95	0	0.00	69.95	69.95
Ohio	63.42	69.62	11.5	3.85	73.47	73.47
Oklahoma	67.10	73.30	11.5	3.43	76.73	76.73
Oregon	62.74	68.94	11.5	3.93	72.87	72.87
Pennsylvania	54.81	61.01	11.5	4.84	65.85	65.85
Rhode Island	52.63	58.83	11.5	5.09	63.92	63.92
South Carolina	70.32	76.52	11.5	3.06	79.58	79.58
South Dakota	62.72	68.92	5.5	1.88	70.80	70.80
Tennessee	65.57	71.77	11.5	3.60	75.37	75.37
Texas	60.56	66.76	11.5	4.18	70.94	70.94
Utah	71.68	77.88	11.5	2.90	80.78	80.78
Vermont	59.45	65.65	8.5	3.18	68.83	69.96
Virginia	50.00	56.20	11.5	5.39	61.59	61.59
Washington	51.52	57.72	11.5	5.22	62.94	62.94
West Virginia	74.25	80.45	11.5	2.60	83.05	83.05
Wisconsin	60.21	66.41	11.5	4.22	70.63	70.63
Wyoming	50.00	56.20	11.5	5.39	61.59	61.59

[FR Doc. 2010–21235 Filed 8–25–10; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Office of Public Health and Science, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting. The meeting is open to the public. Pre-registration is required for both public attendance and comment. Individuals who wish to attend the meeting and/or participate in the public comment session should either e-mail *nvpo@hhs.gov* or call 202–690–5566 to register.

DATES: The meeting will be held on September 14, 2010, from 8 a.m. to 5 p.m., and September 15, 2010 from 8 a.m. to 3 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey Building, Great Hall; 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: National Vaccine Program Office, Department of Health and Human Services, Room 715–H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Phone: (202) 690–5566; Fax: (202) 260–1165; e-mail: *nvpo@hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Health Service Act (42 U.S.C. Section 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National Vaccine Advisory Committee was established to provide advice and make recommendations to the Director of the National Vaccine Program on matters related to the Program's responsibilities. The Assistant Secretary for Health serves as Director of the National Vaccine Program.

Topics to be discussed at the meeting include the 2010–2011 Seasonal Flu Campaign, Hepatitis B vaccination, Healthy People 2020, vaccine safety, and other related issues. The meeting agenda will be posted on the Web site: *http://www.hhs.gov/nvpo/nvac* at least one week prior to the meeting. Public attendance at the meeting is 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 office at the address/phone listed above at least one week prior to

the meeting. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Individuals who would like to submit written statements should e-mail or fax their comments to the National Vaccine Program Office at least five business days prior to the meeting. Those wishing to register to attend the meeting may do so by sending an e-mail to *nvpo@hhs.gov* or by calling 202–690–5566 and providing name, e-mail address and organization.

Dated: August 23, 2010.

Bruce Gellin,

Deputy Assistant Secretary for Health, Director, National Vaccine Program Office.

[FR Doc. 2010–21263 Filed 8–25–10; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Meeting of the Presidential Commission for the Study of Bioethical Issues

AGENCY: Department of Health and Human Services, Office of Public Health and Science, The Presidential Commission for the Study of Bioethical Issues.

ACTION: Notice of meeting.

SUMMARY: The Presidential Commission for the Study of Bioethical Issues will conduct a meeting in September. At this meeting, the Commission will continue discussing the emerging science of synthetic biology, including its potential benefits and risks, and appropriate ethical boundaries and principles.

DATES: The meeting will take place Monday, September 13, 2010, from 8:50 a.m. to approximately 4:15 p.m., and Tuesday, September 14, 2010, from 9 a.m. to approximately noon.

ADDRESSES: Monday, September 13, The Inn at Penn, 3600 Sansom Street, Philadelphia, PA 19104. Phone 215–222–0200. Tuesday, September 14, The Annenberg Public Policy Center, 202 South 36th Street, Philadelphia, PA 19104. Phone 215–898–9400.

FOR FURTHER INFORMATION CONTACT: Ms. Diane M. Gianelli, Director of Communications, The Presidential Commission for the Study of Bioethical Issues, 1425 New York Avenue, NW., Suite C–100, Washington, DC 20005. Telephone: 202/233–3960. E-mail: *info@bioethics.gov.* Additional information may be obtained by viewing the Web site: *http://www.bioethics.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C. App., notice is hereby given that the Presidential Commission for the Study of Bioethical Issues (PCSBI) will be conducting a meeting. The meeting will be held from 8:50 a.m. to approximately 4:15 p.m. on Monday, September 13, 2010, at the Inn at Penn, 3600 Sansom Street, Philadelphia, PA 19104, and from 9 a.m. to approximately noon on Tuesday, September 14, 2010, at The Annenberg Public Policy Center, 202 South 36th Street, Philadelphia, PA 19104. The meeting will be open to the public with attendance limited to space available. The meeting will also be Web cast.

Under authority of Executive Order 13521, dated November 24, 2009, the President established the PCSBI to serve as a public forum and advise him on bioethical issues generated by novel and emerging research in biomedicine and related areas of science and technology. The Commission is charged to identify and promote policies and practices that assure ethically responsible conduct of scientific research, healthcare delivery, and technological innovation. In undertaking these duties, the Commission will examine specific bioethical, legal, and social issues related to potential scientific and technological advances; examine diverse perspectives and possibilities for useful international collaboration on these issues, and recommend legal, regulatory, or policy actions as appropriate. The main agenda items for this meeting involve further discussion of the opportunities and benefits to the public of the emerging science of synthetic biology, the challenges and risks, and the ethical boundaries that may be important to formulation of public policy with regard to this advancing science. The Commission also will hear more from the perspective of faith communities and others. The draft meeting agenda and other information about PCSBI, including information about access to the Web cast, will be available at *http://www.bioethics.gov.*

The Commission welcomes input from anyone wishing to provide public comment on any issue before it. Individuals who would like to provide public comment at the meeting should notify Ms. Diane Gianelli, Director of Communications, by telephone at 202–233–3960, or e-mail at *diane.gianelli@bioethics.gov.* Anyone planning to attend the meeting who needs special assistance, such as sign language interpretation or other reasonable accommodations, should also notify Ms. Gianelli in advance of the meeting. The Commission will make every effort to accommodate persons who need special assistance.

Written comments will also be accepted in accord with the Commission's existing request for public comment on the issues before the Commission. Please address written comments by e-mail to *info@bioethics.gov,* or by mail to the following address: Public Commentary, The Presidential Commission for the Study of Bioethical Issues, 1425 New York Ave., NW., Suite C–100, Washington, DC 20005. Comments will be publicly available, including any personally identifiable or confidential business information that they contain. Trade secrets should not be submitted.

Dated: August 17, 2010.

Valerie H. Bonham,

Executive Director, The Presidential Commission for the Study of Bioethical Issues.

[FR Doc. 2010–21267 Filed 8–25–10; 8:45 am]

BILLING CODE 4154–06–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (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.

Proposed Project: Sickle Cell Disease and Other Hemoglobinopathies Program Evaluation—[NEW]

Background: In response to the growing need for resources devoted to sickle cell disease and other hemoglobinopathies, Congress, under Section 501(a)2 of the Social Security Act (2000), authorized the appropriation of funds for enabling the Secretary to provide for special projects of regional and national significance, research and training with respect to maternal and child health and children with special health care needs the following: Genetic disease testing, counseling and information development and dissemination programs, for grants relating to hemophilia without regard to age, and for the screening of newborns for sickle cell anemia and other genetic disorders, and follow-up services. As stated in House Report No. 107–229 regarding the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill 2002, the purpose of the Sickle Cell Disease and Newborn Screening Program (SCDNBSP) is "to enhance the sickle cell disease newborn screening program and its locally based outreach and counseling efforts." In addition, the American Jobs Creation Act of 2004, Public Law 108–357, states that "* * * the Bureau of Primary Health Care and the Maternal and Child Health Bureau, shall conduct a demonstration program by making grants for up to 40 eligible entities, for each fiscal year in which the program is conducted under this section, for the purpose of developing and establishing systemic mechanisms to improve the prevention and treatment of Sickle Cell Disease." (*See* 42 U.S.C. 300b–1).

Purpose: HRSA's activities under the legislative authorities relative to the Sickle Cell Disease and Newborn Screening Program (SCDNBSP) have been delegated to the Maternal and Child Health Bureau (MCHB), Genetic Services Branch (GSB). The MCHB's GSB supports seventeen community based organizations and the National Coordinating and Evaluation Center for the Sickle Cell Disease and Newborn Screening Program (SCDNBS) in addition to nine cooperative agreements and a National Coordinating Center for the Sickle Cell Disease Treatment Demonstration Program (SCDTDP). An evaluation will be conducted to assess the service delivery processes and quality of the system of care delivered by grantees under the Newborn Screening Program to individuals affected by Sickle Cell disease who present at their sites for care. The Centers for Disease Control and Prevention defines Hemoglobinopathies as "a group of disorders affecting red blood cells. SCD and Thalassemia are included in this group." (*See http://www.cdc.gov/ncbddd/sicklecell/RuSH_FAQs.html*). The information from the evaluation will be used to evaluate the grantees' performance in achieving the objectives of the hemoglobinopathies program during the grant period, assess the breadth of grantees' outreach to emerging populations affected by hemoglobinopathies and the needs of those populations attempting to access services. Data collection tools for which OMB approval is being requested are as follows: (1) The Minimum Database Project Sickle Cell Disease (MDP SCD) Questionnaire, (2) the Minimum Database Project Sickle Cell Trait/Carrier (MDP SCT) Questionnaire, and (3) the MDP Hemoglobinopathies Emerging Populations Questionnaire.

Respondents: The MDP SCD and the MDP SCT Questionnaires will be administered by grantees to clients or caregivers when they present for services. At the time of enrollment, SCDNBSP participants will be informed about the data collection and clients will be asked to participate in either the SCD questionnaire or the SCT questionnaire depending on their disease or carrier status. The program will enroll participants on a rolling basis such that new patients will be added to the program as they present for services and provide consent. Data will be collected at two points annually for the SCD Questionnaire, the first, when clients and caregivers are enrolled into the SCDNBS Program and the second, at follow-up after enrollment. Data will be collected once annually for the SCT Questionnaire. The Hemoglobinopathies Emerging Populations Form serves as a stand alone form for the other HRSA hemoglobinopathies programs, with its content. These questions are also embedded in the MDT SCD and MDP SCT questionnaires. The HRSA hemoglobinopathies programs also plan to use this questionnaire in developing educational materials, prioritizing outreach activities and informing decisions for future funding requests.

The annual estimate of burden is as follows:

Questionnaires	Number of respondents	Responses per respondent	Total responses	Average hours per response	Total hour burden	Wage rate	Total hour cost
MDP SCD Questionnaire	140	2	280	.45	126	$20.90	$2,633.40
MDP SCT Questionnaire	1,400	1	1,400	.30	420	20.90	8,778.00
Hemoglobinopathies Emerging Populations Form	*1,125	2	*2,250	.20	450	20.90	9,405.00
Total	2,665		3,930		996		20,816.40

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 19, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–21220 Filed 8–25–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0213]

Su Van Ho: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) debarring Su Van Ho for a period of 15 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Mr. Ho was convicted of three felonies under Federal law for conduct relating to the importation into the United States of an article of food. Mr. Ho was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of July 15, 2010, Mr. Ho failed to respond. Mr. Ho's failure to respond constitutes a waiver of his right to a hearing concerning this action.

DATES: This order is effective August 26, 2010.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–632–6844.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the act (21 U.S.C. 335a(b)(3)(A)), that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food.

On August 4, 2009, the United States District Court for the Central District of California accepted Mr. Ho's guilty plea and entered judgment against him for the offenses of: Smuggling, Causing an Act to be Done in violation of 18 U.S.C. 545, Concealing a Material Fact by Trick or Device in violation of 18 U.S.C. 1001(a)(1) and Receipt of an Adulterated Food and Delivery Thereof for Pay in violation of 21 U.S.C. 331(c), 333(a)(1), and 342(a)(3).

FDA's finding that debarment is appropriate is based on the three felony convictions referenced herein for conduct relating to the importation into the United States of any food. The factual basis for those convictions is as follows: Between at least January 1, 2003, through September 16, 2004, Mr. Ho owned and operated VincentSeafood and Trading, a frozen seafood import and distribution business. On or about August 20, 2004, in violation of 18 U.S.C. 545 and 2(b), Mr. Ho knowingly and willfully, with the intent to defraud the United States, did pass and cause to be passed through the customshouse a fraudulent commercial invoice that falsely described 610 cartons of Frozen Silk Worm as "Frozen Dade" fish and 461 cartons of Pineapple Brand Betel Nut as "Frozen Palmnut."

On or about September 16, 2004, in violation of 18 U.S.C. 1001(a)(1), Mr. Ho knowingly and willfully concealed and covered up by trick, scheme, or device a material fact. Specifically, he was ordered by FDA to export or destroy 118 cartons of frozen Featherback fish from import shipment N08–0026008–0 that contained *Salmonella* bacteria, with verification of such exportation or destruction by FDA. Mr. Ho concealed and covered up the material fact that he had improperly sold 103 cartons of the contaminated Featherback fish from import shipment N08–0026008–0 by a trick, scheme, or device in which he substituted 103 cartons of Featherback fish from other, unrelated import shipments and presented the substitute cartons of fish to FDA for verified exportation or destruction as the contaminated fish from import shipment N08–0026008–0.

Between on or about January 17, 2004, and September 16, 2004, in violation of 21 U.S.C. 331(c), 333(a)(1), and 342(a)(3), Mr. Ho received in interstate commerce and delivered in exchange for payment an adulterated food, namely, frozen Featherback fish from import shipment N08–0026008–0 that was contaminated with *Salmonella* bacteria.

As a result of his conviction, on June 10, 2010, FDA sent Mr. Ho a notice by certified mail proposing to debar him for a period of 15 years from importing articles of food or offering such articles for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the act that Mr. Ho was convicted of three felonies under Federal law for conduct relating to the importation into the United States of an article of food, and a determination, after consideration of the factors set forth in section 306(c)(3) of the act (21 U.S.C. 335a(c)(3)), that the full periods of debarment shall run consecutively as provided by section 306(c)(2)(A)(iii) of the act (21 U.S.C. 335a(c)(2)(A)(iii)). The proposal also offered Mr. Ho an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Ho failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Director, Office of Enforcement, Office of Regulatory Affairs, under section 306(b)(1)(C) of the act, and under authority delegated to the Director (Staff Manual Guide 1410.35), finds that Mr. Su Van Ho has been convicted of three felonies under Federal law for conduct relating to the importation of an article of food into the United States and that the full periods of debarment shall run consecutively under section 306(c)(2) of the act (21 U.S.C. 335a(c)(2)).

As a result of the foregoing finding, Mr. Ho is debarred for a period of 15 years from importing articles of food or offering such articles for import into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Mr. Ho is a prohibited act.

Any application by Mr. Ho for termination of debarment under section 306(d)(1) of the act should be identified with Docket No. FDA–2010–N–0213 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 12, 2010.

Howard R. Sklamberg,

Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. 2010–21258 Filed 8–25–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–266]

Availability of Draft Toxicological Profile

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR),

Department of Health and Human Services (DHHS).

ACTION: Notice of availability.

SUMMARY: This notice announces, for review and comment, the availability of one new draft toxicological profile on unregulated hazardous substances that was prepared for the Department of Defense (DOD). All toxicological profiles issued as "Drafts for Public Comment" represent ATSDR's best efforts to provide important toxicological information on priority hazardous substances. We are seeking public comments and additional information or reports on studies about the health effects of royal demolition explosive (RDX), chemical name hexahydro-1,3,5-trinitro-1,3,5-triazine, also known as cyclonite, for review and potential inclusion in the profile. ATSDR remains committed to providing a public comment period for these documents as a means to best serve public health and our stakeholders.

DATES: To be considered, comments on this draft toxicological profile must be received not later than November 19th, 2010. Comments received after the close of the public comment period will be considered at the discretion of ATSDR, based upon what is deemed to be in the best interest of the general public.

ADDRESSES: Requests for printed copies of the draft toxicological profile should be sent via e-mail to *cdcinfo@cdc.gov*, or to Ms. Olga Dawkins, Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, Mailstop F–62, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Electronic access to this document is also available at the ATSDR Web site: *http://www.atsdr.cdc.gov/toxpro2.html*.

Written comments and other data submitted in response to this notice and to the draft RDX toxicological profile should bear the docket control number ATSDR–XXX. Send one copy of all comments and three copies of all supporting documents to the attention of Ms. Nickolette Roney, Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, Mailstop F–62, 1600 Clifton Road, NE., Atlanta, Georgia 30333, by the end of the comment period. Electronic comments may be sent via e-mail to: *tppubliccomments@cdc.gov*. Please include RDX in the subject line of the e-mail. Because all public comments regarding ATSDR toxicological profiles are available for public inspection, no confidential business information or other confidential information should be submitted in response to this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Olga Dawkins, Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, Mailstop F–62, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (770) 488–3315. Electronic access to this document is also available at the ATSDR Web site: *http://www.atsdr.cdc.gov/toxpro2.html*. Comments and other data submitted in response to this notice and the draft toxicological profile should bear the docket control number ATSDR–266.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99–499) amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). Section 211 of SARA also amended Title 10 of the U.S. Code, creating the Defense Environmental Restoration Program. Section 2704(a) of Title 10 of the U.S. Code directs the Secretary of Defense to notify the Secretary of DHHS of not less than 25 of the most commonly found unregulated hazardous substances at defense facilities. The Secretary of DHHS is to prepare toxicological profiles of these substances. Each profile is to include an examination, summary, and interpretation of available toxicological information and epidemiologic evaluations. This information is used to ascertain the level of significant human exposure for the substance and the associated health effects. The toxicological profile includes a determination of whether adequate information on the health effects of each substance is available or is in the process of being developed. When adequate information is not available, ATSDR, in cooperation with the National Toxicology Program (NTP), may plan a program of research designed to determine these health effects.

Although a number of key studies for this substance were identified and evaluated during the draft profile development process, this **Federal Register** notice seeks to solicit any additional studies, particularly unpublished data and ongoing studies. These studies will be evaluated for possible addition to the profile now or in the future.

The draft toxicological profile will be made available to the public on or about August 20, 2010.

Hazardous substance	CAS No.
RDX	121–82–4

Dated: August 20, 2010.

Kenneth Rose,

Director, Office of Policy, Planning, and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. 2010–21298 Filed 8–25–10; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Initial Review Group, Comparative Medicine Review Committee CMRC.

Date: October 14, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Bonnie B. Dunn, PhD, Scientific Review Officer, National Center for Research Resources, or National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1074, MSC 4874, Bethesda, MD 20892–4874. 301–435–0824. *dunnbo@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333; 93.702, ARRA Related Construction Awards., National Institutes of Health, HHS)

Dated: August 20, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–21312 Filed 8–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer 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 Cancer Institute Initial Review Group; Subcommittee J—Population and Patient-Oriented Training.

Date: October 28, 2010.

Time: 7:45 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Alexandria, 400 Courthouse Square, Alexandria, VA 22314.

Contact Person: Ilda M. Mckenna, PhD, Scientific Review Officer, Research Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8111, Bethesda, MD 20892, 301–496–7481, *mckennai@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 20, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–21282 Filed 8–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review R01 & R34.

Date: October 12, 2010.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Mary Kelly, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, NIH 6701 Democracy Blvd, room 672, MSC 4878, Bethesda, MD 20892–4878, 301–594–4809, *mary_kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 20, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–21281 Filed 8–25–10; 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 Initial Review Group; Genome Research Review Committee.

Date: October 29, 2010.

Time: 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: NHGRI Twinbrook Library, 5635 Fishers Lane, Suite 4076, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Keith McKenney, PhD, Scientific Review Officer, NHGRI, 5635 Fishers Lane, Suite 4076, MSC 9306, 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: August 20, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–21317 Filed 8–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Advisory Committee for Women's Services; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Advisory Committee for Women's Services (ACWS) on September 11–12 at the Town and Country Convention Center in San Diego, California.

The meeting is open to the public. It will include a report from the Associate Administrator for Women's Services and Chair of the ACWS, Updates from ACWS members, and updates of SAMHSA's strategic initiatives. The meeting will also include a listening session on women and trauma.

Attendance by the public will be limited to space available. Public comments are welcome. The meeting can be accessed via live webcast. To obtain the access information, to register, to submit written or brief oral comments, or to request special accommodations for persons with disabilities, please register at the SAMHSA Committee's Web site at *https://nac.samhsa.gov/Registration/meetingsRegistration.aspx* or communicate with the Designated Federal Officer for the ACWS, Ms. Nevine Gahed (*see* contact information below).

Substantive meeting information and a roster of Committee members may be obtained either by accessing the SAMHSA Committee's Web site at *https://nac.samhsa.gov/WomenServices/index.aspx,* or by

contacting Ms. Gahed. The transcript for the meeting will be available on the SAMHSA Committee's Web site within three weeks after the meeting.

Committee Name: SAMHSA's Advisory Committee for Women's Services.

Date/Time/Type: Sunday, September 11, 2010 from 9 a.m. to 12 noon PDT: OPEN; Monday, September 12, 2010 from 12 noon to 5 p.m. PDT: OPEN.

Place: Town and Country Resort & Convention Center, 500 Hotel Circle North, San Diego, CA 92108.

Contact: Nevine Gahed, Designated Federal Officer, SAMHSA's Advisory Committee for Women's Services, 1 Choke Cherry Road, Room 8–1016, Rockville, Maryland 20857, Telephone: (240) 276–2331; FAX: (240) 276–2220 and E-mail: *nevine.gahed@samhsa.hhs.gov.*

Dated: August 20, 2010.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 2010–21240 Filed 8–25–10; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel SEPA.

Date: October 18–19, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sheri A Hild, PhD, Scientific Review Officer, National Institutes of Health, National Center for Research Resources, Office of Review, 6701 Democracy Blvd., Rm 1082, Bethesda, MD 20892. 301–435–0811. *hildsa@mail.nih.gov.*

Name of Committee: National Center for Research Resources Special Emphasis Panel, COBRE III Meeting.

Date: October 19–20, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville, 1750 Rockville Pike, Plaza I, Rockville, MD 20852.

Contact Person: Steven Birken, PhD, Scientific Revew Officer, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Blvd., Dem. 1, Room 1078, MSC 4874, Bethesda, MD 20892–4874. 301–435–0815. *birkens@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333; 93.702, ARRA Related Construction Awards., National Institutes of Health, HHS)

Dated: August 20, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–21280 Filed 8–25–10; 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.

Date: November 19–20, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Residence Inn by Marriott, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ken D. Nakamura, PhD, Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 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: August 20, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–21314 Filed 8–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control No. 1615–0027]

Agency Information Collection Activities: Form I–566; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day notice of information collection under review: Form I–566, Interagency Record of Individual Requesting Change/Adjustment To or From A or G Status or Requesting A, G, or NATO Dependent Employment Authorization; OMB Control No. 1615–0027.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 25, 2010.

During this 60-day period, USCIS will be evaluating whether to revise the Form I–566. Should USCIS decide to revise Form I–566 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I–566.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail, please make sure to add OMB Control No.

1615–0027 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Interagency Record of Individual Requesting Change/Adjustment To or From A or G Status or Requesting A, G, or NATO Dependent Employment Authorization.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–566; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This information collection facilitates processing of applications for benefits filed by dependents of diplomats, international organizations, and NATO personnel by U.S. Citizenship and Immigration Services, and the Department of State.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,800 responses at 15 minutes (.250 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,450 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: August 20, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–21225 Filed 8–25–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–777, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day notice of information collection under review: Form I–777, Application for Replacement of Northern Marina Card; OMB Control No. 1615–0042.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 9, 2010, at 75 FR 32799, allowing for a 60-day public comment period. USCIS received one comment for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 27, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via email at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0042 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Replacement of Northern Marina Card.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–777; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households.* Form I–777 is used by applicants applying for a Northern Marina identification card if they received United States citizenship pursuant to Public law 94–241 (covenant to establish a Commonwealth of the Northern Marina Islands).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW.,

Washington, DC 20529–2210; Telephone 202–272–8377.

Dated: August 20, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–21223 Filed 8–25–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–130; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Form I–130, Petition for Alien Relative; OMB Control No. 1615–0012.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 25, 2010.

During this 60-day period, USCIS will be evaluating whether to revise the Form I–130. Should USCIS decide to revise Form I–130, we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I–130.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0012 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Petition for Alien Relative.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–130; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This Form allows citizens or lawful permanent residents of the United States to petition on behalf of certain alien relatives who wish to immigrate to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 183,034 responses at 1.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 274,551 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: August 20, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–21224 Filed 8–25–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: File Number OMB 25; Extension of an Existing Information Collection: Comment Request.

ACTION: 60-Day Notice of Information Collection Under Review: OMB 25, Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters; OMB Control No. 1615–0064.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 25, 2010.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Officer, 111 Massachusetts Avenue NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0064 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Agency Form Number; File No. OMB–25. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. The information collected via the submitted supplemental documentation (as contained in 8 CFR 204.13(d)) will be used by the USCIS to determine eligibility for the requested classification as fourth preference Employment-based immigrant broadcasters.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 200 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: August 20, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. 2010–21227 Filed 8–25–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–865, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–865, Sponsor's Notice of Change of Address; OMB Control No. 1615–0076.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 9, 2010, at 75 FR 32801, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 27, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at rfs.regs@dhs.gov, and to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0076 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Sponsor's Notice of Change of Address.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–865; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households.* This form will be used by every sponsor who has filed an Affidavit of Support under Section 213A of the Immigration and Nationality Act to notify the USCIS of a change of address. The data will be used to locate a sponsor if there is a request for reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at 15 minutes (.25) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25,000 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210; Telephone 202–272–8377.

Dated: August 20, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–21226 Filed 8–25–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–243, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–243, Application for Removal; OMB Control No. 1615–0019.

The Department of Homeland Security, U.S. Citizenship and

Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 9, 2010, at 75 FR 32799, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 27, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0019 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–243; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households.* The information provided on this form allows the USCIS to determine eligibility for an applicant's request for removal from the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 41 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 20 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210; Telephone 202–272–8377.

Dated: August 20, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–21222 Filed 8–25–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0044, to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The collection involves the submission of identifying and travel experience information by individuals requesting redress through the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP). The collection also involves a voluntary customer satisfaction survey to identify areas for program improvement. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on May 19, 2010 (75 FR 28051).

DATES: Send your comments by September 27, 2010. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3651; e-mail *TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology.

Information Collection Requirement

Title: Department of Homeland Security Traveler Redress Inquiry Program.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 1652–0044.

Form(s): Traveler Inquiry Form.

Affected Public: Traveling Public.

Abstract: The DHS Traveler Redress Inquiry Program (DHS TRIP) serves as a centralized intake office for traveler redress requests. Individuals may seek redress if they believe that they have been (1) denied or delayed boarding; (2) denied or delayed entry into or departure from the United States at a port of entry; (3) indentified for additional (secondary) screening at our Nation's transportation hubs, including airports, seaports, train stations, and land borders; and (4) otherwise been subjected to violations of their civil rights or privacy rights while boarding, entering, or being screened in connection with travel. To request redress, individuals complete the Traveler Inquiry Form (TIF) by providing identifying information as well as details of the travel experience. After receipt, DHS TRIP passes the information to the relevant DHS component(s) and/or the Department of State to process the request as appropriate (for example, DHS TRIP passes the TIF to TSA to initiate the Watch List Clearance Procedure). DHS is modifying the TIF by adding an optional question that asks applicants to categorize the frequencies of their travel.

DHS TRIP will use this collection to assist in prioritizing the processing of cases to support the redress of the most frequent travelers. DHS will use the information collected through the DHS TRIP to determine if errors exist in the redress requestor's record. This collection also serves to help DHS distinguish the redress requestor from an actual individual on a watch list used by DHS, while streamlining and expediting future check-in or border crossing experiences.

DHS TRIP will also conduct a voluntary customer satisfaction survey in accordance with the DHS Office of the Inspector General, *Report on Effectiveness of the Department of Homeland Security Traveler Redress Inquiry Program.* Recommendation number 24 of the report called upon DHS TRIP to "collect and report on redress-seeker impressions of the TRIP Web site, different aspects of the redress experience, and their overall satisfaction with the program, with the aim of using this information to identify areas for improvement." DHS estimates that completing customer satisfaction survey will take approximately 10 minutes per respondent.

Number of Respondents: 62,000.

Estimated Annual Burden Hours: An estimated 72,540 hours annually.

Issued in Arlington, Virginia, on March 23, 2010.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2010–21310 Filed 8–25–10; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5383–N–15]

Notice of Proposed Information Collection for Public Comment; Requirements for Designating Housing Projects

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: October 25, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Leroy McKinney, Jr., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410–5000; telephone 202–402–5564, (this is not a toll-free number) or e-mail Mr. McKinney at *Leroy.McKinneyJr@hud.gov.* Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. (Other than the HUD USER information line and TTY numbers, telephone numbers are not toll free.)

FOR FURTHER INFORMATION CONTACT: Dacia Rogers, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410; telephone 202–402–3374, (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Requirements for Designating Housing Projects.

OMB Control Number: 2577–0192.

Description of the need for the information and proposed use: The information collection burden associated with designated housing is required by statute. Section 10 of the Housing Opportunity and Extension Act of 1996 modified Section 7 of the U.S. Housing Act of 1937 to require Public Housing Agencies (PHAs) to submit to HUD a plan for designation before they designate projects for elderly families only, non-elderly disabled families only, or elderly and disabled families. In this plan, PHAs must document why the designation is needed, information on the proposed designation and the total PHA inventory, and what additional housing resources will be available to the non-designated group.

Agency form number: None.

Members of affected public: State or Local government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents: 60 respondents; one response per respondent annually; 15 hours average per response, 900 total reporting burden hours per year.

Status of the proposed information collection: Extension of a previously approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 19, 2010.

Merrie Nichols-Dixon,

Acting Deputy Assistant Secretary for Policy, Programs, and Legislative Initiatives.

[FR Doc. 2010–21193 Filed 8–25–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5377–N–03]

Notice of Proposed Information Collection: Comment Request; HUD NEPA ARRA Section 1609(c) Reporting

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review and extension of the current approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 25, 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 and should be sent to: Leroy McKinney, Jr., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4178, Washington, DC 20410–5000; telephone (202) 402–5564 (this is not a toll-free number) or e-mail Mr. Leroy McKinney, Jr. at *Leroy.McKinneyJr@hud.gov* for a copy of the proposed form, or other available information.

FOR FURTHER INFORMATION CONTACT: Charles Bien, Director, Environmental Review Division, Office of Environment and Energy, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail: *Charles.Bien@hud.gov;* telephone (202) 402–4462. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice lists the following information:

Title of Proposal: HUD NEPA ARRA Section 1609(c) Reporting.

Description of Information Collection: The temporary electronic form will be provided by HUD to be used by grantees [*i.e.,* Respondents] for the purpose of complying with the ARRA Section 1609(c) statutory requirement. Grantees who receive American Recovery and Reinvestment Act (ARRA) funding for projects must report on the status and progress of their projects and activities with respect to compliance with the National Environmental Policy Act (NEPA) requirements and documentation. HUD will consolidate and transmit the information received from grantees to the Council on Environmental Quality and OMB for the Administration's reports to the House and Senate committees designated in the legislation.

OMB Control Number: 2506–0187.

Agency Form Numbers: None.

Members of the Affected Public: Not-for-profit institutions, State, Local or Tribal Government.

Estimation of the total number of hours needed to prepare the information collection including number of responses, frequency of responses, and hours of responses: Estimated number of respondents is 6,000. Frequency of response is quarterly. Annual number of responses is 24,000 (6,000 × 4). Estimate 30 minutes for response. Annualized burden hours is 12,000 (24,000 × 0.5 hours).

Status of the proposed information collection: Revision.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 19, 2010.

Mercedes M. Márquez,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2010–21194 Filed 8–25–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–85]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Choice Neighborhoods

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Department is soliciting public comments on the subject proposal, to assure better understanding of the reporting requirements and consistency in the submission of data.

DATES: *Comments Due Date:* September 2, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail: *OIRA_Submission @omb.eop.gov;* fax: (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney, Jr., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410–5000; telephone 202–402–8048, (this is not a toll-free number) or email Mr. McKinney at *Leroy.McKinneyJr@hud.gov* for a copy of the proposed forms, or other available information. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a proposed information collection that supports the Choice Neighborhoods Notice of Funding Availability (NOFA).

Title of Proposed Notice: Choice Neighborhoods.

Description of Information Collection: This is a new information collection. The Department of Housing and Urban Development Appropriations Act, 2010

(Pub. L. 111–117, enacted on December 16, 2009) permits the HUD Secretary to use up to $65,000,000 of the HOPE VI appropriations for a Choice Neighborhoods Initiative demonstration. With FY 2010 funding, the Choice Neighborhoods Initiative is a demonstration program under section 24 of the U.S. Housing Act of 1937, as amended (42 U.S.C. 1437v). Thus, except as otherwise specified in the appropriations act, the HOPE VI program requirements and selection criteria will apply to Choice Neighborhoods grants for FY 2010. In preparation for the competitive process to award funding, HUD posted on its Web site a pre-notice to help potential applicants prepare for the application process. The pre-notice sets forth the core goals of the initiative, identifies key program elements and activities, and outlines the framework of the competition HUD will use to award FY 2010 funding. The actual Notice of Funding Availability (NOFA) will contain the selection criteria for awarding Choice Neighborhoods grants and specific requirements that will apply to selected grantees.

Building upon the successes achieved and the lessons learned from the HOPE VI program, Choice Neighborhoods will employ a comprehensive approach to community development centered on housing transformation. The program aims to transform neighborhoods of poverty into viable mixed-income neighborhoods with access to economic opportunities by revitalizing severely distressed public and assisted housing and investing and leveraging investments in well-functioning services, effective schools and education programs, public assets, public transportation, and improved access to jobs. Choice Neighborhoods grants will primarily fund the transformation of public and/or HUD-assisted housing developments through preservation, rehabilitation, and management improvements as well as demolition and new construction. In addition, these funds can be used on a limited basis (and combined with other funding) for improvements to the surrounding community, public services, facilities, assets and supportive services. Choice Neighborhoods grant funds are intended to catalyze other investments that will be directed toward necessary community improvements. The leveraging of other sources will be necessary to address other key neighborhood assets and achieve the program's core goals. This may include resources from other HUD programs, such as the Community Development Block Grant and Section 108 Loan Guarantee programs, as well as from other Federal, State, local and private programs or entities. HUD is working with other Federal agencies to integrate Choice Neighborhoods with other Federal place-based programs.

OMB Control Number: 2577–Pending.

Agency Form Number: 2577–Pending.

Members of Affected Public: Local governments, public housing authorities, nonprofits, and for-project developers that apply jointly with a public entity.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of responses: For Choice Neighborhoods Round 1: Burden hours per response total 58.09 for Implementation Grant applications, and 35.59 for Planning Grant applications. For FY 2010, applicants may only submit an Implementation Grant application or a Planning Grant application, not both. The total burden hours, estimating 100 respondents for each grant application type, is 5,809 for Implementation Grants, and 3,559 for Planning Grants.

Status of the proposed information collection: This is a new information Collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 19, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–21198 Filed 8–25–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 5377–N–02]

Notice of Proposed Information Collection: Comment Request, State Community Development Block (CDBG) Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 25, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Leroy McKinney, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410; telephone, 202–402–5564 (this is not a toll-free number), or e-mail Mr. McKinney at *Leroy.McKinneyJr@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Eva Fontheim at (202) 402–3461 (this is not a toll free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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: State Community Development Block Grant (CDBG) Program.

OMB Control Number, if applicable: 2506–0085.

Description of the need for the information and proposed use: The Housing and Community Development Act of 1974, as amended (HCDA), requires grant recipients that receive CDBG funding to retain records necessary to document compliance with statutory and regulatory requirements on an on-going basis. Grantees must also submit an annual performance and evaluation report to demonstrate progress that it has made in carrying out its consolidated plan, and such records as may be necessary to facilitate review and audit by HUD of the grantee's administration of CDBG funds [Section

104(e)]. The statute also requires [Section 104(e)(2)] that HUD conduct an annual review to determine whether States have distributed funds to units of general local government in a timely manner. HUD has re-designed a form by which the grantees can report their compliance with this requirement.

Agency form numbers, if applicable: The collection of this information will be submitted on HUD's timely distribution form or in similar format from State records or systems.

Members of affected public: This information collection applies to 50 State CDBG Grantees (49 States and Puerto Rico but not Hawaii).

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 50. The proposed frequency of the response to the collection of information is annual at 1.5 hours per response with a total of 75 hours additional reporting burden. The record keeping burden for program compliance is already included under the currently approved information collection. The estimate of the annual reporting and recordkeeping is increased to 112,175 hours for 50 grant recipients. The 75 hour increase due to the addition of the timely distribution form represents .067% of the original burden.

Status of the proposed information collection:

Revision of a currently approved collection, and a request for OMB renewal for three years. The current OMB approval will expire in April 30, 2012.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 17, 2010.

Mercedes Márquez,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2010–21196 Filed 8–25–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement Outer Continental Shelf (OCS) Scientific Committee (SC); Announcement of Plenary Session

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEM), Interior.

ACTION: Notice of meeting.

SUMMARY: The OCS Scientific Committee will meet at the Embassy Suites Dulles North in Ashburn, Virginia.

DATES: Tuesday, September 14, 2010, from 9 a.m. to 5 p.m.; Wednesday, September 15, 2010, from 8 a.m. to 4:30 p.m.; and Thursday, September 16, 2010, from 10 a.m. to 4 p.m.

ADDRESSES: Embassy Suites Dulles North, 44610 Waxpool Road, Ashburn, Virginia 20147, telephone (703) 723–5300.

FOR FURTHER INFORMATION CONTACT: A copy of the agenda may be requested from BOEM by e-mailing Ms. Carolyn Beamer at *carolyn.beamer@boemre.gov.* Other inquiries concerning the OCS SC meeting should be addressed to Dr. James Kendall, Executive Secretary to the OCS SC, Bureau of Ocean Energy Management, Regulation and Enforcement, 381 Elden Street, Mail Stop 4043, Herndon, Virginia 20170–4817, or by calling (703) 787–1656 or via e-mail at *james.kendall@boemre.gov.*

SUPPLEMENTARY INFORMATION: The OCS SC will provide advice on the feasibility, appropriateness, and scientific value of the OCS Environmental Studies Program to the Secretary of the Interior through the Director of the BOEM. The SC will review the relevance of the research and data being produced to meet BOEM scientific information needs for decision making and may recommend changes in scope, direction, and emphasis.

The Committee will meet in plenary session on Tuesday, September 14. The Director will address the Committee on the general status of the BOEM and its activities. There will be a presentation from the National Oceanic and Atmospheric Administration on the Natural Resource Damage Assessment process and U.S. Geological Survey science with respect to the Deepwater Horizon incident. Following these presentations BOEM regional officials will discuss their most pertinent and current issues.

On Wednesday, September 15, the Committee will meet in discipline breakout sessions (*i.e.,* biology/ecology, physical sciences, and social sciences) to review the specific studies plans of the BOEM regional offices for Fiscal Years 2011–2013.

On Thursday, September 16, the Committee will meet in plenary session for reports of the individual discipline breakout sessions of the previous day and to continue with Committee business.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

Authority: Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget's Circular A–63, Revised.

Dated: August 18, 2010.

Robert P. LaBelle,

Acting Associate Director for Offshore, Energy and Minerals Management.

[FR Doc. 2010–21251 Filed 8–25–10; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2010–N157; 1265–0000–10137–S3]

Hakalau Forest National Wildlife Refuge, Hawai'i County, HI; Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for the Hakalau Forest National Wildlife Refuge (refuge) for public review and comment. The Draft CCP/EA describes our proposal for managing the refuge for the next 15 years.

DATES: To ensure consideration, please send us your written comments by September 15, 2010.

ADDRESSES: Address comments, questions, and requests for further information to Jim Kraus, Refuge Manager, Hakalau Forest National Wildlife Refuge, 60 Nowelo Street, Suite 100; Hilo, HI 96720. Alternatively, you may fax comments to the refuge at (808) 443–2304, or e-mail them to *FW1PlanningComments@fws.gov.* Include "Hakalau Forest Refuge CCP" in the subject line of the message. Additional information concerning the refuge is available on the Internet at *http://www.fws.gov/hakalauforest/.* You may request the CCP/EA for review by any of the above contact methods, or you may view or download it at *http://www.fws.gov/pacific/planning.*

FOR FURTHER INFORMATION CONTACT: Jim Kraus, Refuge Manager, (808) 443–2300.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for the Hakalau Forest National Wildlife Refuge. We began this process by publishing a notice of intent in the

Federal Register on February 25, 2009 (74 FR 8564).

The Hakalau Forest Refuge is located on the Island of Hawai'i. It encompasses two refuge units, the Hakalau Forest Unit and the Kona Forest Unit. The Hakalau Forest Unit was established in 1985 to protect endangered forest birds and their rainforest habitat. The Hakalau Forest Unit encompasses 32,733 acres of land, located on the eastern or windward slope of Mauna Kea, which supports a diversity of native birds and plants. The refuge's Kona Forest Unit was established in 1997, on the southwestern or leeward slope of Mauna Loa, to protect native forest birds and the 'alala, an endangered Hawaiian crow. The Kona Forest Unit supports diverse native bird and plant species, as well as rare habitats found in lava tubes and lava tube skylights.

Background

The CCP Process

The CCP/EA was prepared under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended (Refuge Administration Act), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA). The Refuge Administration Act requires us to develop a CCP for each national wildlife refuge. The purpose of developing a CCP is to provide refuge managers 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 conservation, management, legal mandates, and our policies. In addition to outlining broad management direction for conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCPs at least every 15 years in accordance with the Refuge Administration Act.

Public Outreach

We began the public scoping phase of the CCP planning process by publishing a notice of intent in the **Federal Register** on February 25, 2009 (74 FR 8564), announcing our intention to complete a CCP/EA for the refuge, inviting the public to two open house meetings, and requesting public comments. Simultaneously, we distributed Planning Update 1 to our mailing list announcing the beginning of the CCP planning process, requesting comments on refuge management issues, and inviting the public to attend two open house meetings. The meetings were held March 3 and 4, 2009, in Hilo, HI, and Captain Cook, HI, respectively.

In October 2009 we distributed Planning Update 2. In Planning Update 2 we provided a summary of the comments we received and draft vision statements. The public comments we received throughout the planning process were considered during development of the Draft CCP/EA.

Draft Alternatives We Are Considering

We drafted three alternatives for managing the refuge. All of the alternatives will include actions to control invasive species, develop or improve partnerships, continue coordination with Hawai'i's Department of Forestry and Wildlife, develop volunteer opportunities, and construct a fence around the Kona Forest Unit. Brief descriptions of the alternatives follow.

Alternative A

Alternative A is the no-action alternative. We would continue existing refuge management activities under Alternative A, including fencing projects currently under way at the Kona Forest Unit. Staff would conduct limited additional restoration of various koa forest habitats. Volunteer opportunities to assist refuge staff with planting native plants would continue. Refuge staff would provide limited outreach regarding management activities.

Alternative B

Alternative B is the preferred alternative. We would increase reforestation, restoration, and ungulate removal efforts under Alternative B. Additional areas in both units would be protected through fencing and ungulate removal. Refuge staff, with the assistance of volunteers, would increase efforts to restore understory species in reforested areas. Staff would provide additional opportunities for outreach and environmental education and interpretation. We would work with partners and neighboring landowners to explore habitat protection and restoration opportunities, including the potential for refuge boundary expansion. Opportunities for additional land acquisition would focus on protection of forest birds and their habitats in response to climate change concerns.

Alternative C

Under Alternative C, we would focus on maintaining existing koa forest and allowing natural regeneration of the understory on the Kona Forest Unit. We would place less emphasis on ungulate removal and maintenance. Additional grassland areas would be maintained for foraging and nesting nēnē. We would open additional areas of the Hakalau Forest Unit to the public. Fewer volunteer opportunities would be provided. As in Alternative B, we would explore habitat protection opportunities.

Public Availability of Documents

We encourage you to stay involved in the CCP planning process by reviewing and commenting on the proposals we have developed in the Draft CCP/EA. Copies of the Draft CCP/EA are available by request from Jim Kraus or via the internet (*see* **ADDRESSES**).

Next Steps

After this comment period ends, we will analyze the comments and address them in the final CCP.

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: August 10, 2010.

Theresa E. Rabot,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 2010–21289 Filed 8–25–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2010–N167; 20124–1113–0000–C2]

Endangered and Threatened Wildlife and Plants; Draft Ocelot (LEOPARDUS PARDALIS) Recovery Plan, First Revision

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for public review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the Draft Ocelot (Leopardus pardalis) Recovery Plan, First Revision. We request review and comment from the public on this draft revised recovery plan. We will also accept any new information on the status of the ocelot throughout its range

to assist in finalizing the revised recovery plan.

DATES: To ensure consideration, we must receive any comments no later than October 25, 2010.

ADDRESSES: An electronic copy of the recovery plan can be obtained from our Web site at *http://www.fws.gov/southwest/es/Library/*. Copies of the recovery plan are also available by request. To obtain a copy, contact Jody Mays by U.S. mail at Laguna Atascosa National Wildlife Refuge, 22817 Ocelot Road, Los Fresnos, TX 78566; by phone at (956) 748–3607; or by e-mail at *Jody_Mays@fws.gov.* Written comments and materials on the draft revised recovery plan may be mailed to Jody Mays at the address above.

FOR FURTHER INFORMATION CONTACT: Jody Mays (*see* **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Recovery plans help guide the recovery effort by describing actions considered necessary for the conservation of the species, and estimating time and costs for implementing the measures needed for recovery. A recovery plan was originally completed for the ocelot in 1990 (*The Listed Cats of Texas and Arizona Recovery Plan*), but the recommendations contained in that plan are outdated given the species' current status.

Section 4(f) of the Act requires that we provide public notice and an opportunity for public review and comment during recovery plan development. We will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. We will also take these comments into account in the course of implementing recovery actions. In fulfillment of this requirement, we are making this draft first revision of the recovery plan for the ocelot available for a 60-day public comment period.

The ocelot was listed as an endangered foreign species in 1972 under the authority of the Endangered Species Conservation Act of 1969 (37 FR 6476; March 30, 1972). Following passage of the Endangered Species Act in 1973, the ocelot was included on the January 4, 1974 (39 FR 1158; January 4, 1974), list of "Endangered Foreign Wildlife" that "grandfathered" species from the lists under the 1969 Endangered Species Conservation Act into a new list under the ESA. Endangered status was extended to ocelots in the U.S. portion of the species' range for the first time, with a final rule published July 21, 1982 (47 FR 31670). In that rule, we made a determination that designation of critical habitat was not prudent, because such a designation would not be in the best interests of conservation of the species. Currently, the ocelot is listed as endangered throughout its range, from southern Texas and southern Arizona through Central and South America into northern Argentina and Uruguay.

The ocelot requires dense vegetation (more than 75 percent canopy cover), with 95 percent cover preferred in Texas. Habitats used by the ocelot throughout its range vary from tropical rainforest, pine forest, gallery forest, riparian forest, semideciduous forest, and dry tropical forest, to savanna, shrublands, and marshlands. Contiguous areas of vegetation are necessary for ocelot dispersal. In south Texas, 2 remaining ocelot populations of less than 25 total known individuals inhabit dense thornscrub communities on the Lower Rio Grande Valley and Laguna Atascosa National Wildlife Refuges, as well as on private lands. Its prey consists primarily of rabbits, rodents, birds, and lizards.

In November 2009, an ocelot was documented in Arizona with the use of camera traps for the first time since 1964, when the last known ocelot in Arizona was legally shot. However, a number of ocelots have been recently documented 30–35 miles south of the Arizona border in Sonora, Mexico.

Habitat conversion, fragmentation, and loss, comprise the primary threats to the ocelot today. In Texas, over 95 percent of the dense thornscrub habitat in the Lower Rio Grande Valley has been converted to agriculture, rangelands, or urban land uses. Small population sizes in Texas and isolation from conspecifics in Mexico endanger the ocelot in Texas with genetic impoverishment and increased susceptibility to stochastic (random) events. Connectivity among ocelot populations or colonization of new habitats is discouraged by the proliferation of highways and increased road mortality among dispersing ocelots. Issues associated with developing and patrolling the boundary between the United States and Mexico further exacerbate the isolation of Texas ocelots from those in Mexico.

While the draft ocelot recovery plan considers the ocelot throughout its range, its major focus is on two cross-border management units, the Texas/Tamaulipas Management Unit and the Arizona/Sonora Management Unit. The draft ocelot recovery plan includes scientific information about the species and provides objectives and actions needed for recovery and to ultimately remove it from the list of threatened and endangered species. Recovery actions include:

- Assessment, protection, reconnection, and restoration of sufficient habitat to support viable populations of the ocelot in the borderlands of the United States and Mexico;
- Reduction of effects of human population growth and development to ocelot survival and mortality;
- Maintenance or improvement of genetic fitness, demographic conditions, and health of the ocelot;
- Assurance of long-term viability of ocelot conservation through partnerships, the development and application of incentives for landowners, application of existing regulations, and public education and outreach;
- Use of adaptive management, in which recovery is monitored and recovery tasks are revised by the Service in coordination with the Ocelot Recovery Team as new information becomes available; and
- Support of international efforts to ascertain the status of and conserve the ocelot south of Tamaulipas and Sonora.

Public Comments

We are accepting written comments and information during this comment period on the revised draft recovery plan. All comments received by the date specified above will be considered prior to approval of the final recovery plan. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the Laguna Atascosa National Wildlife Refuge (*see* **ADDRESSES**).

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 publically 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.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 4, 2010.

Joy E. Nicholopoulos,

Regional Director, Region 2.

[FR Doc. 2010–21249 Filed 8–25–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2010–N166; 40120–1112–0000–F2]

Environmental Impact Statement; Alabama Beach Mouse Draft General Conservation Plan; Fort Morgan Peninsula, Baldwin County, AL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; announcement of public meetings.

SUMMARY: Under the National Environmental Policy Act (NEPA), we, the Fish and Wildlife Service (Service), advise the public that we intend to gather information necessary to prepare an environmental impact statement (EIS) on the draft Alabama Beach Mouse General Conservation Plan (ABM GCP) Project. We are preparing the ABM GCP under the Endangered Species Act of 1973, as amended (Act). We provide this notice to (1) Describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected Tribes, and the public of our intent to prepare an EIS; (3) announce the initiation of a public scoping period; and (4) obtain suggestions and information on the scope of issues to be included in the EIS.

DATES: *Comments:* We must receive any written comments at our Field Office (*see* **ADDRESSES**) on or before September 27, 2010.

Public Meetings: Two public scoping meetings will be held on September 29, 2010: The first from 2 p.m. to 4 p.m., and the second from 6 p.m. to 8 p.m.

ADDRESSES: *Public Meetings:* Gulf Shores Adult Activities Center, 260 Club House Drive, Gulf Shores, AL 36542.

Document Availability: Documents will be available for public inspection by appointment during normal business hours at the Fish and Wildlife Service Field Office, 1208–B Main Street, Daphne, AL 36526.

Comments: For how and where to submit comments, see Public Comments below.

FOR FURTHER INFORMATION CONTACT: Mr. Darren LeBlanc, Project Manager, at the Alabama Field Office (*see* **ADDRESSES**), telephone: 251/441–5868.

SUPPLEMENTARY INFORMATION: Under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), we announce that we intend to gather information necessary to prepare an EIS on the draft ABM GCP Project under the Act (16 U.S.C. 1531 *et seq.*).

Background

Section 9 of the Act and Federal regulations prohibit the "take" of wildlife species listed as endangered or threatened (16 U.S.C. 1538). The Act defines the term "take" as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Under section 10(a)(1)(B) of the Act, the Service may issue permits to authorize "incidental take" of listed species. "Incidental Take" is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are in the Code of Federal Regulations (CFR) at 50 CFR 17.32 and 50 CFR 17.22. All species included on an incidental take permit would receive assurances under the Service's "No Surprises" regulations [50 CFR 17.22(b)(5) and 17.32(b)(5)].

Proposed ABM GCP

Species we propose for coverage in the ABM GCP are species that are currently listed as federally threatened or endangered and have some likelihood to occur within the project area. Three protected species covered by the ABM GCP are known to occur within the area. Currently the following listed animal species are included in the plan: Alabama beach mouse (ABM) (*Peromyscus polionotus ammobates*), Loggerhead sea turtle (*Caretta caretta*), and Kemp's ridley sea turtle (*Lepidochelys kempii*).

The proposed ABM GCP utilizes a conservation strategy that would provide for preservation of a large portion of the developable habitat for the ABM while still allowing economic growth to occur in the area. The ABM GCP coverage area extends along the Gulf of Mexico for about 17 miles, encompassing approximately 2,400 acres of open beach and associated nearshore coastal dune environments on the Fort Morgan Peninsula, Baldwin County, AL. The coverage area begins at Little Lagoon Pass, on State Hwy 182 in Gulf Shores, and extends westward to the tip of the Fort Morgan State Historic site at the western terminus of the Fort Morgan Peninsula. The area is defined biologically as that area where an ABM population and/or subpopulations (i.e., metapopulations) could be affected by the proposed actions. The coverage area is based on what the Service currently knows about ABM movement and dispersal, locations of separate yet connected populations, and where future development could occur within these areas. It is important that suitable habitat be maintained within these areas so that barriers to dispersal do not develop, to allow for expansion of subpopulations, and for maintaining or increasing genetic diversity.

The ABM GCP would result in take authorization for otherwise lawful actions, such as private development that may incidentally take or harm animal species or their habitats within the ABM GCP area, in exchange for the assembly and management of a coordinated ABM GCP area. Specifically, these activities would include residential development and infrastructure improvement, as well as response activities related to impacts from tropical weather systems. The ABM GCP would develop a program of take avoidance, minimization, and mitigation, with an emphasis on preservation of remaining natural lands that will support viable populations and the continued existence of federally listed threatened or endangered species, including an in-lieu-fee proposal. The ABM GCP creates a framework for complying with federally listed threatened or endangered species regulations for specified species while accommodating future growth in the ABM GCP area. The framework established by the ABM GCP in-lieu-fee plan will allow for the purchase of select parcels of high-priority habitat, preserve movement corridors within viable habitat, conduct post-storm habitat restoration on public lands and assist the public with the same on private property, and assist in the conservation of species through research.

If the ABM GCP is established, property owners who wish to develop low-density residences on the Fort Morgan peninsula in Alabama, and who meet the qualifying conditions of the ABM GCP, may apply for a 50-year Incidental Take Permit (ITP) from the Service. The ITP is needed to authorize the incidental take of threatened and endangered species that would occur as a result of private residential development.

Environmental Impact Statement

The EIS will consider three alternatives: The proposed action (establishment of the GCP), no action (no project/no section 10 permit), and continuing to process HCPs in yearly batches of applications, as we do currently. A detailed description of the proposed action and alternatives in the ABM GCP will be included in the EIS. The EIS will also identify potentially significant impacts on biological resources, land use, air quality, water quality, water resources, economics, and other environmental resource issues that could occur directly or indirectly with implementation of the proposed action and alternatives. Different strategies for avoiding, minimizing, and mitigating the impacts of incidental take may also be considered.

The primary purpose of the scoping process is to identify important issues raised by the public related to the proposed action.

Public Comments

Outside of the public hearings, we will accept comments in written form only. To ensure that we identify the full range of issues related to the permit application, we invite written comments from interested parties. Please reference the ABM GCP in such comments.

If you wish to comment, you may submit comments by any one of the following methods:

U.S. mail: Alabama Field Office (*see* **ADDRESSES**).

E-mail: darren_leblanc@fws.gov. Please include your name and return mailing address in your e-mail message. If you do not receive a confirmation from us that we have received your email, contact us directly at either telephone number listed (*see* **FOR FURTHER INFORMATION CONTACT**).

Hand delivery: Hand-deliver comments to either of our offices listed under **ADDRESSES.**

Availability of Public 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.

Reasonable Accommodation

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact Denise Rowell at 251/441–5181 as soon as possible. In order to allow sufficient time to process requests, please call no later than 1 week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Authority: We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: *August 2, 2010.*

Mark J. Musaus,

Acting Regional Director, Southeast Region.

[FR Doc. 2010–21268 Filed 8–25–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Land Acquisitions; Tohono O'odham Nation, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Agency Determination.

SUMMARY: The Assistant Secretary—Indian Affairs made a final agency determination to acquire Parcel 2 consisting of 53.54 acres of land into trust for the Tohono O'odham Nation of Arizona on July 23, 2010. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, MS–3657 MIB, 1849 C Street, NW., Washington, DC 20240; Telephone (202) 219–4066.

SUPPLEMENTARY INFORMATION: This notice is published to comply with the requirement of 25 CFR part 151.12(b) that notice be given to the public of the Secretary's decision to acquire land in trust at least 30 days prior to signatory acceptance of the land into trust. The purpose of the 30-day waiting period in 25 CFR part 151.12(b) is to afford interested parties the opportunity to seek judicial review of final administrative decisions to take land in trust for Indian tribes and individual Indians before transfer of title to the property occurs. On July 23, 2010, the Assistant Secretary—Indian Affairs decided to accept Parcel 2, consisting of 53.54 acres of land into trust for the Tohono O'odham Nation of Arizona. Pursuant to the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99–503, 100 Stat. 1798 (1986) Section 6(d) mandates: "The Secretary, at the request of the Tribe, shall hold in trust for the benefit of the Tribe any land which the Tribe acquires pursuant to subsection (c) which meets the requirements of this subsection. Any land which the Secretary holds in trust shall be deemed to be a Federal Indian Reservation for all purposes. Land does not meet the requirements of this subsection if it is outside the counties of Maricopa, Pinal, and Pima, Arizona, or within the corporate limits of any city or town. Land meets the requirements of this subsection only if it constitutes not more than three separate areas consisting of contiguous tracts, at least one of which areas shall be contiguous to San Lucy Village. The Secretary may waive the requirements set forth in the preceding sentence if he determines that additional areas are appropriate." The 53.54 acre parcel is located in Maricopa County, Arizona, and the parcel is not "within the corporate limits of any city or town."

The legal description of the property is as follows:

PARCEL NO. 2

THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER AND THE WEST HALF OF THE EAST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE WEST 360.14 FEET (MEASURED), WEST 360.00 FEET (RECORD) OF THE NORTH 484.19 FEET (MEASURED), NORTH 484.00 FEET (RECORD); AND

EXCEPT THE NORTH 258.00 FEET OF THE WEST 460.00 FEET OF THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 4; AND

EXCEPT THE NORTH 40.00 FEET, THEREOF; AND

EXCEPT THOSE PORTIONS THEREOF WHICH LIE NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT ON THE NORTH–SOUTH MIDSECTION LINE OF SAID SECTION 4, WHICH POINT BEARS SOUTH 01 DEGREES 36 MINUTES 34 SECONDS WEST (RECORD AS SOUTH 00 DEGREES 16 MINUTES 56 SECONDS WEST ACCORDING TO ADOT PARCEL 7–4241),55.01 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 4;

THENCE EAST (RECORDED AS NORTH 88 DEGREES 40 MINUTES 28 SECONDS EAST, ACCORDING TO ADOT PARCEL 7–42410), 503.20 FEET;

THENCE NORTH (RECORDED AS NORTH 01 DEGREES 19 MINUTES 32 SECONDS WEST ACCORDING TO ADOT PARCEL 7–4241), 55.00 FEET TO THE POINT OF ENDING ON THE NORTH LINE OF SAID SECTION 4, WHICH POINT BEARS NORTH 88 DEGREES 40 MINUTES 28 SECONDS EAST, 501.66 FEET FROM SAID NORTH QUARTER CORNER OF

SECTION 4, AS CONVEYED TO THE STATE OF ARIZONA IN DEED RECORDED IN RECORDING NO. 86–652262 OF OFFICIAL RECORDS; AND EXCEPT THAT PARCEL OF LAND LYING WITHIN SAID NORTHEAST QUARTER OF SECTION 4 AND BEING A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN RECORDING NO. 95–490799 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4;

THENCE NORTH 88 DEGREES 40 MINUTES 25 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, 998.19 FEET;

THENCE SOUTH 00 DEGREES 09 MINUTES 14 SECONDS WEST, 40.01 FEET TO THE NORTHEAST CORNER OF SAID PARCEL ON THE SOUTH LINE OF THE NORTH 40.00 FEET OF SAID NORTHEAST QUARTER AND THE POINT OF BEGINNING;

THENCE SOUTH 00 DEGREES 09 MINUTES 14 SECONDS WEST, ALONG THE EAST LINE OF SAID PARCEL, 28.05 FEET;

THENCE NORTH 68 DEGREES 29 MINUTES 09 SECONDS WEST, 42.26 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 51.64 FEET OF SAID NORTHEAST QUARTER;

THENCE SOUTH 88 DEGREES 40 MINUTES 25 SECONDS WEST, ALONG SAID SOUTH LINE, 455.83 FEET TO A POINT ON THE EAST LINE OF THAT PARCEL CONVEYED TO ARIZONA DEPARTMENT OF TRANSPORTATION IN RECORDING NO. 86–652262 OF OFFICIAL RECORDS;

THENCE NORTH 01 DEGREES 19 MINUTES 35 SECONDS WEST, ALONG SAID EAST LINE, 11.64 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 40.00 FEET OF SAID NORTHEAST QUARTER;

THENCE NORTH 88 DEGREES 40 MINUTES 25 SECONDS EAST, ALONG THE SOUTH LINE, 495.50 FEET TO THE POINT OF BEGINNING, AS CONVEYED TO MARICOPA COUNTY IN DEED RECORDED IN RECORDING NO. 99–332877 OF OFFICIAL RECORDS.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

[FR Doc. 2010–21130 Filed 8–25–10; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUT91000–L10400000–PH0000–24–1A]

Notice of Utah's Resource Advisory Council (RAC) Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Utah's Resource Advisory Council (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) will meet as indicated below.

DATES: The Utah RAC will meet Monday, September 13, 2010, from 8 a.m.–4:30 p.m., in the Monument Conference Room at the Bureau of Land Management's Utah State Office.

ADDRESSES: The Bureau of Land Management's Utah State Office is located at 440 West 200 South, Fifth Floor, Salt Lake City, Utah 84101.

FOR FURTHER INFORMATION 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. Planned agenda topics include a welcome and introduction by the BLM's new Utah State Director, Juan Palma; an overview of BLM Utah issues; the history, mandate, and purpose of rapid ecoregional assessments; a discussion on the governor's balanced resources council; an overview of the Rich County Allotment Consolidation Project; a presentation on *Energy by Design,* by The Nature Conservancy; and, an update on the Wild Horse and Burro Strategy. A half-hour public comment period, where the public may address the Council, is scheduled to begin from 11:30 a.m.–noon. Written comments may be sent to the Bureau of Land Management's address listed above.

Transportation, lodging, and meals are the responsibility of the participating public.

Dated: August 20, 2010.

Approved: Juan Palma,

State Director.

[FR Doc. 2010–21283 Filed 8–25–10; 8:45 am]

BILLING CODE 4310–DQ–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Toner Cartridges and Components Thereof,* DN 2750; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: Marilyn R. Abbott, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Lexmark International, Inc. on August 20, 2010. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain Toner Cartridges. The complaint names as respondents Ninestar Image Co. Ltd. of Guangdong, China; Ninestar Image Int'l, Ltd. of Guangdong, China; Seine Image International Co. Ltd. of New Territories, Hong Kong; Ninestar Technology Company, Ltd. of Piscataway, NJ; Ziprint Image Corporation of Walnut, CA; Nano Pacific Corporation of South San Francisco, CA; IJSS Inc., d/b/a TonerZone.com Inc. and Inkjet Superstore of Los Angeles, CA; Chung Pal Shin, d/b/a Ink Master of Cerritos, CA; Nectron International, Inc. of Sugarland, TX; Quality Cartridges Inc. of Brooklyn, NY; Direct Billing International Incorporated, d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection of Carlsbad, CA; E-Toner Mart, Inc. of South El Monte, CA; Alpha Image Tech of South El Monte, CA; ACM Technologies, Inc. of Corona, CA; Virtual Imaging Products Inc. of North York, Ontario, Canada; Acecom Inc-San

Antonio d/b/a inksell.com of San Antonio, TX; Ink Technologies Printer Supplies, LLC d/b/a Ink Technologies LLC of Dayton, OH; Jahwa Electronics Co., Ltd. of Chungchongbuk-do, South Korea; Huizhou Jahwa Electronics Co., Ltd of Guangdong Province, China; Copy Technologies, Inc. of Atlanta, GA; Laser Toner Technology, Inc. of Atlanta, GA; C & R Services, Inc. of Corinth, TX; Print-Rite Holdings Ltd. of Chai Wan, Hong Kong; and Union Technology Int'l, (M.C.O.) Co. of Rodrigo Rodrigues, Macao.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number ("Docket No. 2750") in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

Issued: August 23, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–21246 Filed 8–25–10; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Curriculum Development: Implementing and Sustaining an Evidence-Based Risk Reduction Approach for First- and Mid-Level Supervisors in Corrections Settings

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The National Institute of Corrections (NIC) is seeking applications for the development of a competency-based, blended modality training curriculum that will provide corrections supervisors and managers with the knowledge, skills, and abilities needed to model, coach, implement, and oversee an evidence-based risk reduction approach in correctional settings.

DATES: Applications must be received by 12 noon EDT on Friday, September 3, 2010.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5002, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand-delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, dial 7–3106, extension 0 for pickup.

Faxed applications will not be accepted. Electronic applications can only be submitted via *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: All technical or programmatic questions concerning this announcement should be directed to Michael Guevara, Correctional Program Specialist, National Institute of Corrections. He can be reached by calling 303–365–4415, or by e-mail at *mguevara@bop.gov.*

SUPPLEMENTARY INFORMATION:

Overview: NIC is seeking assistance to develop a blended learning curriculum for implementing and sustaining an evidence-based risk reduction approach for first- and mid-level supervisors in any and all correctional settings. The curriculum must adhere to NIC's Instructional Theory into Practice (ITIP) model, which applicants can find on NIC's Web site via the following link: *http://www.nicic.gov/pubs/1992/010714.pdf.* The curriculum must be based on applicable literature and products published by NIC over the last several years, as well as current research and practice in the field of corrections, adult learning, and instructional strategies. The curriculum will use a blended learning format and include a distance learning component. It may make use solely of a distance learning approach. The curriculum will be piloted and implemented in a future funding cycle.

Background: For years, NIC has been committed to promoting risk reduction through the use of evidence-based policies and practices. Most of the work NIC has completed in this area has taken the form of technical assistance, direct work with agencies, and the publication of papers and manuals on related topics. To date, much of the focus of NIC's work in evidence-based practices has been in the area of community corrections. NIC would like to expand on this work by making it applicable and accessible to all corrections disciplines by developing a curriculum for first- and mid-level

managers, regardless of the corrections setting in which they work.

Purpose: To create a blended learning curriculum for implementing and sustaining an evidence-based risk reduction approach for first- and mid-level supervisors in corrections settings.

Scope of Work: At the end of this cooperative agreement, a curriculum should be developed using NIC's Instructional Theory into Practice (ITIP) model. The curriculum should include a facilitator's manual, participant's manual, action learning plan, and all relevant supplemental material (such as PowerPoint slides, visual &/or audio aids, handouts, exercises, etc.). The use of blended learning tools such as a live web-based training environment (*e.g.,* WebEx), DVDs, satellite/Internet broadcasts, e-learning, or supplemental online training courses is mandatory. During the implementation phase, NIC may participate directly in the production of some or all of these products. Clear learning objectives should be contained in each lesson, and delivery modality should be based on how to most efficiently and effectively achieve these objectives. A pre- and post-test, as well as quizzes and action learning plans shall be developed as necessary. Consideration should be given to preparing participants through advance work, such as reading assignments or taking an online course through NIC's Learning Center. An evaluation, to be distributed at the conclusion of the training, will be developed. This evaluation must examine the content, processes, and delivery of the program; the evaluation should be designed to help revise and improve the training and curriculum.

Specific Requirements: The curriculum is intended to be part of a comprehensive strategy for implementing evidence-based risk reduction approaches in any corrections agency. First- and mid-level managers must model, coach, implement, and oversee these approaches and require specific knowledge, skills, and attitudes to do so. As an integral part of their jobs, and as part of a solid evidence-based model, supervisors must possess effective communication skills and the ability to enhance internal motivation. They must also be able to coach their staff in those same skills. Therefore, interpersonal communication skills and a technology such as motivational interviewing should be included in the curriculum, within the context of an overall approach to becoming an evidence-based organization. The curriculum will be based on products and documents developed by the National Institute of Corrections over the past several years, as well as other work from the private or public sector that can inform the development of an effective learning experience for students. Since this curriculum is about evidence-based approaches, both the content and learning design of the curriculum itself should have firm foundations in research. Please reference specific sources that will be used in the development of the curriculum. This blended learning curriculum will be in whole or in part a distance learning curriculum. Although there is no guarantee that the awardee/writer of this curriculum will participate in the implementation phase, ideas for how to maximize NIC resources during pilot and implementation should be included as part of the curriculum's instructional strategies. An example of a blended learning approach designed by the person or agency submitting the application should be included.

Document Requirements: Publications produced under this award must follow the "Guidelines for Preparing and Submitting Manuscripts for Publication" as found in the General Guidelines for Cooperative Agreements which will be included in the award package. All final publications submitted for posting on the NIC Web site must meet the federal government's requirement for accessibility (508 PDF or HTML file). All documents developed under this cooperative agreement must be submitted in draft form to NIC for review before the final products are delivered.

Application Requirements: Applications should be concisely written, typed double-spaced and reference the project by the "NIC Opportunity Number" and Title in this announcement. The package must include: A cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (*e.g.,* July 1 through June 30); a program narrative in response to the statement of work (ten pages maximum for the program narrative), and a budget narrative explaining projected costs. The following forms must also be included: OMB Standard Form 424, Application for Federal Assistance; OMB Standard Form 424A, Budget information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (these forms are available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *http://www.nicic.gov/Downloads/PDF/certif-frm.pdf.*)

Applications may be submitted in hard copy, or electronically via *http://www.grants.gov.* If submitted in hard copy, there needs to be an original and three copies of the full proposal (program and budget narratives, application forms and assurances). The original should have the applicant's signature in blue ink.

Authority: Public Law 93–415.

Funds Available: NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. Up to $88,000.00 may be available for the development of this curriculum. The final budget and award amount will be negotiated between NIC and the successful applicant. Funds may be used only for the activities linked to the desired outcome of the project.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual, or team with expertise in the described areas.

Review Considerations: Applications received under this announcement will be subjected to a 3- to 5-person NIC Peer Review Process. The criteria for the evaluation of each application will be as follows:

Programmatic (45%): Is there demonstrated knowledge of curriculum development? Is a specific model of curriculum development (*e.g.,* ITIP) proposed? Is there demonstrated knowledge of training for first- and mid-level supervisor positions? Is there demonstrated knowledge of evidence-based practices? Is there demonstrated knowledge of how training in evidence-based practices fits into an overall strategy of organizational development? Is there demonstrated knowledge of the role of first- and mid-level supervisors in the process of organizational change? Is there demonstrated knowledge of techniques and/or interventions that successfully address acquisition and retention of new knowledge, skills and abilities? Does the proposal include blended and distance learning approaches? Are project goals/tasks adequately discussed? Are there any innovative approaches, techniques, or design aspects proposed that will enhance the project?

Organizational (30%): Do the skills, knowledge, and expertise of the organization and the proposed project staff demonstrate a high level of competency to carry out the tasks? Does the applicant/organization have the necessary experience and organizational

capacity to carry out all goals of the project? If consultants and/or partnerships are proposed, is there a reasonable justification for their inclusion in the project and a clear structure to ensure effective coordination? Is the proposed budget realistic, does it provide sufficient cost detail/narrative, and does it represent good value relative to the anticipated results?

Project Management/Administration (25%): Does the applicant identify reasonable objectives, milestones, and measures to track progress? Is there a clear statement of how project goals will be accomplished, to include: Major tasks that will lead to achieving the goals, the strategies to be employed, required staffing and other required resources? Are the proposed project management and staffing plans clear, realistic, and sufficient to complete the project?

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–800–333–0505 (if you are a sole proprietor, you would dial 1–866–705–5711 and select option 1).

Registration in the CRR can be done online at the CCR Web site: *http://www.ccr.gov.* A CCR Handbook and worksheet can also be reviewed at the Web site.

Number of Awards: One.

NIC Opportunity Number: 10A64. This number should appear as a reference line in the cover letter, in box 4a of Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.601

Executive Order 12372: This project is not subject to the provisions of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 2010–21221 Filed 8–25–10; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Office of the Secretary

ACTION: Final notice of submission for OMB review; Comment request.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–4223 (this is not a toll-free number) and e-mail to: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send written comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Wage and Hour Division, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax 202–395–5806 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the OMB Control Number (*see* below).

The OMB is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Wage and Hour Division.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: Motor Vehicle Safety for Transportation of Migrant and Seasonal Agricultural Workers.

OMB Control Number: 1235–0017.

Agency Form Numbers: WH–514, WH–514A and WH–515.

Affected Public: Businesses or other for-profits, Farms.

Total Estimated Number of Responses: 3,900.

Total Estimated Annual Burden Hours: 885.

Total Estimated Annual Costs Burden: $215,100.

Description: Migrant and Seasonal Agricultural Worker Protection Act (MSPA) section 401 (29 U.S.C. 1841) requires, subject to certain exceptions, all Farm Labor Contractors (FLCs), Agricultural Employers (AGERs), and Agricultural Associations (AGASs) to ensure that any vehicle they use or cause to be used to transport or drive any migrant or seasonal agricultural worker conforms to safety and health standards prescribed by the Secretary of Labor under the MSPA and with other applicable Federal and State safety standards. These MSPA safety standards address the vehicle, driver, and insurance. The Wage and Hour Division (WHD) has created Forms WH–514, WH–514a, and WH–515, which allow FLC applicants to verify to the WHD that the vehicles used to transport migrant/seasonal agricultural workers meet the MSPA vehicle safety standards and that anyone who drives such workers meets the Act's minimum physical requirements. The WHD uses the information in deciding whether to authorize the FLC/FLC Employee applicant to transport/drive any migrant/seasonal agricultural worker(s) or to cause such transportation. Form WH–514 is used to verify that any vehicle used or caused to be used to transport any migrant/seasonal agricultural worker(s) meets the Department of transportation (DOT) safety standards. When the adopted DOT rules do not apply, FLC applicants seeking authorization to transport any migrant/seasonal agricultural workers use Form WH–514a to verify that the vehicles meet the DOL safety standards and, upon the vehicle meeting the required safety standards, the form is completed. Form WH–515 is a doctor's certificate used to document that a motor vehicle driver or operator meets the minimum DOT physical requirements that the DOL has adopted. For additional information, see related notice published in the **Federal Register** on January 22, 2010, (75 FR 3759).

Dated: August 20, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–21271 Filed 8–25–10; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL SCIENCE FOUNDATION

Notice of Availability of a Draft Site-Specific Environmental Assessment and Notice of Public Hearings; Correction

AGENCY: National Science Foundation.

ACTION: Notice of the availability of a Draft Site-Specific Environmental Assessment (Draft SSEA) for the Ocean Observatories Initiative (OOI), request for public comment on the Draft SSEA, and notice of public hearings; Correction.

SUMMARY: The National Science Foundation (NSF) published a document in the **Federal Register** of August 16, 2010, concerning requests for public comment on a Draft Site-Specific Environmental Assessment for the Ocean Observatories Initiative (OOI). The document did not include the dates and times for the open house sessions.

Correction

In the **Federal Register** of August 16, 2010, in FR Doc. 2010–20107, on page 50008, in the second column, correct the **DATES AND ADDRESSES** caption to read:

DATES AND ADDRESSES: All hearings will start with an open house session from 7 p.m. to 7:45 p.m. A presentation and formal public comment period will be held from 7:45 p.m. to 9 p.m. Public hearings will be held on the following dates and at the following locations:

- Wednesday, September 1, 2010, at Westport Maritime Museum, Westport, WA.
- Thursday, September 2, 2010, at Guin Library Seminar Room, Hatfield Marine Science Center, Newport, OR.
- Wednesday, September 8, 2010 date, at New Bedford Library, 613 Pleasant Street, New Bedford, MA 02740–6203.

FOR FURTHER INFORMATION CONTACT: Copies of the Draft SSEA are available upon request from: Jean McGovern, NSF, Division of Ocean Sciences, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 292–7591. The Draft SSEA is also available at the following Web site: *http://www.nsf.gov/geo/oce/envcomp/index.jsp*.

SUPPLEMENTARY INFORMATION: The text from the original notice follows:

The National Science Foundation (NSF) gives notice of the availability of the Draft SSEA for the OOI, and requests public review and comment on the document. NSF also provides notice of public hearings on the Draft SSEA for the OOI. The Division of Ocean Sciences in the Directorate for Geosciences (GEO/OCE) has prepared a Draft SSEA for the OOI, a multi-million dollar Major Research Equipment and Facilities Construction effort intended to put moored and cable infrastructure in discrete locations in the coastal and global ocean. The Draft SSEA has been prepared to assess the potential impacts on the human and natural environment associated with proposed site-specific requirements in the design, installation, and operation of the OOI that were previously assessed in a 2008 Programmatic Environmental Assessment (PEA) and a 2009 Supplemental Environmental Report (SER). The scope of the environmental impact analysis of the SSEA is tiered from the previously prepared PEA, associated Finding of No Significant Impact (FONSI), and SER. It focuses only on those activities and the associated potential impacts, including cumulative impacts, resulting from the site-specific installation and operation of OOI assets and not previously assessed in the PEA and SER. The Draft SSEA is available for public comment for a 30-day period. Comments may be mailed to Jean McGovern, National Science Foundation, Division of Ocean Sciences, 4201 Wilson Blvd., Arlington, VA 22230, or submitted via e-mail at *nepacomments@nsf.gov*. The deadline for submitting comments is September 15, 2010.

NSF will conduct three public hearings to receive oral and written comments on the Draft SSEA. Federal, state, and local agencies, Native American Tribes and Nations, and interested individuals are invited to be present or represented at the public hearings. This notice announces the dates and locations of the public hearings for this Draft SSEA. An open house session will precede the scheduled public hearing at each of the locations listed below and will allow individuals to review the information presented in the Draft SSEA. NSF representatives will be available during the open house sessions to clarify information related to the Draft SSEA.

Oceanographic research has long relied on research vessel cruises (expeditions) as the predominate means to make direct measurements of the ocean. Remote sensing (use of satellites) has greatly advanced abilities to measure ocean surface characteristics over extended periods of time. A major advancement for oceanographic research methods is the ability to make sustained, long-term, and adaptive measurements from the surface to the ocean bottom. "Ocean Observatories" are now being developed to further this goal. Building upon recent technology advances and lessons learned from prototype ocean observatories, NSF's Ocean Sciences Division (OCE) is proposing to fund the OOI, an interactive, globally distributed and integrated infrastructure that will be the backbone for the next generation of ocean sensors and resulting complex ocean studies presently unachievable. The OOI reflects a community-wide, national and international scientific planning effort and is a key NSF contribution to the broader effort to establish focused national ocean observatory capabilities through the Integrated Ocean Observing System (IOOS).

The OOI infrastructure would include cables, buoys, deployment platforms, moorings, junction boxes, electric power generation (solar, wind, and/or fuel cell,), and two-way communications systems. This large-scale infrastructure would support sensors located at the sea surface, in the water column, and at or beneath the seafloor. The OOI would also support related elements, such as unified project management, data dissemination and archiving, modeling of oceanographic processes, and education and outreach activities essential to the long-term success of ocean science. It would include the first U.S. multi-node cabled observatory; fixed and re-locatable coastal arrays coupled with mobile assets; and advanced buoys for interdisciplinary measurements, especially for data limited areas of the Southern Ocean and other high-latitude locations.

The OOI design is based upon three main technical elements across global, regional, and coastal scales. At the global and coastal scales, moorings would provide locally generated power to seafloor and platform instruments and sensors and use a satellite link to shore and the Internet. Up to four Global Scale Nodes (GSN) or buoy sites are proposed for ocean sensing in the Eastern Pacific and Atlantic oceans. The Regional-Scale Nodes (RSN) off the coast of Washington and Oregon would consist of seafloor observatories with various chemical, biological, and geological sensors linked with submarine cables to shore that provide power and Internet connectivity. Coastal-Scale Nodes (CSN) would be represented by the fixed Endurance Array, consisting of a combination of cabled nodes and stand-alone moorings, off the coast of Washington and Oregon, and the relocatable Pioneer Array off the coast of Massachusetts, consisting of a suite of stand-alone moorings. In addition, there would be an integration of mobile assets such as autonomous underwater vehicles (AUVS) and/or

gliders with the GSN, RSN, and CSN observatories.

The Draft SSEA is available upon request from: Jean McGovern, NSF, Division of Ocean Sciences, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 292–7591. It is also available for electronic public viewing at the following Web site: *http://www.nsf.gov/geo/oce/envcomp/index.jsp.*

Federal, state, local agencies, Native American Tribes and Nations, and interested parties are invited to be present or represented at the public hearings. Written comments can also be submitted during the open house sessions preceding the public hearings or at any time during the 30-day public review period of the Draft SSEA.

Oral statements will be heard and transcribed by a stenographer; however, to ensure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on the Draft SSEA and will be responded to in the Final SSEA. Equal weight will be given to both oral and written statements. In the interest of time available time, and to ensure all who wish to give an oral statement have the opportunity to do so, each speaker's comments will be limited to three (3) minutes. If a long statement is to be presented, it should be summarized at the public hearing with the full text submitted either in writing at the hearing or mailed to Jean McGovern, National Science Foundation, Division of Ocean Sciences, 4201 Wilson Blvd., Arlington, VA 22230. In addition, comments may be submitted via e-mail at *nepacomments@nsf.gov.*

Dated: August 20, 2010.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2010–21154 Filed 8–25–10; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Regulatory Policies and Practices

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on September 22, 2010, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, September 22, 2010–8:30 a.m. Until 5 p.m.

The Subcommittee will discuss the Draft Final Rule to Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Peter Wen (telephone 301–415–2832 or e-mail *Peter.Wen@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 14, 2009, (74 FR 58268–58269).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

Dated: August 19, 2010.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.

[FR Doc. 2010–21262 Filed 8–25–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on AP1000

The ACRS Subcommittee on AP1000 will hold a meeting on September 20–21, 2010, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to protect unclassified safeguards information or information that is proprietary to Westinghouse Electric Company and its contractors, pursuant to 5 U.S.C. 552b(c)(3) and (4).

The agenda for the subject meeting shall be as follows:

Monday, September 20, 2010—8:30 a.m. Until 5 p.m. and Tuesday, September 21, 2010, 8:30 a.m.–5 p.m.

The Subcommittee will discuss selected chapters of the Final Safety Evaluation Report (FSER) of the Revision 17 to AP1000 Design Control Document (DCD) Amendment and the Combined License Application (COL). The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Westinghouse, COL Applicant, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Weidong Wang (telephone 301–415–6279 or e-mail *Weidong.Wang@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 14, 2009, (74 FR 58268–58269).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

Dated: August 19, 2010.

Duncan White,

Acting Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. 2010–21264 Filed 8–25–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247 and 50–286; NRC–2010–0285]

Entergy Nuclear Operations, Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has granted the request of Entergy Nuclear Operations, Inc. (the licensee) to withdraw its November 17, 2009, application for proposed amendment to Facility Operating License Nos. DPR–26 and DPR–64 for the Indian Point Nuclear Generating Unit Nos. 2 and 3, located in Westchester County, New York.

The proposed amendment would have revised the Technical Specifications pertaining to the air start system for the emergency diesel generators.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 26, 2010 (75 FR 4116). However, by letter dated August 5, 2010, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 17, 2009, and the licensee's letter dated August 5, 2010, which withdrew the application for license amendment. 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 by e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 19th day of August 2010.

For the Nuclear Regulatory Commission.

John P. Boska,

Senior Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–21265 Filed 8–25–10; 8:45 am]

BILLING CODE 7590–01–P

THE PRESIDIO TRUST

Limiting of Vehicular Use of a Portion of Battery Caulfield Road; Extension of Comment Period

SUMMARY: By **Federal Register** notice of July 29, 2010 (75 FR 44820), the Presidio Trust (Trust) announced its solicitation of public comment in connection with two alternative approaches to limit vehicular use of a portion of Battery Caulfield Road in the Presidio of San Francisco: (1) Limitation of vehicular use during weekday peak a.m. and p.m. hours, 7 to 9 a.m. and 5 to 7 p.m., as well as on weekends (Alternative 1); or (2) limitation of vehicular use at all times (Alternative 2). The Trust is extending the public comment period to October 15, 2010. Although the deadline for the submission of written comments is being extended, interested parties should provide comments as soon as possible.

DATES: Comments must be received by the Trust no later than October 15, 2010.

FOR FURTHER INFORMATION CONTACT: John Fa (415–561–5065), The Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052.

Comments: Address all written comments about Alternative 1, Alternative 2, or both to: John Fa, The Real Estate Department, The Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052.

If individuals submitting comments request that their address or other contact information be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently at the beginning of the comments. E-mail comments may be submitted to: *BatteryCaulfield@presidiotrust.gov*; for such comments to be considered, the submitter must include his/her name in the e-mail. Anonymous comments, or electronic comments that do not include the submitter's name, may not be considered. The Trust will make available for public inspection all written comments received and considered. The Trust may modify the proposed use limits following consideration of public comment, and the final decision of the Trust will be published in the **Federal Register**.

Dated: August 20, 2010.

Karen A. Cook,

General Counsel.

[FR Doc. 2010–21252 Filed 8–25–10; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [75 FR 51854, August 23, 2010]

STATUS: Closed Meeting.

PLACE: 100 F Street, NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, August 26, 2010 at 2 p.m.

CHANGE IN THE MEETING: Additional Item.

The following item has been added to the Thursday, August 26, 2010 Closed Meeting agenda: Consideration of amicus participation.

Commissioner Paredes, as duty officer, determined that Commission business required the above change.

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: August 23, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–21335 Filed 8–24–10; 11:15 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62688A; File Nos. SR–BATS–2010–018; SR–BX–2010–044; SR–CBOE–2010–065; SR–CHX–2010–14; SR–EDGA–2010–05; SR–EDGX–2010–05; SR–FINRA–2010–033; SR–ISE–2010–66; SR–NYSE–2010–49; SR–NYSEAmex-2010–63; SR–NYSEArca–2010–61; SR–NASDAQ–2010–079; SR–NSX–2010–08]

Self-Regulatory Organizations; BATS Exchange, Inc.; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; EDGA Exchange, Inc.; EDGX Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; International Securities Exchange LLC; NASDAQ OMX BX, Inc.; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Amex LLC; NYSE Arca, Inc.; Correction

August 19, 2010.

The Securities and Exchange Commission published a document in the **Federal Register** of August 18, 2010, concerning a Notice of Designation of Longer Period for Commission Action on Proposed Rule Changes Relating to Trading Pauses Due to Extraordinary Market Volatility by BATS Exchange, Inc.; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; EDGA Exchange, Inc.; EDGX Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; International Securities Exchange LLC; NASDAQ OMX BX, Inc.; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Amex LLC; and NYSE Arca, Inc. The document contained a typographical error in the signature block.

In the **Federal Register** of August 18, 2010, in FR Doc. 2010–20366, on page 51138, in the 3rd column, correct the signature block to read "By the Commission" and remove footnote 7.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21176 Filed 8–25–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62744; File No. SR–Phlx–2010–105]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Cancellation Fee

August 19, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 13, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 assess a Cancellation Fee on all electronically delivered all-or-none ("AON") orders that are submitted by a Professional and subsequently cancelled by the party that originally submitted the order.

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, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the manner in which the Cancellation Fee is assessed on members. The Exchange proposes to assess a Cancellation Fee of $1.10 on all electronically delivered[3] AON orders that are submitted by a Professional[4] (hereafter "Professional AON") and subsequently cancelled by the party that originally submitted the order. The Exchange has observed that the number of cancelled Professional AON orders greatly exceeds the normal order cancellation activity on the Exchange for all other order types, and thus affects the automated order handling capacity of the Exchange's systems. The Exchange proposes to include Professional AON orders into the calculation of cancelled orders to assess the Cancellation Fee to recover costs associated with system issues that are attributable to cancelled AON orders. A Professional order is treated, for purposes of priority, as a Customer order.[5]

Currently, the Exchange assesses a Cancellation Fee of $2.10 per order on member organizations for each cancelled electronically delivered Customer order that exceeds the number of Customer orders executed on the Exchange by that member organization in a given month. The Exchange calculates the Cancellation Fee by aggregating all Customer orders and cancellations received from a member organization in a particular calendar month. At least 500 Customer cancellations must be made in a given month by a member organization in order for a member organization to be assessed the Cancellation Fee ("500 Threshold"). The Cancellation Fee is not assessed in a month in which fewer than 500 electronically delivered Customer orders[6] are cancelled. Simple

[3] Electronically delivered orders are delivered through the Exchange's options trading platform known as PHLX XL II.

[4] Currently, a Professional is treated in the same manner as an off-floor broker-dealer for purposes of Rules 1014(g) (except with respect to AON orders, which will be treated like Customer orders), 1033(e), 1064.02 (except professional orders will be considered Customer orders subject to facilitation), and 1080.08 as well as Options Floor Procedure Advices B–6, B–11 and F–5. Member organizations must indicate whether orders are for professionals.

[5] *Id.*

[6] For purposes of assessing the Cancellation Fee, Customer orders from the same member organization in the same series on the same side of the market that are executed at the same price

cancels and cancel-replacement orders are the types of orders that are counted when calculating the number of electronically delivered orders.[7] The following order activity is exempt from the Cancellation Fee: (i) Pre-market cancellations;[8] (ii) Complex Orders[9] that are submitted electronically; (iii) unfilled Immediate-or-Cancel[10] Customer orders; and (iv) cancelled Customer orders that improved the Exchange's prevailing bid or offer (PBBO) market at the time the Customer orders were received by the Exchange.

The Exchange proposes to continue to assess the $2.10 Cancellation Fee on all Customer orders that exceed the 500 Threshold for cancelled orders. Professional AON orders would be computed in calculating the 500 Threshold before any order is assessed a Cancellation Fee.[11] Beyond the 500 Threshold, each Customer order would be assessed a Cancellation Fee of $2.10 per order; this is not changing. The Exchange proposes to assess each Professional AON order, beyond the 500 Threshold, a $1.10 per order Cancellation Fee.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(4) of the Act[13] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities. The Exchange believes that the proposed amendments to the Cancellation Fee are reasonable because they will ease system congestion and allow the Exchange to recover costs associated with excessive order cancellation activity. The Exchange has experienced a significant increase in the number of Professional AON orders. Also, the Exchange believes that the amendment to the Cancellation Fee is equitable because the addition of the Professional AON orders to the Cancellation Fee computation would continue to be applied equitably among members according to system use.

With respect to Section I, Rebates and Fees for Adding and Removing Liquidity in Select Symbols, of the Fee Schedule, a Customer is entitled to receive a $.20 rebate for adding liquidity, is assessed no fee for adding liquidity and is assessed a $.25 fee for removing liquidity. A Professional in that same fee model is entitled to receive a $.20 rebate for adding liquidity, is assessed no fee for adding liquidity and is assessed a $.40 fee for removing liquidity. The Professional AON orders would be assessed a fee that is $1.00 lower ($1.10 as compared to $2.10) than fees assessed for Customer orders over the 500 Threshold.

With respect to the fees in Section II, Equity Options Fees, of the Fee Schedule, a Customer is not assessed a fee for options transactions (penny or non-penny); however, a Professional is assessed a $.20 fee for options transactions (penny and non-penny). Neither a Customer nor a Professional is assessed an Options Surcharge in RUT, RMN, MNX or NDX. Again, there would be a $1.00 differential between Customer and Professional AON orders with this proposed Cancellation Fee.

The Exchange assesses the Cancellation Fee by aggregating all Customer orders. Cancellations received from a member organization in a particular calendar month from the same member organization in the same series on the same side of the market and executed at the same price within a 300-second period are aggregated and counted as one option order. The Professional AON orders, which receive a Customer priority, are proposed to be included in that calculation. The Exchange would assess the Cancellation Fee only after the 500 Threshold is reached. The Exchange believes that this proposal is equitable because: (i) The Exchange is assessing the fee on aggregate Customer orders (including Professional AON orders) because they are the specific cause of the system congestion;[14] (ii) Professional AON orders have the benefit of the Customer priority and therefore should be treated similar to Customers in terms of the Cancellation Fee assessment; and (iii) the Exchange proposes to assess a lower Cancellation Fee on a Professional order as compared to a Customer order.

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[15] and Rule 19b–4(f)(2)[16] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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–2010–105 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

within a 300 second period will be aggregated and counted as one executed Customer option order.

[7] A cancel-replacement order is a contingency order consisting of two or more parts which require the immediate cancellation of a previously received order prior to the replacement of a new order with new terms and conditions. If the previously placed order is already filled partially or in its entirety the replacement order is automatically canceled or reduced by such number. *See* Exchange Rule 1066(c)(7).

[8] *See* Securities Exchange Act Release Nos. 53226 (February 3, 2006), 71 FR 7602 (February 13, 2006) (SR–Phlx–2005–92); and 53670 (April 18, 2006), 71 FR 21087 (April 24, 2006) (SR–PHLX–2006–21). *See also* Securities Exchange Act Release No. 60046 (June 4, 2009), 74 FR 28083 (June 12, 2009) (SR–Phlx–2009–44).

[9] A complex order is a spread, straddle, combination, ratio or collar order, all of which consist of more than one component, priced like a single order at a net debit or credit based on the prices of the individual components. *See* Exchange Rule 1080.08 Commentary .08(a)(i).

[10] An Immediate-or-Cancel (IOC) order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed shall be cancelled.

[11] In reaching the 500 Threshold, orders must be executed from the same member organization in the same series on the same side of the market and executed at the same price within a 300 second period. Orders are aggregated and counted as one executed Customer or Professional AON option order.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

[14] The Exchange has no evidence that Broker-Dealer and other market participants contribute to system congestion as a result of cancellation orders.

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 19b–4(f)(2).

100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2010–105. 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,[17] 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–2010–105 and should be submitted on or before September 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21177 Filed 8–25–10; 8:45 am]

BILLING CODE 8010–01–P

[17] The text of the proposed rule change is available on Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* on the Commission's Web site at *http://www.sec.gov,* at Phlx, and at the Commission's Public Reference Room.

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62745; File No. SR–Phlx–2010–113]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Cancellation Fee

August 19, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 17, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 Fee Schedule to modify the current method of calculating the minimum number of orders submitted by a member organization and subsequently cancelled that is required to assess a Cancellation Fee on electronically delivered Customer orders, and Professional[3] all-or-none ("AON") orders that are submitted by the member.

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, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the manner in which the Cancellation Fee is assessed on member organizations. Currently, the Exchange assesses the Cancellation Fee on member organizations that submit Customer orders and Professional AON orders if the aggregate number of Customer orders and Professional AON orders submitted by such members and then cancelled totals 500 orders or more in a particular calendar month (the "500 Order Threshold").

The Exchange proposes to modify the calculation of the 500 Order Threshold by creating two separate Cancellation Fee calculations, one applicable to Customer orders and one applicable to AON orders that are submitted by a Professional.[4] Under the proposal, the 500 Order Threshold would be calculated for Customer orders and Professional AON orders separately, and would not be aggregated.[5] The Exchange proposes this rule change to simplify the calculation of the 500 Order Threshold.

The Exchange recently amended the Cancellation Fee to include Professional AON orders in the computation of the 500 Order Threshold for the application of the Cancellation Fee.[6] Currently, the Exchange assesses a Cancellation Fee of $2.10 per Customer order and $1.10 per Professional AON order for each cancelled electronically delivered[7] Customer order or Professional AON order that exceeds the aggregate number of Customer and Professional AON

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 1000(b)(14) provides in relevant part: "The term "professional" means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[4] Currently, a Professional is treated in the same manner as an off-floor broker-dealer for purposes of Rules 1014(g) (except with respect to AON orders, which will be treated like Customer orders), 1033(e), 1064.02 (except professional orders will be considered Customer orders subject to facilitation), and 1080.08 as well as Options Floor Procedure Advices B–6, B–11 and F–5. Member organizations must indicate whether orders are for professionals.

[5] The Cancellation Fee [sic] to member organizations that submit a minimum of 500 Customer orders in a given month, and to Professionals that submit a minimum of 500 AON orders in a given month. For purposes of assessing the Cancellation Fee, Customer or Professional AON orders from the same member organization in the same series on the same side of the market that are executed at the same price within a 300 second period will be aggregated and counted as one executed option order.

[6] *See* SR–Phlx–2010–105.

[7] Electronically delivered orders are delivered through the Exchange's options trading platform known as PHLX XL II.

orders executed on the Exchange by that member organization in a given month. The Cancellation Fee is not assessed in a month in which fewer than 500 electronically delivered Customer or Professional AON orders [8] are cancelled.

Further, simple cancels [9] and cancel-replacement [10] orders are types of orders that are counted when calculating the number of electronically delivered orders. The following order activity is exempt from the Cancellation Fee: (i) Pre-market cancellations; [11] (ii) Complex Orders [12] that are submitted electronically; (iii) unexecuted Immediate-or-Cancel [13] Customer orders; and (iv) cancelled Customer orders that improved the Exchange's prevailing bid or offer (PBBO) market at the time the Customer orders were received by the Exchange.

The Exchange proposes to amend its Cancellation Fee to separately compute a Customer Cancellation Fee and a Professional AON Cancellation Fee. Each fee will be separately aggregated and each 500 Order Threshold will be calculated separately. Therefore, a member organization will not be assessed a fee on the first 500 cancelled Customer orders which meet the criteria specified above for inclusion in the Cancellation Fee. Similarly, a member organization will not be assessed a fee on the first 500 cancelled Professional AON orders which meet the criteria specified above for inclusion in the Cancellation Fee. The Exchange is not amending the method by which the Cancellation Fee is calculated; it is simply creating two separate 500 Order Threshold calculations. This amendment allows member organizations additional latitude in cancelling both Customer and Professional AON orders before incurring a fee for such cancellation.

The Exchange is also proposing to make minor technical amendments that are grammatical in nature to the language of the Fee Schedule, relating to the Cancellation Fee, solely for purposes of clarification.[14]

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [15] in general, and furthers the objectives of Section 6(b)(4) of the Act [16] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities. The Exchange believes that the proposed amendments to the Cancellation Fee are reasonable because they will continue to ease system congestion and allow the Exchange to recover costs associated with excessive order cancellation activity. The Exchange believes that by separately calculating Customer and Professional AON cancellations for purposes of the Cancellation Fee will simplify the calculation of this fee.

The Exchange believes that the amendment to the Cancellation Fee is equitable because it will afford member organizations the opportunity to cancel additional Customer and Professional AON orders before a fee is incurred by the member organization. The Exchange would continue to assess the Cancellation Fee only after the 500 Order Threshold is reached for both Customer and Professional AON cancelled orders.

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 [17] and Rule 19b–4(f)(2) [18] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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–2010–113 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–2010–113. 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,[19] 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

[8] For purposes of assessing the Cancellation Fee, Customer or Professional AON orders from the same member organization in the same series on the same side of the market that are executed at the same price within a 300 second period will be aggregated and counted as one executed option order.

[9] The designation "simple cancel" indicates that an order is to be cancelled.

[10] A cancel-replacement order is a contingency order consisting of two or more parts which require the immediate cancellation of a previously received order prior to the replacement of a new order with new terms and conditions. If the previously placed order is already filled partially or in its entirety the replacement order is automatically canceled or reduced by such number. *See* Exchange Rule 1066(c)(7).

[11] *See* Securities Exchange Act Release Nos. 53226 (February 3, 2006), 71 FR 7602 (February 13, 2006) (SR–Phlx–2005–92); and 53670 (April 18, 2006), 71 FR 21087 (April 24, 2006) (SR–PHLX–2006–21). *See also* Securities Exchange Act Release No. 60046 (June 4, 2009), 74 FR 28083 (June 12, 2009) (SR–Phlx–2009–44).

[12] A complex order is a spread, straddle, combination, ratio or collar order, all of which consist of more than one component, priced like a single order at a net debit or credit based on the prices of the individual components. *See* Exchange Rule 1080.08 Commentary .08(a)(i).

[13] An Immediate-or-Cancel (IOC) order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed shall be cancelled.

[14] E-mail from Angela Saccomandi Dunn, Assistant General Counsel, Phlx to Ronesha A. Butler, Special Counsel, Division of Trading and Markets dated August 19, 2010.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4).

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 19b–4(f)(2).

[19] The text of the proposed rule change is available on Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* on the Commission's Web site at *http://www.sec.gov,* at Phlx, and at the Commission's Public Reference Room.

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–2010–113 and should be submitted on or before September 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21178 Filed 8–25–10; 8:45 am]

BILLING CODE 8010–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62718A; File No. SR–FINRA–2010–039]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) in the Consolidated FINRA Rulebook; Correction

August 20, 2010.

Need for Correction

On August 13, 2010, the Commission published (and sent to the **Federal Register** for publication) Release No. 34–62718—a Notice that the Financial Industry Regulatory Authority, Inc. ("FINRA") had proposed rule changes to adopt FINRA Rules 2090 and 2111 (the "August 13 Notice"). On August 18, 2010, Commission staff discovered that several footnote cross-references in the August 13 Notice were inaccurate. The staff believes this was the result of its reorganization of the discussion of the rules to parallel the numerical order of those rules.

This correction does not substantively amend the August 13 Notice. The sole purpose of this correction is to rectify the footnote errors and alleviate any resulting confusion. As the number of footnotes affected is significant, the entire August 13 Notice is being republished with corrected footnotes.

Correction of Publication

Accordingly, the August 13 Notice is republished in whole to correct certain footnotes and footnote cross-references as follows:

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62718; File No. SR–FINRA–2010–039]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) in the Consolidated FINRA Rulebook

August 13, 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 July 30, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items substantially have been prepared by FINRA. 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

FINRA is proposing to adopt FINRA Rule 2090 (Know Your Customer) and FINRA Rule 2111 (Suitability) as part of the Consolidated FINRA Rulebook. The proposed rules are based in large part on Incorporated NYSE Rule 405(1) (Diligence as to Accounts) and, NASD Rule 2310 (Recommendations to Customers (Suitability)) and its related Interpretative Materials ("IMs") respectively. As further detailed herein, the proposed rule change would delete those NASD and Incorporated NYSE rules and related NASD IMs and Incorporated NYSE Rule Interpretations.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room. In addition, the text of the proposed rule change is included as Exhibit 5 on the Commission's Web site at: *http://www.sec.gov/rules/sro/finra.shtml*, under the heading SR–FINRA–2010–039.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

As part of the process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook"),[3] FINRA is proposing to adopt FINRA Rule 2090 (Know Your Customer) and FINRA Rule 2111 (Suitability). The rules are based in large part on NYSE Rule 405(1) (Diligence as to Accounts) and NASD Rule 2310 (Recommendations to Customers (Suitability)) and its related IMs, respectively.[4] As further discussed below, the proposed rule change would delete NASD Rule 2310, IM–2310–1 (Possible Application of SEC Rules 15g–1 through 15g–9), IM–2310–2 (Fair Dealing with Customers), IM–2310–3 (Suitability Obligations to Institutional Customers), NYSE Rule 405(1) through (3) (including NYSE Supplementary Material 405.10 through .30), and NYSE Rule Interpretations 405/01 through/04.[5]

[3] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[4] For convenience, the Incorporated NYSE Rules are referred to as the NYSE Rules.

[5] FINRA notes that NYSE Rule 405(4) was eliminated from the Transitional Rulebook on June 14, 2010 pursuant to a previous rule filing. *See* Securities Exchange Act Release No. 61808 (March 31, 2010), 75 FR 17456 (April 6, 2010) (Order Approving File No. SR–FINRA–2010–005); *see also Regulatory Notice* 10–21 (April 2010).

The "know your customer" and suitability obligations are critical to ensuring investor protection and fair dealing with customers. Under the proposal, the core features of these obligations set forth in NYSE Rule 405(1) and NASD Rule 2310 remain intact. FINRA, however, proposes modifications to both rules to strengthen and clarify them. In *Regulatory Notice* 09–25 (May 2009), FINRA sought comment on the proposal. The current filing includes additional proposed changes that respond to comments.

Item II.C. of this filing provides a detailed discussion of the proposed modifications, comments FINRA received, and FINRA's responses thereto. In brief, however, the proposed FINRA "Know Your Customer" obligation, designated FINRA Rule 2090, captures the main ethical standard of NYSE Rule 405(1). As proposed, broker-dealers would be required to use "due diligence," in regard to the opening and maintenance of every account, in order to know the essential facts concerning every customer.[6] The obligation would arise at the beginning of the customer/broker relationship, independent of whether the broker has made a recommendation. The proposed supplementary material would define "essential facts" as those "required to (a) effectively service the customer's account, (b) act in accordance with any special handling instructions for the account, (c) understand the authority of each person acting on behalf of the customer, and (d) comply with applicable laws, regulations, and rules."[7]

The proposal would eliminate the requirement in NYSE Rule 405(1) to learn the essential facts relative to "every order." FINRA proposes eliminating the "every order" language because of the application of numerous, specific order-handling rules.[8] In addition, the reasonable-basis obligation under the suitability rule requires broker-dealers and associated persons to perform adequate due diligence so that they "know" the securities and strategies they recommend.

FINRA also is proposing to delete NYSE Rule 405(2) through (3), NYSE Supplementary Material 405.10 through .30, and NYSE Rule Interpretation 405/01 through/04 because they generally are duplicative of other rules, regulations, or laws. For instance, NYSE Rule 405(2) requires firms to supervise all accounts handled by registered representatives. That provision is redundant because NASD Rule 3010 requires firms to supervise their registered representatives.[9]

NYSE Rule 405(3) generally requires persons designated by the member to be informed of the essential facts relative to the customer and to the nature of the proposed account and to then approve the opening of the account. A number of other existing and proposed FINRA rules do or will create substantially similar obligations. Proposed FINRA Rule 2090, discussed herein, would require members to know the essential facts as to each customer. NASD Rule 3110(c)(1)(C) requires the signature of the member, partner, officer or manager who accepts the account.[10]

A firm's account-opening obligations also are impacted by FINRA Rule 3310, which requires a firm to have procedures reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations. One of those regulations requires the firm to verify the identity of a customer opening a new account.[11] Another requires due diligence that would enable the firm to evaluate the risk of each customer and to determine if transactions by the customer could be suspicious and need to be reported.[12] Moreover, before certain customers can purchase certain types of investment products (such as options, futures or penny stocks) or engage in certain strategies (such as day trading), the firm must explicitly approve their accounts for such activity.[13]

NYSE Supplementary Material 405.10 is redundant of other FINRA proposed and existing requirements, and the cross references provided in .20 and .30 are no longer necessary. NYSE Supplementary Material 405.10 generally discusses the requirements that firms know their customers and understand the authority of third-parties to act on behalf of customers that are legal entities. Proposed FINRA Rule 2090 and proposed FINRA Supplementary Material 2090.01, discussed herein, would require firms to know the essential facts as to each customer. NYSE Supplementary Material 405.10 also discusses certain documentation obligations regarding persons authorized to act on behalf of various types of customers that are legal entities. NASD Rule 3110(c) (Customer Account Information), however, similarly requires firms to maintain a record identifying the person(s) authorized to transact business on behalf of a customer that is a legal entity.[14] NYSE Supplementary Material 405.20 and .30 provide cross references to NYSE Rule 382 (Carrying Agreements) and NYSE Rule 414 (Index and Currency Warrants), respectively, which are no longer necessary or appropriate for inclusion in proposed FINRA Rule 2090.

The NYSE Rule Interpretations also are redundant. NYSE Rule Interpretations 405/01 (Credit Reference—Business Background) and/02 (Approval of New Accounts/Branch Offices) recommend that the credit references and business backgrounds of a new account be cleared by a person other than the registered representative opening the account and require a designated person to ultimately approve a new account. These obligations are substantially similar to the requirements in NASD Rule 3110(c)(1)(C) and FINRA Rule 3310, discussed above.

NYSE Rule Interpretation 405/03 (Fictitious Orders) states that firm "personnel opening accounts and/or accepting orders for new or existing accounts should make every effort to verify the legitimacy of the account and the validity of every order." The interpretation contemplates knowing the customer behind the order as part of the process of ensuring that the order is bona fide. Proposed FINRA Rule 2090 and FINRA Rule 3310 together place similar requirements on firms to know their customers.

[6] *See* Proposed FINRA Rule 2090.

[7] *See* Proposed FINRA Rule 2090.01. As discussed *infra* at Item II.C. of this filing, FINRA changed the explanation of "essential facts" in response to comments.

[8] *See, e.g.,* SEC Regulation NMS (National Market System), 17 CFR 242.600–242.612; FINRA Rule 7400 Series (Order Audit Trail System); NASD Rule 2320 (Best Execution and Interpositioning) [proposed FINRA Rule 5310; *see Regulatory Notice* 08–80 (December 2008)]; NASD Rule 2400 Series (Commissions, Mark-Ups and Charges); NASD IM–2110–2 (Trading Ahead of Customer Limit Order) [proposed FINRA Rule 5320; *see* SR–FINRA–2009–090]; and IM–2110–3 (Front Running Policy) [proposed FINRA Rule 5270; *see Regulatory Notice* 08–83 (December 2008)].

[9] FINRA is proposing to adopt NASD Rule 3010 as FINRA Rule 3110, subject to certain amendments. *See Regulatory Notice* 08–24 (May 2008).

[10] FINRA is proposing to adopt NASD Rule 3110(c)(1)(C) as FINRA Rule 4512(a)(1)(C), subject to certain amendments. *See Regulatory Notice* 08–25 (May 2008). Proposed FINRA Rule 4512(a)(1)(C) would clarify that members maintain the signature of the partner, officer or manager denoting that the account has been accepted in accordance with the member's policies and procedures for acceptance of accounts.

[11] *See* 31 CFR 103.122.

[12] *See* 31 CFR 103.19.

[13] *See, e.g.,* SEA Rule 15g–1 through 15g–9 (Penny Stock Rules); FINRA Rule 2360 (Options); FINRA Rule 2370 (Security Futures); FINRA Rule 2130 (Approval Procedures for Day-Trading Accounts).

[14] As noted previously, FINRA is proposing to adopt NASD Rule 3110(c) as FINRA Rule 4512 (Customer Account Information), subject to certain amendments. *See Regulatory Notice* 08–25 (May 2008).

To the extent NYSE Rule Interpretation 405/03 seeks to guard against the use of fictitious trades as a means of manipulating markets, various FINRA rules cover such activities. FINRA Rule 5210 (Publication of Transactions and Quotations) prohibits members from publishing or circulating or causing to publish or circulate, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of, or purports to quote the bid or asked price for, any security unless such member believes that such transaction or quotation was bona fide. FINRA Rule 5220 (Offers at Stated Prices) prohibits members from making an offer to buy from or sell to any person any security at a stated price unless such member is prepared to purchase or sell at such price and under such conditions as are stated at the time of such offer to buy or sell. Moreover, the use of fictitious transactions by a member or associated person to manipulate the market would violate FINRA's just and equitable principles of trade (FINRA Rule 2010) and anti-fraud provision (FINRA Rule 2020).[15]

NYSE Rule Interpretation 405/04 (Accounts in which Member Organizations have an Interest) discusses requirements regarding transactions initiated "on the Floor" for an account in which a member organization has an interest. The interpretation is directed to the NYSE marketplace. Moreover, Section 11(a) of the Act and the rules thereunder address trading by members of exchanges, brokers and dealers. For the reasons discussed above, FINRA believes NYSE Rule 405(1) through (3), NYSE Supplementary Material 405.10 through .30, and NYSE Rule Interpretations 405/01 through/04 are no longer necessary. They will be eliminated from the current FINRA rulebook upon Commission approval and implementation by FINRA of this current proposed rule change.

The proposed new suitability rule, designated FINRA Rule 2111, would require a broker-dealer or associated person to have "a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer* * *."[16] This assessment must be "based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer's investment profile, including, but not limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation."[17]

The proposal would add the term "strategy" to the rule text so that the rule explicitly covers a recommended strategy. Although FINRA generally intends the term "strategy" to be interpreted broadly, the proposed supplementary material would exclude the following communications from the coverage of Rule 2111 as long as they do not include (standing alone or in combination with other communications) a recommendation of a particular security or securities:

- General financial and investment information, including (i) basic investment concepts, such as risk and return, diversification, dollar cost averaging, compounded return, and tax deferred investment, (ii) historic differences in the return of asset classes (*e.g.,* equities, bonds, or cash) based on standard market indices, (iii) effects of inflation, (iv) estimating future retirement income needs, and (v) assessment of a customer's investment profile;
- Descriptive information about an employer-sponsored retirement or benefit plan, participation in the plan, the benefits of plan participation, and the investment options available under the plan;
- Asset allocation models that are (i) based on generally accepted investment theory, (ii) accompanied by disclosures of all material facts and assumptions that may affect a reasonable investor's assessment of the asset allocation model or any report generated by such model, and (iii) in compliance with NASD IM–2210–6 (Requirements for the Use of Investment Analysis Tools) if the asset allocation model is an "investment analysis tool" covered by NASD IM–2210–6;[18] and
- Interactive investment materials that incorporate the above.[19]

The proposal also would codify interpretations of the three main suitability obligations, listed below:

- Reasonable basis (members must have a reasonable basis to believe, based on adequate due diligence, that a recommendation is suitable for at least *some* investors);
- Customer specific (members must have reasonable grounds to believe a recommendation is suitable for the particular investor at issue); and
- Quantitative (members must have a reasonable basis to believe the number of recommended transactions within a certain period is not excessive).[20]

In addition, the proposal would modify the institutional-customer exemption by focusing on whether there is a reasonable basis to believe that the institutional customer is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies,[21] and is exercising independent judgment in evaluating recommendations.[22] The proposal, moreover, would require institutional customers to affirmatively indicate that they are exercising independent judgment.[23] The proposal

[15] *See, e.g., Terrance Yoshikawa,* Securities Exchange Act Release No. 53731, 2006 SEC LEXIS 948 (April 26, 2006) (upholding finding that president of broker-dealer violated just and equitable principles of trade and anti-fraud provisions by fraudulently entering orders designed to manipulate the price of securities).

[16] *See* Proposed FINRA Rule 2111(a).

[17] *See* Proposed FINRA Rule 2111(a). As discussed *infra* at Item II.C. of this filing, FINRA modified various aspects of the proposed information-gathering requirements in response to comments.

[18] FINRA is proposing to adopt NASD IM–2210–6 as FINRA Rule 2214, without material change. *See Regulatory Notice* 09–55 (September 2009).

[19] *See* Proposed FINRA Rule 2111.02. As discussed *infra* at Item II.C. of this filing, FINRA included this exception to the rule's coverage in response to comments.

[20] *See* Proposed FINRA Rule 2111.03.

[21] *See* Proposed FINRA Rule 2111(b). The requirement in Proposed FINRA Rule 2111(b) that the firm or associated person have a reasonable basis to believe that "the institutional customer is capable of evaluating investment risks independently, *both in general and with regard to particular transactions and investment strategies*" comes from current IM–2310–3. As FINRA explained in that IM, "[i]n some cases, the member may conclude that the customer is not capable of making independent investment decisions in general. In other cases, the institutional customer may have general capability, but may not be able to understand a particular type of instrument or its risk." FINRA further stated that, "[i]f a customer is either generally not capable of evaluating investment risk or lacks sufficient capability to evaluate the particular product, the scope of a member's customer-specific obligations under the suitability rule would not be diminished by the fact that the member was dealing with an institutional customer." FINRA also stated that "the fact that a customer initially needed help understanding a potential investment need not necessarily imply that the customer did not ultimately develop an understanding and make an independent decision."

[22] *See* Proposed FINRA Rule 2111(b).

[23] *See* Proposed FINRA Rule 2111(b). As discussed *infra* at Item II.C. of this filing, FINRA substituted this requirement for another in response to comments. FINRA emphasizes that the institutional-customer exemption applies only if both parts of the two-part test are met: (1) There is a reasonable basis to believe that the institutional customer is capable of evaluating investment risks independently, in general and with regard to particular transactions and investment strategies, *and* (2) the institutional customer affirmatively

also would harmonize the definition of institutional customer in the suitability rule with the more common definition of "institutional account" in NASD Rule 3110(c)(4).[24]

Finally, the suitability proposal would eliminate or modify a number of the IMs associated with the existing suitability rule because they are no longer necessary. Some of the discussions are not needed because of the changes to the scope of the suitability rule proposed herein (*e.g.,* the proposed rule text would capture "strategies" currently referenced in IM–2310–3).[25] Others are redundant because they identify conduct explicitly covered by other rules (*e.g.,* inappropriate sale of penny stocks referenced in IM–2310–1 is covered by the SEC's penny stock rules,[26] fraudulent conduct identified in IM–2310–2 is covered by the FINRA and SEC anti-fraud provisions [27]).

Still other IM discussions have been incorporated in some form into the proposed rule or its supplementary material. For example, the exemption in IM–2310–3 dealing with institutional customers is modified and moved to the text of proposed FINRA Rule 2111.[28] In addition, the explication of the three main suitability obligations, currently located in IM–2310–2 and IM–2310–3, are consolidated into a single discussion in the proposed rule's supplementary material.[29] Similarly, the proposed rule's supplementary material includes a modified form of the current requirement in IM–2310–2 that a member refrain from recommending purchases beyond a customer's capability.[30] The supplementary material also retains the discussion in IM–2310–2 and IM–2310–3 regarding the suitability rule's significance in promoting fair dealing with customers and ethical sales practices.[31]

The only type of misconduct identified in the IMs that is neither explicitly covered by other rules nor incorporated in some form into the proposed new suitability rule is unauthorized trading, currently discussed in IM–2310–2. However, it is well-settled that unauthorized trading violates just and equitable principles of trade under FINRA Rule 2010 (previously NASD Rule 2110).[32] Consequently, the elimination of the discussion of unauthorized trading in the IMs following the suitability rule in no way alters the longstanding view that unauthorized trading is serious misconduct and clearly violates FINRA's rules.

FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval. The implementation date will be no later than 240 days following Commission approval.

2. Statutory Basis

The proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[33] which requires, among other things, that FINRA's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change furthers these purposes because it requires firms and associated persons to know, deal fairly with, and make only suitable recommendations to customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

As noted above, the proposed rule change was published for comment in *Regulatory Notice* 09–25 (May 2009). A copy of the *Notice* can be viewed at *http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p118709.pdf.* FINRA received 2,083 comment letters, 389 of which were individualized letters and 1,694 of which were form letters. An index to the comment letters received in response to the *Notice* can be viewed at *http://www.finra.org/Industry/Regulation/Notices/2009/P118711*, and copies of the comment letters received in response to the *Notice* can also be accessed through that Web site. In addition, these documents, submitted with FINRA's filing as Exhibits 2a, 2b, and 2c, respectively, can be viewed at the Commission's Web site at: *http://www.sec.gov/rules/sro/finra.shtml*, under the heading SR–FINRA–2010–039.

Comments came from broker-dealers, insurers, investment advisers, academics, industry associations, investor-protection groups, lawyers in private practice, and a state government agency. Commenters had myriad different views regarding nearly every aspect of the proposal. A discussion of those comments and FINRA's responses thereto follows.

Know Your Customer (Proposed FINRA Rule 2090)

The proposal would require broker-dealers to use "due diligence, in regard to the opening and maintenance of every account, to know (and retain) the essential facts concerning every customer and concerning the authority of each person acting on behalf of such customer." Although there were some comments generally in favor of the proposal,[34] most comments addressed specific language, as discussed below.

Essential Facts

The proposal states that broker-dealers must attempt to learn the "essential facts" concerning every customer. Supplementary Material .01 that was discussed in the *Notice* seeking comment clarified that "facts 'essential' to 'knowing the customer' included the customer's financial profile and investment objectives or policy." That language generated a fairly large number of comments.

• *Comments:*

A number of commenters argued that the collection of financial profile and investment objective information under the proposed "know your customer" rule is a new requirement and unnecessarily confuses "know your customer" obligations with suitability obligations.[35] One commenter believed

indicates that it is exercising independent judgment in evaluating recommendations.

[24] *See* Proposed FINRA Rule 2111(b). FINRA is proposing to adopt NASD Rule 3110(c)(4) as FINRA Rule 4512(c), without material change. *See Regulatory Notice* 08–25 (May 2008).

[25] *See* Proposed Rule 2111(a).

[26] *See* SEA Rule 15g–1 through 15g–9.

[27] *See* Section 10(b) of the Act; FINRA Rule 2020.

[28] *See* Proposed Rule 2111(a).

[29] *See* Proposed Rule 2111.03.

[30] *See* Proposed Rule 2111.04.

[31] *See* Proposed Rule 2111.01.

[32] *See, e.g., Robert L. Gardner,* 52 S.E.C. 343, 344 n.1 (1995), *aff'd,* 89 F.3d 845 (9th Cir. 1996) (table format); *Keith L. DeSanto,* 52 S.E.C. 316, 317 n.1 (1995), *aff'd,* 101 F.3d 108 (2d Cir. 1996) (table format); *Jonathan G. Ornstein,* 51 S.E.C. 135, 137 (1992); *Dep't of Enforcement* v. *Griffith,* No. C01040025, 2006 NASD Discip. LEXIS 30, at *11–12 (NAC Dec. 29, 2006); *Dep't of Enforcement v. Puma,* No. C10000122, 2003 NASD Discip. LEXIS 22, at *12 n.6 (NAC Aug. 11, 2003).

[33] 15 U.S.C. 78*o*–3(b)(6).

[34] *See, e.g.,* William A. Jacobson and Sang Joon Kim, Cornell Securities Law Clinic, June 27, 2009 ("Cornell Letter").

[35] *See* Bari Havlik, SVP and Chief Compliance Officer for Charles Schwab & Co., June 29, 2009 ("Charles Schwab Letter"); Matthew Farley, Drinker, Biddle & Reath LLP, June 29, 2009 ("Drinker Biddle Letter"); Mike Hogan, President and CEO of FOLIOfn Investments, Inc., June 29, 2009 ("FOLIOfn Letter"); Lisa Roth, National Ass'n of Independent Broker-Dealers, Inc., June 29, 2009 ("NAIBD

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it would mislead customers into incorrectly thinking that a firm would only permit a customer to execute a self-directed transaction if it has determined that the transaction is appropriate for that customer.[36] Along those same lines, other commenters believed the requirement would be particularly problematic where a customer's trading activity is self-directed or directed by an independent investment adviser because regulators or private litigants could seek to hold firms accountable for permitting unsolicited customer trading activity that is inconsistent with the "know your customer" information that is on record at the firm.[37]

Some of these commenters supported "know your customer" obligations, but believed they should be limited in scope to essential facts necessary to open the account—i.e., the identity and address of each account owner, the legal authorization of each person having investment authority with respect to the account, the source of funding for the account, and the credit status of the account owners.[38] Some commenters suggested removing proposed Supplementary Material .01 to Rule 2090 in its entirety and instead permitting each firm to interpret and apply the "essential facts" standard to their particular business model, recognizing that it is the nature of the relationship between the firm and customer that dictates those facts.[39] Another commenter similarly stated that the information should be limited to an investor's name, address, and tax identification number, which the commenter asserted was all the information that is needed to know the customer's identity and to make a credit determination.[40]

One commenter, however, believed that firms should have to make reasonable efforts to collect the types of information delineated in paragraph (a) of proposed Rule 2111.[41] This commenter indicated that each of those factors is essential to knowing the customer.[42] Others suggested that the term should be clarified.[43]

• *FINRA's Response:*

After analyzing the comments, FINRA agrees with those commenters who stated that the "know your customer" obligation should remain flexible and that the extent of the obligation generally should depend on a particular firm's business model, its customers, and applicable regulations. As a result, FINRA has modified proposed Supplementary Material .01 to FINRA Rule 2090 so that it is less prescriptive. That provision now states: "For purposes of this Rule, facts 'essential' to 'knowing the customer' are those required to (a) effectively service the customer's account, (b) act in accordance with any special handling instructions for the account, (c) understand the authority of each person acting on behalf of the customer, and (d) comply with applicable laws, regulations, and rules."

Maintenance of Every Account

A few commenters focused on the "maintenance" aspect of the "know your customer" requirement.

• *Comments:*

Two commenters stated that the "maintenance" language was both new and vague and would lead to practical implementation issues, particularly in the retirement plan marketplace.[44] The commenters stated that FINRA should provide more guidance on what it means by "maintenance" and an opportunity to comment if it keeps the term.[45]

• *FINRA's Response:*

FINRA believes that it is self-evident that a broker-dealer must know its customers not only at account opening but also throughout the life of its relationship with customers in order to, among other things, effectively service and supervise the customer accounts. Since a broker-dealer's relationship with its customers is dynamic, FINRA does not believe that it can prescribe a period within which broker-dealers must attempt to update this information. Firms should verify the essential facts about customers at intervals reasonably calculated to prevent and detect any mishandling of customer accounts that might result from changes to the "essential facts" about the customers.[46] The reasonableness of a broker-dealer's efforts in this regard will depend on the facts and circumstances of the particular case.

Not Applicable to Every Order

At present, NYSE Rule 405(1) applies to "every order." The proposal eliminates this language.

• *Comments:*

Two commenters argued that the proposed "know your customer" rule should, as is true currently under NYSE Rule 405(1), require due diligence as to "every order" and not simply as to every account.[47] These commenters stated that it was a mistake to focus on knowing the customer rather than knowing both the customer and the product.[48] One of these commenters did not believe that reasonable-basis suitability provides enough protection in that respect in part because the suitability rule applies only when a recommendation is made.[49]

• *FINRA's Response:*

FINRA is not proposing to adopt the NYSE requirement to learn the essential facts relative to every order in NYSE Rule 405(1), given the application of specific order-handling rules.[50] In addition, as noted by a commenter, the reasonable-basis obligation under the suitability rule requires broker-dealers and associated persons to know the securities and strategies they recommend through performing adequate due diligence.

Letter"); Joan Hinchman, Executive Director, President, and CEO of the National Society of Compliance Professionals Inc., June 29, 2009 ("NSCP Letter"); Amal Aly, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, June 29, 2000 ("SIFMA Letter"); John S. Markle, Deputy General Counsel for TD Ameritrade, June 29, 2009 ("TD Ameritrade Letter"); Sarah McCafferty, Vice President and Chief compliance Officer at T.RowePrice, June 29, 2009 ("T.RowePrice Letter"); Ronald C. Long, Director of Regulatory Affairs for Wells Fargo Advisors, LLC, June 29, 2009 ("Wells Fargo Letter").

[36] *See* T.RowePrice Letter, *supra* note 35.

[37] *See* Charles Schwab Letter, *supra* note 35; Drinker Biddle Letter, *supra* note 35; FOLIOfn Letter, *supra* note 35; SIFMA Letter, *supra* note 35; TD Ameritrade Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35. One commenter made the same claim in the context of clearing firms and also stated that requiring a clearing firm to maintain this information as well as the introducing firm—which has the primary if not exclusive contact with the customer—would create a needless redundancy of effort, expense and information storage. *See* Drinker Biddle Letter, *supra* note 35.

[38] *See* SIFMA Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[39] *See* SIFMA Letter, *supra* note 35; TD Ameritrade Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[40] *See* FOLIOfn Letter, *supra* note 35.

[41] *See* Cornell Letter, *supra* note 34.

[42] *See* Cornell Letter, *supra* note 34.

[43] *See* Clifford Kirsch and Eric Arnold, Sutherland Asbill & Brennan LLP for the Committee of Annuity Insurers, June 29, 2009 ("Committee of Annuity Insurers Letter").

[44] *See* Committee of Annuity Insurers Letter, *supra* note 43; Clifford E. Kirsch, Sutherland Asbill & Brennan LLP on behalf of John Hancock Life Insurance Co., MetLife Inc., and the Prudential Insurance Co. of America, June 29, 2009 ("Hancock, MetLife and Prudential Letter").

[45] *See* Committee of Annuity Insurers Letter, *supra* note 43; Hancock, MetLife and Prudential Letter, *supra* note 44.

[46] Broker-Dealers should note, however, that, under SEA Rule 17a–3, they must, among other things, attempt to update certain account information every 36 months regarding accounts for which the broker-dealers were required to make suitability determinations.

[47] *See* Cornell Letter, *supra* note 34; Rex A. Staples, General Counsel for the North American Securities Administrators Association, July 13, 2009 ("NASAA Letter").

[48] *See* Cornell Letter, *supra* note 34; NASAA Letter, *supra* note 47.

[49] *See* NASAA Letter, *supra* note 47.

[50] *See supra* note 8.

Suitability (Proposed FINRA Rule 2111)

Fiduciary Standard

Although FINRA did not request comment on whether fiduciary obligations should influence the suitability proposal, more than a thousand commenters raised issues involving fiduciary obligations. A brief discussion of these issues is thus warranted.

• *Comments:*

One commenter suggested that FINRA should consider a fiduciary duty standard in addition to a suitability standard.[51] Numerous other commenters argued that FINRA should not move forward with proposed changes to the suitability rule until after policymakers (*e.g.,* Congress, the SEC, and/or FINRA) determine whether broker-dealers must comply with fiduciary obligations.[52] One commenter further posited that it would be easier for firms to implement a single, integrated change to customer care standards adopted at one time.[53]

• *FINRA's Response:*

FINRA notes that the application of a suitability standard is not inconsistent with a fiduciary duty standard. In this regard, the SEC emphasized in one release that "investment advisers under the Advisers Act," who have fiduciary duties, "owe their clients the duty to provide only suitable investment advice * * *. To fulfill this suitability obligation, an investment adviser must make a reasonable determination that the investment advice provided is suitable for the client based on the client's financial situation and investment objectives."[54] In another release, the SEC similarly explained that "[i]nvestment advisers are fiduciaries who owe their clients a series of duties, one of which is the duty to provide only suitable investment advice."[55]

Suitability obligations constitute a material part of a fiduciary standard in the context of investment advice and recommendations. It also is important to note that case law makes clear that, under FINRA's suitability rule, "a broker's recommendations must be consistent with his customers' best interests."[56] Thus, the suitability obligations set forth in proposed Rule 2111 would not be inconsistent with the addition of a fiduciary duty at some future date.[57]

Scope of the Suitability Rule

FINRA sought comment on two main issues potentially impacting the scope of the suitability rule: Whether to add the term "strategy" to the rule language and whether to broaden the rule so that it reaches non-securities products. The second issue was not highlighted in the rule text. Rather, it was raised in a discussion in the *Notice* seeking comment.

Scope of the Suitability Rule/Strategies

The issue of whether the suitability rule applies to recommended strategies has been addressed previously. SEC and FINRA discussions in IMs, releases, and notices, as well as in some decisions, indicate that the current suitability rule applies to certain types of recommended strategies.

NASD IM–2310–3 (Suitability Obligations to Institutional Customers) provides in its "Preliminary Statement" that broker-dealers' "responsibilities include having a reasonable basis for recommending a particular security *or strategy,* as well as having reasonable grounds for believing the recommendation is suitable for the customer to whom it is made." Similarly, *Notices to Members* have stated that broker-dealers' responsibilities under Rule 2310 "include having a reasonable basis for recommending a particular security *or strategy*."[58] Moreover, when the SEC published FINRA's Online Suitability Policy Statement, *Notice to Members* 01–23 (Apr. 2001) ("*NTM 01–23*"), in the **Federal Register**, the Commission included the following statement in the release: "The Commission notes that although [*NTM*] *01–23* does not expressly discuss electronic communications that recommend investment strategies, the NASD suitability rule continues to apply to the recommendation of investment strategies, whether that recommendation is made via electronic communication or otherwise."[59]

A number of SEC decisions also support application of the suitability rule to recommended strategies. The case often cited as standing for such a proposition is *F.J. Kaufman & Co.,* 50 S.E.C. 164 (1989), in which the SEC found that the respondent violated NASD Rule 2310 by recommending an unsuitable strategy to customers. A number of Commission decisions issued after *Kaufman* also lend support for applying the suitability rule to recommended strategies in certain situations. Many of these cases involved recommendations to purchase securities on margin (which can be viewed as a strategy).[60]

The proposed suitability rule explicitly covers recommended strategies. The commenters' views on the inclusion of the term were varied.

• *Comments:*

A number of commenters supported the addition of the term to the rule text.[61] Some commenters requested that

[51] NASAA Letter, *supra* note 47.

[52] *See* NSCP Letter, *supra* note 35; Committee of Annuity Insurers Letter, *supra* note 43. In addition, 491 individuals and entities made this point, among others, using one form letter ("Form Letter Type A") and 1,203 individuals did so using another form letter ("Form Letter Type B").

[53] *See* NSCP Letter, *supra* note 35.

[54] Release Nos. IC–22579, IA–1623, S7–24–95, 1997 SEC LEXIS 673, at *26 (Mar. 24, 1997) (Status of Investment Advisory Programs under the Investment Company Act of 1940). *See also Shearson, Hammill & Co.,* 42 S.E.C. 811 (1965) (finding willful violations of Section 206 of the Advisers Act when investment adviser made unsuitable recommendations).

[55] Investment Advisers Act Release No. 1406, 1994 SEC LEXIS 797, at *4 (Mar. 16, 1994) (Suitability of Investment Advice Provided by Investment Advisers).

[56] *Raghavan Sathianathan,* Securities Exchange Act Release No. 54722, 2006 SEC LEXIS 2572, at *21 (Nov. 8, 2006), *aff'd,* 304 F. App'x 883 (D.C. Cir. 2008); *see also Dane S. Faber,* Securities Exchange Act Release No. 49216, 2004 SEC LEXIS 277, at *23–24 (Feb. 10, 2004) (explaining that a broker's recommendations "must be consistent with his customer's best interests"); *Daniel R. Howard,* 55 S.E.C. 1096, 1099–1100 (2002) (same), *aff'd,* 77 F. App'x 2 (1st Cir. 2003).

[57] FINRA notes as well that the suitability rule is only one of many FINRA business-conduct rules with which broker-dealers and their associated persons must comply. Many FINRA rules prohibit, limit, or require disclosure of conflicts of interest. Broker-dealers and their associated persons, for instance, must comply with just and equitable principles of trade, standards for communications with the public, order-handling requirements, fair-pricing standards, and various disclosure obligations regarding research, trading, compensation, margin, and certain sales and distribution activity, among others, in addition to suitability obligations.

[58] *See Notice to Members* 96–32, 1996 NASD LEXIS 51, at *2 (May 1996); *see also Notice to Members* 05–68, 2005 NASD LEXIS 44, at *11 (Oct. 2005) (stating that members and their associated persons "should perform a careful analysis to determine whether liquefying home equity [to facilitate the purchase of securities] is a suitable strategy for an investor"); *Notice to Members* 04–89, 2004 NASD LEXIS 76, at *7 (Dec. 2004) (same). (*Change to footnote made per email from James Wrona, Associate Vice President and Associate General Counsel, FINRA, to Bonnie Gauch, Special Counsel, Division of Trading and Markets, Commission, dated August 12, 2010.*)

[59] *See* Securities Exchange Act Release No. 44178, 2001 SEC LEXIS 731, at *28–29 (April 12, 2001), 66 FR 20697, 20702 (April 24, 2001) (Notice of Filing and Immediate Effectiveness of FINRA's Online Suitability Policy Statement).

[60] *See, e.g., Jack H. Stein,* Securities Exchange Act Release No. 47335, 2003 SEC LEXIS 338, at *15 (Feb. 10, 2003); *Justine S. Fischer,* 53 S.E.C. 734 (1998); *Stephen T. Rangen,* 52 S.E.C. 1304, 1307–1308 (1997); *Arthur J. Lewis,* 50 S.E.C. 747, 748–50 (1991).

[61] *See* Barbara Black, Director of the Corporate Law Center of the University of Cincinnati College of Law, and Jill I. Gross, Director of the Investor Rights Clinic of the Pace University School of Law ("Corporate Law Center & Investor Rights Clinic Letter"), June 29, 2009; Peter J. Harrington, Christine Lazaro & Lisa A. Catalano, Securities Arbitration

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FINRA make clear in the supplementary material that the term "strategy" should be interpreted broadly and include recommendations to hold an investment.[62] Some of these commenters also believed that firms should have an affirmative duty to review portfolios that are transferred into a firm and that the lack of a recommendation to make any changes to the portfolio effectively constitutes an implicit recommendation to retain what is in the account.[63]

Other commenters supported the inclusion of the term strategy but asked FINRA to clarify that the suitability rule would apply only to recommended "strategies *resulting* in the purchase, sale or exchange of a security or securities"[64] or where there is a "reasonable nexus between the recommended investment strategy and a securities transaction in furtherance of the recommended strategy."[65] Other commenters stated that FINRA should define or clarify the term "strategy."[66] One of these commenters believed that, without a definition, there would be confusion among firms and FINRA examiners regarding whether all asset allocation programs and "buy and hold" recommendations should be viewed as strategies.[67]

A number of commenters opposed the inclusion of the term "strategy."[68] However, one of these commenters stated that, if FINRA includes the term in the final proposal, FINRA should except from the rule's coverage any information determined to be "investment education" under the Employee Retirement Income Security Act ("ERISA").[69]

• *FINRA's Response:*

FINRA agrees that the term "strategy" should be included in the rule language and that, in general, it should be interpreted broadly. For instance, FINRA rejects the contention that the rule should only cover a recommended strategy if it results in a transaction. As with the current suitability rule, application of the proposed rule would be triggered when the broker-dealer or associated person recommends the security or strategy regardless of whether the recommendation results in a transaction.[70] The term "strategy," moreover, would cover *explicit* recommendations to hold a security or securities. The rule recognizes that customers may rely on members' and associated persons' investment expertise and knowledge, and it is thus appropriate to hold members and associated persons responsible for the recommendations that they make to customers, regardless of whether those recommendations result in transactions or generate transaction-based compensation.

In regard to the comment concerning *implicit* recommendations on portfolios transferred to a firm, FINRA notes that nothing in the current rule proposal is intended to change the longstanding application of the suitability rule on a recommendation-by-recommendation basis. In limited circumstances, FINRA and the SEC have recognized that implicit recommendations can trigger suitability obligations. For example, FINRA and the SEC have held that associated persons who effect transactions on a customer's behalf without informing the customer have implicitly recommended those transactions, thereby triggering application of the suitability rule.[71] The rule proposal is not intended to broaden the scope of *implicit* recommendations.

As discussed in Item 3 of this rule filing, FINRA also proposes to explicitly exempt from the rule's coverage certain categories of educational material as long as they do not include (standing alone or in combination with other communications) a recommendation of a particular security or securities. FINRA believes that it is important to encourage broker-dealers and associated persons to freely provide educational material and services to customers. As one commenter explained, the U.S. Department of Labor provided a similar exemption from some requirements under ERISA.[72]

Scope of the Suitability Rule/Non-Securities Products

The current suitability rule and the proposed new suitability rule cover recommendations involving securities. In the *Notice* seeking comment, however, FINRA asked whether the suitability rule should cover recommendations of non-securities products made in connection with the firm's business. This issue generated the greatest number of comments, most of which were against extending the rule's reach.

• *Comments:*

Some commenters favored broadening the suitability rule so that it covers non-securities products.[73] One commenter stated that the expansion was needed because broker-dealers market more than just securities and oftentimes customers do not understand that they may be afforded less protection when purchasing non-securities products.[74] Another commenter stated that it would be unreasonable for a firm to allow a non-securities recommendation that was inconsistent with a customer's suitability profile.[75] Yet another commenter believed that broker-dealers implicitly already have similar obligations but favored explicitly applying the suitability rule to non-securities products.[76] According to this commenter, broker-dealers fail to observe the high standards of commercial honor and just and equitable principles of trade required by FINRA Rule 2010 if they recommend any unsuitable financial product, service, or strategy to their customers.[77] This commenter argued that the proposal was not an expansion of broker-dealer obligations; rather the proposal would make explicit what

Clinic at St. John's University, June 25, 2009 ("St. John's Letter"); Cornell Letter, *supra* note 34; T.RowePrice Letter, *supra* note 35; Peter J. Mougey and Kristian P. Kraszewski, Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor P.A., June 29, 2009 ("Mougey and Kraszewski Letter"); Daniel C. Rome, General Counsel of Taurus Compliance Consulting LLC, June 29, 2009 ("Taurus Letter").

[62] *See* Cornell Letter, *supra* note 34; Mougey and Kraszewski Letter, *supra* note 61; St. John's Letter, *supra* note 61.

[63] *See* Mougey and Kraszewski Letter, *supra* note 61; St. John's Letter, *supra* note 61.

[64] *See* Charles Schwab Letter, *supra* note 35.

[65] *See* SIFMA Letter, *supra* note 35; NSCP Letter, *supra* note 35.

[66] *See* NSCP Letter, *supra* note 35. A number of commenters stated that FINRA should eliminate the term strategy from the rule but argued that, if FINRA continues to use it, FINRA needed to clarify what the term means. *See* Committee of Annuity Insurers Letter, *supra* note 43; James Livingston, President and CEO of National Planning Holdings, Inc., June 29, 2009 ("National Planning Holdings Letter"); Stephanie L. Brown, Managing Director and General Counsel for LPL Financial Corporation, June 29, 2009 ("LPL Letter").

[67] *See* NSCP Letter, *supra* note 35.

[68] *See* LPL Letter, *supra* note 66; Committee of Annuity Insurers Letter, *supra* note 43; Hancock, MetLife and Prudential Letter, *supra* note 44; National Planning Holdings Letter, *supra* note 66.

[69] *See* Hancock, MetLife and Prudential Letter, *supra* note 44 (citing 29 CFR 2509.96–1(d)).

[70] *See, e.g., Dist. Bus. Conduct Comm.* v. *Nickles,* Complaint No. C8A910051, 1992 NASD Discip. LEXIS 28, at *18 (NBCC Oct. 19, 1992) (holding that suitability rule "applies not only to transactions that registered persons effect for their clients, but also to any recommendations that a registered person makes to his or her client").

[71] *See, e.g., Rafael Pinchas,* 54 S.E.C. 331, 341 n.22 (1999) ("Transactions that were not specifically authorized by a client but were executed on the client's behalf are considered to have been implicitly recommended within the meaning of the NASD rules."); *Paul C. Kettler,* 51 S.E.C. 30, 32 n.11 (1992) (stating that transactions broker effects for a discretionary account are implicitly recommended).

[72] *See* Hancock, MetLife and Prudential Letter, *supra* note 44 (citing 29 CFR 2509.96–1(d)).

[73] *See* Mougey and Kraszewski Letter, *supra* note 61; Taurus Letter, *supra* note 61.

[74] *See* Mougey and Kraszewski Letter, *supra* note 61.

[75] *See* Taurus Letter, *supra* note 61.

[76] *See* Corporate Law Center & Investor Rights Clinic Letter, *supra* note 61.

[77] *See* Corporate Law Center & Investor Rights Clinic Letter, *supra* note 61.

FINRA's rules have consistently required from broker-dealers and associated persons.[78] The commenter supported a revision of proposed Rule 2111 to incorporate an explicit suitability obligation that is not limited to securities.[79]

The vast majority of commenters, however, were against applying the suitability rule to non-securities products.[80] Some argued that FINRA did not have jurisdiction over non-securities products.[81] Some argued against the expansion because they claimed there is no evidence of abuse resulting from recommendations involving non-securities products.[82] Some commenters stated that such action is unnecessary because the states and Federal regulators, and in some instances other self-regulatory organizations, already regulate many non-securities products and services (*e.g.,* insurance, real estate, investment advisers, futures products, etc.).[83]

Others claimed that FINRA was ill-suited to regulate non-securities products because it has no expertise outside securities issues.[84] A few argued that adoption of an enhanced suitability rule would create confusion regarding whether a recommendation is made "in connection with a firm's business."[85]

• *FINRA's Response:*

With the possible exception of potentially duplicative regulation, which FINRA believes could be addressed in any further expansion of the reach of the rule, FINRA does not agree with the commenters' reasoning against extending the scope of the suitability rule. FINRA acknowledges, however, that future developments in regulatory restructuring could impact any such proposal. FINRA emphasizes, moreover, that the proposed new suitability rule (including the explicit coverage of recommended strategies and expanded list of the types of information that members must seek to gather and analyze) and the proposed "Know Your Customer" rule together provide enhanced protection to investors. Consequently, FINRA will not include explicit references to non-securities products in the rule at this time.

Scope of the Suitability Rule/ Clarification of the Term "Recommendation"

Consistent with the current suitability rule, the proposed new rule does not define the term "recommendation." FINRA received a number of comments regarding the term.

• *Comments:*

Some commenters asked FINRA to define the term "recommendation."[86] One commenter believed that FINRA's failure to define "recommended transaction" will make it difficult for firms to distinguish recommended transactions from "discussed" and/or "reviewed" transactions.[87] This commenter stated that the "current compliance rule of thumb matches customer action within a measured period of time after information is provided to a customer as a test of whether any resulting transaction was 'recommended.'"[88] The commenter believes that "the discussion in *NTM 01–23* provides a good foundation upon which FINRA can base the definition."[89] Another commenter asked that FINRA reaffirm the principles discussed in *NTM 01–23* regarding the term "recommendation."[90] Other commenters argued that the term should be defined to include recommendations to hold securities.[91]

• *FINRA's Response:*

The determination of the existence of a recommendation has always been based on the facts and circumstances of the particular case and, therefore, the fact of such action having taken place is not susceptible to a bright line definition.[92] As two commenters noted, however, FINRA announced several guiding principles in *NTM 01–23* regarding whether a communication constitutes a recommendation. In general, those guiding principles remain relevant.

For instance, FINRA stated that a communication's content, context, and presentation are important aspects of the inquiry. In addition, the more individually tailored the communication is to a particular customer or customers about a specific security or strategy, the more likely the communication will be viewed as a recommendation. FINRA also explained that a series of actions that may not constitute recommendations when viewed individually may amount to a recommendation when considered in the aggregate. FINRA stated, moreover, that it makes no difference whether the communication was initiated by a person or a computer software program. Finally, FINRA noted the relevance of determining whether a reasonable person would view the communication as a recommendation. Thus, for example, FINRA explained that a broker could not avoid suitability obligations through a disclaimer where—given its content, context, and presentation—the particular communication reasonably would be viewed as a recommendation.[93]

[78] *See* Corporate Law Center & Investor Rights Clinic Letter, *supra* note 61.

[79] *See* Corporate Law Center & Investor Rights Clinic Letter, *supra* note 61.

[80] *See, e.g.,* Michael Berenson, Morgan, Lewis & Bockius LLP on behalf of American Equity Life Insurance Company, June 23, 2009 ("AELIC Letter"); Charles Schwab Letter, *supra* note 35; Committee of Annuity Insurers Letter, *supra* note 43; John M. Damgard, President of the Futures Industry Association, June 29, 2009 ("FIA Letter"); Form Letter Type A, *supra* note 52; Form Letter Type B, *supra* note 52; Hancock, MetLife and Prudential Letter, *supra* note 44; James L. Harding, James L. Harding & Associates, Inc., July 1, 2009 ("Harding Letter"); FOLIOfn Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35; LPL Letter, *supra* note 66; TD Ameritrade Letter, *supra* note 35; NSCP Letter, *supra* note 35; NAIBD Letter, *supra* note 35; Thomas W. Sexton, Senior Vice President & General Counsel for the National Futures Association, June 29, 2009 ("NFA Letter"), SIFMA Letter, *supra* note 35; T.RowePrice Letter, *supra* note 35; Robert R Carter and David A Stertzer, Association for Advanced Life Underwriting, June 29, 2009 ("AALU Letter"); Alan J Cyr, Cyr & Cyr Insurance Services, June 26, 2009 ("Cyr & Cyr Insurance Services Letter"); F. John Millette, IMG Financial Group, June 23, 2009 ("IMG Financial Group Letter"); Neal Nakagiri, NPB Financial Group, LLC, June 2, 2009 ("NPB Financial Group Letter"); Richard C. Orvis, Principal Life Insurance Co., June 23, 2009 ("Principal Life Insurance Co. Letter").

[81] *See, e.g.,* Committee of Annuity Insurers Letter, *supra* note 43; FOLIOfn Letter, *supra* note 35; Form Letter Type A, *supra* note 52; Form Letter Type B, *supra* note 52; Hancock, MetLife and Prudential Letter, *supra* note 44; LPL Letter, *supra* note 66; NSCP Letter, *supra* note 35; T.RowePrice Letter, *supra* note 35.

[82] *See, e.g.,* AALU Letter, *supra* note 80; AELIC Letter, *supra* note 80; Cyr & Cyr Insurance Services Letter, *supra* note 80; Principal Life Insurance Co. Letter, *supra* note 80.

[83] *See, e.g.,* AELIC Letter, supra note 80; Committee of Annuity Insurers Letter, *supra* note 43; FIA Letter, *supra* note 80; Form Letter Type A, *supra* note 52; Form Letter Type B, *supra* note 52; Hancock, MetLife and Prudential Letter, *supra* note 44; Michael T. McRaith, Illinois Department of Insurance Letter, June 29, 2009; NAIBD Letter, *supra* note 35; NFA Letter, *supra* note 80; NSCP Letter, *supra* note 35; SIFMA Letter, *supra* note 35.

[84] *See, e.g.,* AALU Letter, *supra* note 80; Committee of Annuity Insurers Letter, *supra* note 43; Wells Fargo Letter, *supra* note 35.

[85] *See, e.g.,* AELIC Letter, *supra* note 80.

[86] *See* Barry D. Estell, Attorney at Law, June 24, 2009 ("Estell Letter"); FOLIOfn Letter, *supra* note 35; Mougey and Kraszewski Letter, *supra* note 61.

[87] *See* FOLIOfn Letter, *supra* note 35.

[88] *See* FOLIOfn Letter, *supra* note 35.

[89] *See* FOLIOfn Letter, *supra* note 35.

[90] TD Ameritrade Letter, *supra* note 35.

[91] *See* Estell Letter, *supra* note 86; Mougey and Kraszewski Letter, *supra* note 61.

[92] FINRA has stated that "defining the term 'recommendation' is unnecessary and would raise many complex issues in the absence of specific facts of a particular case." Securities Exchange Act Release No. 37588, 1996 SEC LEXIS 2285, at *29 (Aug. 20, 1996), 61 FR. 44100, 44107 (Aug. 27, 1996) (Notice of Filing and Order Granting Accelerated Approval of NASD's Interpretation of its Suitability Rule).

[93] In the same vein, it is important to note that a customer's acquiescence or desire to engage in a transaction does not relieve a broker-dealer or associated person of the responsibility to make only suitable recommendations. *See, e.g., Clinton H. Holland, Jr.,* 52 S.E.C. 562, 566 (1995) ("Even if we conclude that Bradley understood Holland's

Continued

These guiding principles, together with numerous litigated decisions and the facts and circumstances of any particular case, inform the determination of whether the communication is a recommendation for purposes of FINRA's suitability rule.[94] FINRA believes that this guidance and these precedents allow broker-dealers to fundamentally understand what communications likely do or do not constitute recommendations.

It also is important to emphasize that both the current and proposed suitability rules require that a recommendation be suitable when made. Firms may have different methods of tracking recommendations for a variety of reasons, but the main suitability obligation is not dependent on whether and, if so, where and how, a transaction occurs.[95]

Finally, as noted above, the proposed rule would capture explicit recommendations to hold securities as a result of FINRA's elimination of the "purchase, sale or exchange" language and the addition of the term "strategy." Accordingly, there is no reason to define "recommendation" to include recommendations to hold securities.

Information Gathering

The proposal discussed in the *Notice* seeking comment made two changes to the type of information that firms and associated persons had to attempt to gather and analyze as part of their suitability obligation. First, the proposal would have required the firm and associated person to consider information known by the firm or associated person. Second, the proposal included an expanded list of information that members and associated persons would have to attempt to gather and analyze when making recommendations.

Information Gathering/Information Known By the Firm

The proposal discussed in the *Notice* would have required members and associated persons to consider all information about the customer that was "known by the member or associated person."

• *Comments:*

Some commenters supported requiring firms and brokers to analyze information known by the firm regardless of how the firm learned of the information.[96] However, other commenters were opposed to this requirement.[97] Some were opposed because of the difficulty they believed it would cause for firms with multiple business lines.[98] According to these commenters, customers may provide information for a variety of different purposes (*e.g.,* banking, insurance, or securities transactions) to different employees working in different departments and recording the information on separate systems, and a single broker may not have access to all of that information.[99]

Other commenters opposed the language on the basis that it might require associated persons to capture and consider personal information that may not be relevant to investment decisions and that clients may not want captured in a system or shared with a broader audience (especially when the associated person has intimate knowledge of a client through a family relationship or friendship).[100] According to the commenters, examples may include a diagnosed illness, pending divorce or separation, pending legal action, or other personal problems.[101] Finally, some commenters believed that such a requirement could be unfair to associated persons in situations where firms are aware of information about customers but do not pass it along to the associated persons.[102]

• *FINRA's Response:*

FINRA has modified the proposal and no longer refers to facts "known by the member or associated person." The current proposal requires the member or associated person to have reasonable grounds to believe the recommendation is suitable based on "information obtained through the reasonable diligence of the member or associated person to ascertain the customer's investment profile, including, but not limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation."

"Reasonable diligence" is that level of effort that, based on the facts and circumstances of the particular case, provides the member or associated person with sufficient information about the customer to have reasonable grounds to believe that the recommended security or strategy is suitable. The level of importance of each category of customer information may vary depending on the facts and circumstances of the particular case. However, members and associated persons must use reasonable diligence to gather and analyze the customer information and may only make a recommendation if they have reasonable grounds to believe the recommendation is suitable. In this regard, failing to use reasonable diligence to gather the information or basing a recommendation on inadequate information would violate customer-specific suitability, which requires a broker-dealer to have a reasonable basis to believe a recommendation is suitable for the particular investor at issue.

Apart from the new "reasonable diligence" language, the modified proposal also alters the wording at the end of paragraph (a) of the proposed rule. Instead of requiring members and associated persons to consider "any other information the member or associated person considers to be reasonable," the modified proposal requires them to consider "any other information the customer may disclose to the member or associated person in connection with" the recommendation.

recommendations and decided to follow them, that does not relieve Holland of his obligation to make reasonable recommendations."), *aff'd,* 105 F.3d 665 (9th Cir. 1997) (table format); *John M. Reynolds,* 50 S.E.C. 805, 809 (1991) (regardless of whether customer wanted to engage in aggressive and speculative trading, representative was obligated to abstain from making recommendations that were inconsistent with the customer's financial condition); *Eugene J. Erdos,* 47 S.E.C. 985, 989 (1983) ("[W]hether [the customer] considered the transactions * * * suitable is not the test for determining the propriety of [the registered representative's] conduct."), *aff'd,* 742 F.2d 507 (9th Cir. 1984); *Dep't of Enforcement* v. *Bendetsen,* No. C01020025, 2004 NASD Discip. LEXIS 13, at *12 (NAC Aug. 9, 2004) ("[A] broker's recommendations must serve his client's best interests and that the test for whether a broker's recommendation is suitable is not whether the client acquiesced in them, but whether the broker's recommendations were consistent with the client's financial situation and needs.").

[94] To the extent that past *Notices to Members, Regulatory Notices,* case law, etc., do not conflict with proposed new rule requirements or interpretations thereof, they remain potentially applicable, depending on the facts and circumstances of the particular case.

[95] *See Nickles,* 1992 NASD Discip. LEXIS 28, at *18.

[96] *See* Corporate Law Center & Investor Rights Clinic Letter, supra note 61; St. John's Letter, *supra* note 61; Taurus Letter, *supra* note 61.

[97] *See* Charles Schwab Letter, *supra* note 35; Committee of Annuity Insurers Letter, *supra* note 43; FOLIOfn Letter, *supra* note 35; LPL Letter, *supra* note 66; NSCP Letter, *supra* note 35; SIFMA Letter, *supra* note 35; TD Ameritrade Letter, *supra* note 35.

[98] *See* Charles Schwab Letter, *supra* note 35; FOLIOfn Letter, *supra* note 35; NSCP Letter, *supra* note 35; SIFMA Letter, *supra* note 35; TD Ameritrade Letter, *supra* note 35.

[99] *See* Charles Schwab Letter, *supra* note 35; SIFMA Letter, *supra* note 35.

[100] *See* Committee of Annuity Insurers Letter, *supra* note 43; National Planning Holdings Letter, *supra* note 66.

[101] *See* Committee of Annuity Insurers Letter, *supra* note 43; National Planning Holdings Letter, *supra* note 66.

[102] *See* LPL Letter, *supra* note 66; SIFMA Letter, *supra* note 35.

In light of some of the comments noted above, FINRA believes it is important to tie this customer information to possible investment decisions.

Information Gathering/Additional Information

The proposal expands the explicit list of types of information that broker-dealers and associated persons have to attempt to gather and analyze. At present, the suitability rule requires that broker-dealers and associated persons attempt to gather information about and analyze the customer's other security holdings, financial situation and needs, financial status, tax status, investment objectives, and such other information used or considered to be reasonable by such member or associated person in making recommendations to the customer. FINRA expanded that list to include the customer's age, investment experience, investment time horizon, liquidity needs, and risk tolerance.

• *Comments:*

Some commenters applauded FINRA for placing a clear affirmative duty on firms to make reasonable efforts to gather a more comprehensive and specific list of facts about the customer prior to making a recommendation.[103] These commenters believed that the investing public will benefit because broker-dealers will consider a larger number of consistent criteria.[104]

A few other commenters, while agreeing that such information is relevant in some situations, stated that obtaining each specified category of information may not be warranted on every occasion.[105] These commenters requested that FINRA build flexibility into the rule and not mandate that the member seek to obtain these new categories of information for every recommended transaction.[106] According to these commenters, broker-dealers should have discretion to determine what customer information is relevant to the suitability determination associated with each recommended transaction.[107] If FINRA does require firms to obtain and capture this information, these commenters also asked FINRA to establish an effective date for the new rule that recognizes the difficulty associated with developing, modifying, and implementing forms and systems to request and capture the proposed new categories of information.[108]

Other commenters more strongly objected to the proposed expansion of the list of items that broker-dealers must attempt to gather and analyze.[109] One commenter argued that factors such as a customer's investment experience, time horizon, and risk tolerance are ones to be considered when reviewing a customer's portfolio as a whole, not individual trades.[110] According to this commenter, requiring consideration of such factors on a trade-by-trade basis will prevent customers from creating a diverse portfolio made up of securities with different levels of liquidity, risk, and time horizons.[111] This commenter also stated that requiring firms to attempt to gather information about a customer's "other investments" would be difficult because it would require an associated person to have a complete view of a customer's entire portfolio.[112] Another commenter went further and stated that the current list of items in Rule 2310 should be abolished.[113] The commenter stated that "FINRA should adopt a rule that states that broker dealers should collect sufficient data and perform the analysis that it, in its professional judgment, deems reasonably necessary to provide the services it offers and advertises to consumers."[114] If that cannot be achieved, the commenter recommends limiting the information to that discussed in SEA Rule 17a–3.[115] This commenter also argued that FINRA should detail exactly how firms are required to use each piece of information that FINRA requires firms to gather.[116]

Another commenter stated that FINRA should maintain a standard approach to the terminology used in relation to this aspect of the rule.[117] As an example, the commenter noted that the rule proposal uses the term "other investments," while FINRA Rule 2330 covering deferred variable annuities uses "existing assets (including investment and life insurance holdings)."[118] The commenter believed that "other investments" is overly broad and that FINRA should use the term currently used in Rule 2330.[119]

Finally, one commenter argued that money market mutual funds be exempted from all or some of the requirements to gather information when making recommendations.[120] According to the commenter, a current exemption from some information gathering for transactions in money market mutual funds should continue or be expanded in the proposed rule.[121]

• *FINRA's Response:*

Under the current suitability rule, broker-dealers must attempt to gather information on and analyze the customer's other holdings, financial situation and needs, financial status, tax status, investment objectives, and such other information used or considered to be reasonable by the firm or associated person in making recommendations to the customer. The expanded information in the proposed rule includes the customer's age, investment experience, investment time horizon, liquidity needs, and risk tolerance. FINRA cannot dictate exactly how firms should use each piece of information. As discussed above, the level of importance of each category of customer information (not only those in the expanded list) may vary depending on the facts and circumstances of the particular case. However, failing to use reasonable diligence to gather the information or basing a recommendation on inadequate information would violate customer-specific suitability.

FINRA declines one commenter's request to exempt money market mutual funds from all or some of the requirements to gather information when making recommendations. By way of background, the original suitability rule (currently paragraph (a) of NASD Rule 2310) required firms and brokers to have reasonable grounds to believe that the recommendation to purchase, sell, or exchange any security is suitable based upon the facts, if any, disclosed by the customer as to "his other security holdings and as to his financial situation and needs." In 1990, the SEC approved amendments that created a second information-gathering

[103] *See* Corporate Law Center & Investor Rights Clinic Letter, *supra* note 61; Mougey and Kraszewski Letter, *supra* note 61; St. John's Letter, *supra* note 61; T.RowePrice Letter, *supra* note 35.

[104] *See* St. John's Letter, *supra* note 61; Mougey and Kraszewski Letter, *supra* note 61.

[105] *See* Charles Schwab Letter, *supra* note 35; SIFMA Letter, *supra* note 35; TD Ameritrade Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[106] *See* Charles Schwab Letter, *supra* note 35; SIFMA Letter, *supra* note 35; TD Ameritrade Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[107] *See* Charles Schwab Letter, *supra* note 35; SIFMA Letter, *supra* note 35; TD Ameritrade Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[108] *See* Charles Schwab Letter, *supra* note 35; LPL Letter, *supra* note 66; SIFMA Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[109] *See* FOLIOfn Letter, *supra* note 35.

[110] *See* LPL Letter, *supra* note 66.

[111] *See* LPL Letter, *supra* note 66.

[112] *See* LPL Letter, *supra* note 66.

[113] *See* FOLIOfn Letter, *supra* note 35.

[114] *See* FOLIOfn Letter, *supra* note 35.

[115] *See* FOLIOfn Letter, *supra* note 35.

[116] *See* FOLIOfn Letter, *supra* note 35.

[117] *See* National Planning Holdings Letter, *supra* note 66.

[118] *See* National Planning Holdings Letter, *supra* note 66.

[119] *See* National Planning Holdings Letter, *supra* note 66.

[120] *See* Tamara K. Salmon, Senior Associate Counsel for the Investment Company Institute, June 29, 2009 ("ICI Letter").

[121] *See* ICI Letter, *supra* note 120.

requirement (currently paragraph (b) of NASD Rule 2310).[122] The new paragraph added in 1990 required firms to make reasonable efforts to also obtain the customer's financial status, tax status, investment objectives, and such other information used or considered to be reasonable by such member or associated person in making recommendations to the customer. Transactions involving money market mutual funds were exempted from the requirement under the new paragraph. However, transactions involving money market mutual funds were not exempted from the original suitability requirements under paragraph (a). FINRA believes that recommended money market mutual funds should be subject to the same information-gathering requirements as other recommended securities. That is especially true in light of the problems experienced by the Reserve Primary Fund in late 2008.[123]

Institutional Customer

At present, IM–2310–3 provides a limited exemption from the customer-specific obligation when dealing with institutional customers in certain situations. The proposal continues to provide an exemption, but it adds a requirement that institutional customers provide affirmative acknowledgement of certain aspects of their relationship with the broker-dealer and modifies the definition of institutional customer.

Institutional Customer/Affirmative Acknowledgement Regarding Surrendering Rights

As with the current suitability rule, the proposal provides an exemption from customer-specific suitability regarding institutional customers if the broker-dealer or associated person has a reasonable basis to believe that the institutional customer is capable of evaluating investment risks independently and is exercising independent judgment in evaluating the member's or associated person's recommendations. However, the proposal discussed in the *Notice* seeking comment added as a third requirement that the institutional customer must affirmatively indicate that it is willing to forgo the protection of the customer-specific obligation of the suitability rule.

• *Comments:*

A number of commenters stated that requiring institutional customers to affirmatively acknowledge that they are giving up rights is impractical and will render the institutional exemption ineffective.[124] According to these commenters, this requirement is unnecessary in light of the other two conditions (that the customer be capable of evaluating risks and is exercising independent judgment).[125] The commenters also stated that, because institutional clients are highly unlikely to affirmatively forego suitability protections for commercial reasons, this new requirement will have the practical effect of negating the exemption.[126]

• *FINRA's Response:*

FINRA has modified the proposed exemption in a way that should alleviate commenters' concerns while providing the necessary protection to institutional customers. The revised exemption eliminates the requirement that institutional customers affirmatively indicate that they are giving up suitability protections and focuses on the two main conditions discussed in the current exemption. The revised exemption, however, does require institutional customers to affirmatively indicate that they are exercising independent judgment.

Institutional Customer/Change in Definition

The proposal harmonizes the definition of "institutional customer" in the suitability rule with the more common definition of "institutional account" in NASD Rule 3110(c)(4) [proposed FINRA Rule 4512(c)]. As a result, the monetary threshold for an institutional customer would increase from the current $10 million invested in securities and/or under management to $50 million in assets. In addition, unlike the current exemption, a natural person could qualify as an institutional customer under the proposal.

• *Comments:*

Some commenters supported the change in definition.[127] One commenter stated further that consistent standards produce more efficient, effective, and clear regulation that is beneficial to investors, regulators, and market participants alike.[128] Other commenters, however, disagreed, arguing that the definition of $10 million invested in securities and/or under management in current IM–2310–3 is a more appropriate standard for purposes of the institutional account suitability exemption and should be retained in the new rule rather than referencing the Rule 3110(c)(4) standard of at least $50 million in total assets.[129] According to one commenter, many highly sophisticated institutional brokerage customers would not satisfy the $50 million dollar asset threshold but would not need the protection of the suitability rule.[130]

Another commenter who favored keeping the current standard stated that, if FINRA believes a different standard should be used for uniformity, FINRA should use the definition in NASD Rule 2211(a)(3) (Communications with the Public) rather than the one in NASD Rule 3110(c)(4).[131] Under NASD Rule 2211, institutional sales material may be distributed only to "institutional investors," defined to include several categories of persons, including those identified in NASD Rule 3110(c)(4). It also adds the following entities: Employee benefit plans meeting the requirements of Section 403(b) or Section 457 of the Internal Revenue Code with at least 100 participants, qualified plans with at least 100 participants, and governmental entities or subdivisions thereof. This commenter also suggested that FINRA should make the standard a rebuttable presumption against determining that an entity that is outside the list of plans identified above is an institutional customer.[132]

Finally, one commenter argued that there should not be any exemption for institutional customers.[133] According to this commenter, many institutional

[122] *See* Securities Exchange Act Release No. 27982, 1990 SEC LEXIS 795 (May 2, 1990) (Order Approving Rule Change to Obtain Information Pertinent to Customer Account).

[123] As the SEC explained, "On Sept. 15, 2008, the Reserve Primary Fund, which held $785 million in Lehman-issued securities, became illiquid when the fund was unable to meet investor requests for redemptions. The following day, the Reserve Fund declared it had 'broken the buck' because its net asset value had fallen below $1 per share." *http://www.sec.gov/news/press/2010/2010–16.htm.*

[124] *See* Hancock, MetLife and Prudential Letter, *supra* note 44; NAIBD Letter, *supra* note 35; NSCP Letter, *supra* note 35; SIFMA Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[125] *See* NAIBD Letter, *supra* note 35; SIFMA Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[126] *See* Hancock, MetLife and Prudential Letter, *supra* note 44; NAIBD Letter, *supra* note 35; NSCP Letter, *supra* note 35; SIFMA Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[127] *See* SIFMA Letter, *supra* note 35; Wells Fargo Letter, *supra* note 35.

[128] *See* SIFMA Letter, *supra* note 35.

[129] *See* Hancock, MetLife and Prudential Letter, *supra* note 44; NAIBD Letter, *supra* note 35; NSCP Letter, *supra* note 35.

[130] *See* NAIBD Letter, *supra* note 35.

[131] *See* Hancock, MetLife and Prudential Letter, *supra* note 44.

[132] *See* Hancock, MetLife and Prudential Letter, *supra* note 44. In addition, one commenter stated that the exemption should apply to all suitability obligations and should not, as previously had been the case, be limited to customer-specific suitability. *See* SIFMA Letter, *supra* note 35. FINRA believes that the exemption should remain focused on customer-specific suitability. For instance, it remains important that brokers understand the securities they recommend and that those securities are appropriate for at least some investors.

[133] *See* Mougey and Kraszewski Letter, *supra* note 61.

customers, even those with $50 million in assets, are not particularly sophisticated about complex securities and need the protections of the suitability rule.[134]

• *FINRA's Response:*

While any standard is imperfect, FINRA believes that it is important to use the definition in Rule 3110(c)(4) for consistency and because of its higher monetary threshold. FINRA does not believe that it is appropriate to use the much broader definition in NASD Rule 2211(a)(3), which defines "institutional investor" for purposes of the rules governing communications with the public. Communications that are distributed or made available only to institutional investors qualify as institutional sales material, which is not subject to the same content, principal approval and filing requirements as communications that are distributed or made available to retail investors. The communication rules' requirements, while important, serve a different purpose than the sales-practice protections that the suitability rule provides when a broker-dealer recommends a security to a customer.

FINRA understands the concern that even some institutional customers with $50 million in assets might be unsophisticated about complex securities and need the protections of the suitability rule. However, the exemption would not apply in that circumstance. Again, the broker-dealer or associated person must have a reasonable basis to believe that the institutional customer is capable of evaluating investment risks independently and, under the modified proposal, the customer must affirmatively state that it is exercising independent judgment in evaluating the recommendations.

Institutional Customer/Eliminating Detailed Discussion From IM–2310–3

Although the focus is the same, the proposed institutional exemption is considerably shorter in length than the current one. Its brevity generated one comment.

• *Comments:*

One commenter viewed the new, abbreviated institutional investor discussion in the proposal as a "box check" waiver that provides less protection than the detailed discussion in IM–2310–3 of considerations for determining whether the exemption should apply.[135]

• *FINRA's Response:*

The proposed institutional investor discussion, while shorter than the current version in IM–2310–3, contains certain stricter standards. In addition to the two main considerations used in both versions, the proposal includes an increased monetary threshold that certain institutions must meet to qualify for the exemption and, even more important, a requirement that the institution affirmatively indicate that it is independently evaluating the firm's recommendations.

Supplementary Material

The Consolidated FINRA Rulebook uses supplementary material to discuss certain aspects of a rule's requirements in greater detail. However, a number of commenters raised issues regarding the supplementary material.

• *Comments:*

A number of commenters supported codifying various interpretations of the suitability rule.[136] Some commenters, however, believed that FINRA should modify some of those interpretations. For instance, one commenter questioned the "three-pronged approach" to suitability discussed in Supplementary Material .02, which codifies discussions in IMs and case law about reasonable-basis suitability, customer-specific suitability, and quantitative suitability. This commenter suggested that the approach created new standards that provide less protection to customers.[137] This commenter took particular issue with reasonable-basis suitability, which requires a broker-dealer to have a reasonable basis to believe, based on adequate due diligence, that the recommendation is suitable for at least some investors.[138] The commenter believed that a member's familiarity with a product should be presumed.[139]

Two other comments focused on quantitative suitability, which requires a broker-dealer that has actual or de facto control over an account to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer when taken together in light of the customer's investment profile. These commenters believed that FINRA should eliminate the requirement under quantitative suitability that a broker-dealer have "control" over an account before the obligation applies.[140] Yet another commenter stated that FINRA should eliminate supplementary material from all rules and limit rulemaking to rule text.[141]

• *FINRA's Response:*

FINRA believes that supplementary material is an important means of providing greater specificity to a rule's overarching requirements. FINRA notes that supplementary material will be filed with the SEC and is enforceable to the same extent as the main rule text.

With regard to the codification of the main suitability obligations, FINRA disagrees with the contention that the discussion creates new standards that provide less protection to customers. The discussion at issue codifies existing interpretations of suitability obligations, often directly from IMs following NASD Rule 2310[142] and case law.[143] The commenter argued that presuming that firms and associated persons are familiar with the products they recommend would provide greater protection to customers. FINRA believes the opposite is true, and FINRA's examination and enforcement experience belies the notion that firms and associated persons are always familiar with every recommended product or strategy. The existing duty to perform adequate due diligence to understand the products and strategies that firms and associated persons recommend is of critical importance to

[134] *See* Mougey and Kraszewski Letter, *supra* note 61.

[135] *See* NASAA Letter, *supra* note 47.

[136] *See* Corporate Law Center & Investor Rights Clinic Letter, *supra* note 61; Taurus Letter, *supra* note 61; T.RowePrice Letter, *supra* note 35.

[137] *See* NASAA Letter, *supra* note 47.

[138] *See* NASAA Letter, *supra* note 47.

[139] *See* NASAA Letter, *supra* note 47.

[140] *See* Cornell Letter, *supra* note 34; Estell Letter, *supra* note 86.

[141] *See* FOLIOfn Letter, *supra* note 35.

[142] *See, e.g.,* IM–2310–2(b)(2) (discussing quantitative suitability, also called excessive trading); IM–2310–3 (discussing reasonable-basis and customer-specific suitability).

[143] *See, e.g., James B. Chase,* Securities Exchange Act Release No. 47476, 2003 SEC LEXIS 566, at *17 (Mar. 10, 2003) (involving customer-specific suitability); *Harry Gliksman,* 54 S.E.C. 471, 474–75 (1999) (discussing excessive trading); *Rafael Pinchas,* 54 S.E.C. 331 (1999) (discussing excessive trading and customer-specific suitability); *F.J. Kaufman & Co.,* 50 S.E.C. 164, 168–69 (1989) (discussing both reasonable-basis and customer-specific suitability); *Patrick G. Keel,* 51 S.E.C. 282, 284–87 (1993) (upholding violation of customer-specific suitability); *Dep't of Enforcement* v. *Medeck,* No. E9B2003033701, 2009 FINRA Discip. LEXIS 7, at *31 (NAC July 30, 2009) (discussing excessive trading); *Dep't of Enforcement* v. *Siegel,* No. C05020055, 2007 NASD Discip. LEXIS 20, at *36–40 (NAC May 11, 2007) (discussing reasonable-basis suitability and due-diligence requirement thereunder), *aff'd,* Securities Exchange Act Release No. 58737, 2008 SEC LEXIS 2459 (Oct. 6, 2008), *aff'd in relevant part,* 592 F.3d 147 (D.C. Cir. Jan. 12, 2010), *cert. denied,* 2010 U.S. LEXIS 4340 (May 24, 2010); *see also Regulatory Notice* 10–22, 2010 FINRA LEXIS 43, at *10–20 (April 2010) (discussing due diligence required for reasonable-basis suitability in context of recommended private offerings); *Notice to Members* 03–71, 2003 NASD LEXIS 81, *5–6 (Nov. 11, 2003) (discussing due-diligence requirement for reasonable-basis suitability in context of recommendations of non-conventional investments).

the protection of investors.[144] This is especially true in light of the increasing complexity of certain products and strategies.

Elimination of Interpretive Material Following NASD Rule 2310

In connection with the new suitability rule, FINRA proposes eliminating many and modifying some of the IMs that follow NASD Rule 2310. This aspect of the proposal also generated several comments.

• *Comments:*

A few commenters were concerned that the proposal did not include some of the current IMs, especially IM–2310–2.[145] These commenters believe that it is important to maintain the statement in IM–2310–2 that brokers can be disciplined for excessive trading, unauthorized trading, and fraud.[146] One commenter noted in particular that this IM was the only place in the entire NASD conduct rules explicitly prohibiting unauthorized trading.[147]

• *FINRA's Response:*

FINRA continues to believe that most of the current IMs following NASD Rule 2310 should be eliminated or modified because they are no longer necessary. As discussed in detail in Item II.A. of this filing, some are duplicative of other rules and others would be rendered unnecessary by changes proposed in the new suitability rule. For example, as noted in Item II.A., it is well-settled that unauthorized trading violates just and equitable principles of trade under FINRA Rule 2010. Consequently, the elimination of the discussion of unauthorized trading in the IMs following the suitability rule in no way alters the longstanding view that unauthorized trading clearly violates FINRA's rules.

[144] *See F.J. Kaufman & Co.,* 50 S.E.C. at 168–69 (discussing both reasonable-basis and customer-specific suitability); *Siegel,* 2007 NASD Discip. LEXIS 20, at *36–40 (discussing reasonable-basis suitability and due-diligence requirement thereunder); *see also Regulatory Notice* 10–22, 2010 FINRA LEXIS 43, at *10–20 (April 2010) (discussing due diligence required for reasonable-basis suitability in context of recommended private offerings); *Notice to Members* 03–71, 2003 NASD LEXIS 81, *5–6 (Nov. 11, 2003) (discussing due diligence requirement for reasonable-basis suitability in context of recommendations of non-conventional investments).

[145] *See* Cornell Letter, *supra* note 34; Corporate Law Center & Investor Rights Clinic Letter, *supra* note 61; NASAA Letter, *supra* note 47.

[146] *See* Cornell Letter, *supra* note 34; Corporate Law Center & Investor Rights Clinic Letter, *supra* note 61; NASAA Letter, *supra* note 47.

[147] *See* Corporate Law Center & Investor Rights Clinic Letter, *supra* note 61.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2010–039 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–FINRA–2010–039. 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 FINRA. 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–FINRA–2010–039 and should be submitted on or before September 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[148]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21228 Filed 8–25–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62748; File No. SR–FINRA–2010–043]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Reinstitute Short Exempt Marking for Trade Reporting and OATS

August 20, 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 August 6, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend FINRA's trade reporting and Order Audit Trail System ("OATS") rules, including changes relating to recent amendments to SEC Regulation SHO.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

[148] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

On February 26, 2010, the SEC adopted amendments to SEC Regulation SHO.[3] These amendments, among other things, implement a short sale circuit breaker for NMS stocks [4] triggered by a 10% or more decrease in the price of the security from such security's closing price as determined by the listing market for that security at the end of regular trading hours on the prior trading day. Once the circuit breaker is triggered, Regulation SHO, as amended, is designed to generally prohibit the execution or display of short sale orders of a covered security at a price that is less than or equal to the current national best bid for the remainder of the day and the following day ("short sale price test restriction"). In addition to the short sale price test restriction, the amendments to Regulation SHO reinstitute a short sale exempt marking category by providing that a broker-dealer may mark certain qualifying sell orders "short exempt." [5]

Paragraphs (c) and (d) of Rule 201 of SEC Regulation SHO set forth the provisions pursuant to which an order may be marked "short exempt" once the circuit breaker has been triggered pursuant to paragraph (b)(3). These provisions include:

- Broker-dealer policies and procedures provision.
- Seller's delay in delivery.
- Odd lot transactions.
- Domestic arbitrage.
- International arbitrage.
- Over-allotments and lay-off sales.
- Riskless principal transactions.
- Transactions on a volume-weighted average price basis (or "VWAP").[6]

In light of the reinstitution of the "short exempt" marking category, FINRA is proposing to amend its trade reporting rules applicable to over-the-counter trades in NMS stocks to reintroduce the short sale exempt category.[7] Specifically, FINRA is proposing that, for short sales in all NMS stocks as defined in Rule 600(b)(47) of SEC Regulation NMS, members must indicate on trade reports submitted to FINRA if a transaction is "short sale exempt" (*i.e.,* if it is a short sale transaction in a "covered security" that may be marked "short exempt" pursuant to SEC Regulation SHO).[8]

Similarly, FINRA is proposing to amend its OATS rules to provide that, when an order is received or originated, members must record the designation of an order as a short sale exempt order if the order may be marked "short exempt" pursuant to SEC Regulation SHO.[9] FINRA also is proposing to require that members include the price on all route reports and a short exempt identifier, if applicable.[10]

FINRA is proposing certain additional amendments to its trade reporting rules, including those applicable to OTC Equity Securities, as defined in Rule 6420 (*i.e.,* non-NMS stocks) to clarify certain existing reporting requirements.[11] First, FINRA is proposing to clarify that the short sale indicator (and short sale exempt indicator, for NMS stocks) is required on reports of a "cross," as well as reports of a "sell."

Second, FINRA is proposing to codify the existing requirement that the information listed in the rule must be provided for each trade that is reported to FINRA. Today, trade report information can be provided in a single report, if the reporting member submits trade information for both sides of the trade, or it can be provided in a combination of reports, if the reporting member and contra side each submits its own trade information (as described more fully below). For each trade reported to FINRA, members must indicate, among other things, whether the seller (either the reporting member or contra side, irrespective of whether the contra side is a member) is selling short or short exempt.

Unless the contra side will have an opportunity to provide its own trade information (*i.e.,* unless the contra side is a member using the trade comparison functionality of the facility),[12] the reporting member is responsible for providing complete and accurate information for both sides of the trade, including information from the contra side perspective such as sell short and sell short exempt, as applicable. Thus, the reporting member is responsible for satisfying any applicable contra side information requirements where: (1) The trade is with a customer or non-member, (2) the trade is with a member and is "locked in" pursuant to a give up agreement, or (3) the trade is reported as "tape only" (*i.e.,* for public dissemination purposes without clearing) or "non-tape, non-clearing." This reporting requirement is in effect today; however, the proposed rule change would make it an express requirement in the rule. If the contra side is a member and will have an opportunity to provide its own trade information, then the reporting member is responsible only for providing

[3] *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010).

[4] NMS stock means any NMS security other than an option. Rule 600(b)(46) of SEC Regulation NMS defines "NMS security" as any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options. *See* 17 CFR 242.600(b)(46).

[5] The amendments to SEC Regulation SHO became effective on May 10, 2010 with a compliance date of November 10, 2010. *See supra* note 3.

[6] SEC staff has confirmed that members may use the existing ".W" modifier in connection with the VWAP exception of Rule 201(d)(7) of Regulation SHO. The use of the .W modifier would be in addition to the requirement to report the trade as short exempt.

[7] *See* FINRA Rules 6182 (Trade Reporting of Short Sales), 6282 (Alternative Display Facility), 6380A (FINRA/Nasdaq TRF), 6380B (FINRA/NYSE TRF), 7230A (FINRA/Nasdaq TRF), and 7230B (FINRA/NYSE TRF).

[8] FINRA previously required trade reports to indicate if a transaction was marked "short exempt"; however, these requirements were eliminated following the repeal of SEC Rule 10a–1. *See* Securities Exchange Act Release No. 56279 (August 17, 2007), 72 FR 48713 (August 24, 2007) (Notice of Filing and Immediate Effectiveness of File No. SR–NASD–2007–047).

[9] *See* FINRA Rule 7440(b)(9).

[10] Whenever a member transmits an order to another member, ECN, non-member or national securities exchange for handling or execution, the routing member is responsible for recording and reporting a route report to OATS. Under the proposal, route reports would be required to include the price at which the order was routed, which may be different from the price received from the customer, and whether the routed order is short exempt. The short exempt identifier is important for purposes of route reports because certain short sale orders will be eligible to be marked exempt solely as a result of the timing and price of the routed order (*See* Rule 201(c) of SEC Regulation SHO).

[11] *See* FINRA Rules 6282, 6380A, 6380B, 6622, 7230A, 7230B and 7330.

[12] The trade comparison functionality allows the contra party to accept or decline the trade information submitted by the reporting party and may only be used by a contra party that is a member. FINRA notes that the Alternative Display Facility, FINRA/Nasdaq TRF and ORF offer trade comparison functionality; the FINRA/NYSE TRF does not offer such functionality. Accordingly, reporting members are responsible for accurately and completely providing all information required under the rule for the contra side when reporting to the FINRA/NYSE TRF.

information from the reporting side perspective (and the contra side will provide information from the contra side perspective).

The implementation date will be November 10, 2010.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[13] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA believes that adopting the proposed rule change will aid in FINRA's surveillance for member compliance, including with SEC Regulation SHO.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2010–043 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–FINRA–2010–043. 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 FINRA. 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–FINRA–2010–043 and should be submitted on or before September 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21201 Filed 8–25–10; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78*o*–3(b)(6).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62743; File No. SR–FICC–2010–05]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of Proposed Rule Change To Modify the Rules of the Government Securities Division Regarding the Calculation of Clearing Fund Deposits Relating to Inter-Dealer Broker Positions

August 19, 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 August 18, 2010, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I and II below, which items have been prepared primarily by FICC.[3] The Commission previously approved the proposal on a temporary basis.[4] The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested parties and to grant accelerated approval through February 18, 2011.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks to modify the rules of FICC's Government Securities Division ("GSD") regarding the calculation of clearing fund requirements relating to inter-dealer broker ("IDB") positions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] FICC withdrew a substantively identical proposed rule change filed on August 4, 2010, that sought approval without requesting that the approval would be temporary.

[4] Securities Exchange Act Release No. 60510 (August 17, 2009), 74 FR 42716 (August 24, 2009).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The GSD maintains a clearing fund comprised of deposits of cash and eligible securities from its members to provide liquidity and to satisfy any losses that might otherwise be incurred as a result of a member's default and the subsequent close-out of its positions. The GSD uses a Value-at-Risk ("VaR") methodology to calculate clearing fund requirements.[5] The clearing fund methodology used by GSD analyzes risk by reference to three factors: (1) End-of-day VaR charge assessing market volatility for observed open positions at end-of-day after giving effect to offsetting positions within the portfolio; (2) "margin requirement differential" ("MRD") to address intraday risk; and (3) "coverage component" ("CC") to adjust the calculation if necessary to reach a given confidence level.[6] The margin calculation is predicated upon an assumption that the open positions of a defaulting member would be liquidated at the end of a three-day period.

IDBs function as intermediaries trading with multiple contraparties, allowing anonymity between trading parties, and providing liquidity for the market. IDBs handle large transactions and operate on small spreads. They perform a critical function in the government securities market in the absence of a centralized trading exchange.

IDBs submit affirmed trades from their systems to the GSD with each trade matched to the contraparty that will ultimately deliver or receive the securities. Although IDBs do not generally hold positions, they may incur positions at the GSD when their contraparties are not GSD members. Because these trades are matched by the IDB to a contraparty prior to submission to the GSD, FICC represents that the risk to FICC in the case of an IDB's default is different from that presented when a dealer member submits a trade that may not have been already matched to a contraside.

The clearing fund requirement applicable to IDB transactions has increased significantly because of recent market volatility to the point where FICC believes it is disproportionate to the risk that IDB activity presents to the GSD. Given the importance of IDB transactions in the government securities marketplace, undue and unsustainable margin requirements on GSD IDB activity may be harmful and may introduce systemic risk in the event members are motivated to avoid imposition of disproportionate changes by netting outside of the GSD or by delaying trade submission until later in the day. Accordingly, the GSD adjusted the calculation of the CC charge for IDB transactions in November 2008 and conducted a review of the current margin methodology as applied to IDB activity.

As a result of this review, the GSD proposed and the Commission approved the use of a one-day liquidation assumption when calculating clearing fund requirements applicable to IDB activity.[7] Since IDB trades are matched prior to submission, the GSD believes that the one-day liquidation period as opposed to a three-day liquidation period is a more reasonable assumption in this context. The assumption of a three-day liquidation period will continue to apply to non-IDB activity.

The GSD will continue to monitor the IDB activity of its members and to periodically reassess whether the one-day liquidation period provides adequate coverage. In this regard, FICC will provide the Commission with data to allow the Commission to track the magnitudes and behaviors of the VaR calculations using a one-day liquidation horizon and using a three-day liquidation horizon and with such other information that the Commission may request. FICC further notes its ability under GSD Rule 4 to impose special charges in response to market circumstances or other risk factors with respect to a particular member.

FICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[8] and the rules and regulations thereunder because the proposed change will modify the calculation of clearing fund requirements for IDB positions so that the clearing fund requirements is correlated more closely with the level of risk associated with IDB positions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[9] Section 17A(b)(3)(F) requires that the rules of a clearing agency remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible. The Commission finds that the approval of FICC's rule change on a temporary basis through February 18, 2011 is consistent with this section because by allowing FICC to temporarily modify its rules regarding the calculation of clearing fund requirements for IDB positions to what it believes correlates more closely with the level of risk associated with such positions, FICC will be taking steps toward potentially improving the national clearance and settlement system while still actively monitoring its ability to fulfill its safeguarding obligations.

FICC has requested that the Commission approve the proposed rule prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval will allow FICC to continue to attempt to correlate IDBs' clearing fund requirements with the level of risk associated with their positions.

The Commission is approving the proposed rule filing on a temporary basis through February 18, 2011, so that FICC will have time to further evaluate the modified calculation of clearing fund requirements for IDB positions and to report its findings and conclusions to the Commission and so that the Commission will have time to evaluate FICC's findings and conclusions before a final determination is made regarding

[5] VaR is defined as the maximum amount of money that may be lost on a given portfolio over a given period of time within a given confidence level.

[6] Under the GSD clearing fund procedures, CC is not calculated with respect to IDB repo transactions. The GSD has recently adjusted the CC charge with respect to certain IDB cash transactions.

[7] See note 4.

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78q–1(b)(3)(F).

adoption of any rule on a permanent basis.

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–FICC–2010–05 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–FICC–2010–05. 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 Section, 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 filings also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://dtcc.com/downloads/legal/rule_filings/2010/ficc/2010-05.pdf.* 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–FICC–2010–05 and should be submitted on or before September 16, 2010.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–FICC–2010–05) be and hereby is approved on an accelerated basis through February 18, 2011.[11]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21200 Filed 8–25–10; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections and a new information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer to the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than October 25, 2010. Individuals can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

1. *Statement of Agricultural Employer (Year Prior to 1988; and 1988 and later)—20 CFR 404.702, 404.802, 404.1056—0960–0036.* SSA collects the information on Forms SSA–1002–F3 and SSA–1003–F3 to resolve discrepancies when farm workers allege their employers did not report their wages, or reported their wages incorrectly. If an agricultural employer incorrectly reported wages, or failed to report any wages for an employee, SSA must attempt to correct its records by contacting the employer to obtain convincing evidence of the wages paid. The respondents are agricultural employers having knowledge of wages paid to agricultural employees.

Type of Request: Revision of an OMB-approved information collection.

Form No.	Number of respondents	Frequency of response	Average Burden per Response (minutes)	Total Annual Burden (hours)
SSA–1002	7,500	1	30	3,750
SSA–1003	25,000	1	30	12,500
Total	32,500			16,250

[10] 15 U.S.C. 78s(b)(2).

[11] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

2. *Student Reporting Form—20 CFR 404.367 & 404.368—0960–0088. Sections 20 CFR 404.367* and *404.368* of the *Code of Federal Regulations* provide that a student beneficiary must attend an educational institution full-time to qualify for Social Security benefits. SSA requires beneficiaries to report events that may cause a reduction, termination, or suspension of their benefits. SSA collects information on Form SSA–1383 to determine if the change or event a student reports affects continuing entitlement to Social Security benefits. We also use the information to determine the correct benefit amounts. The respondents are Social Security student beneficiaries.

Type of Request: Revision of an OMB-approved information collection.

Form No.	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
SSA–1383	74,887	1	6	7489
SSA–1383–FC	113	1	6	11
Total	75,000		6	7,500

3. *Work Activity Report (Self-Employed Person)—20 CFR 404.1520(b), 20 CFR 404.1571–404.1576, 20 CFR 404.1584–404.1593, and 20 CFR 416.971–416.976—0960–0598.* SSA uses the information on Form SSA–820–U4 to determine initial or continuing eligibility for Supplemental Security Income (SSI) payments or Social Security disability benefits. Under *Titles II* and *XVI* of the *Social Security Act,* applicants for disability benefits and SSI payments must prove they cannot perform any kind of substantial gainful activity (SGA) generally available in the national economy for which we expect them to qualify based on age, education, and work experience. SSA needs information about this work to determine whether the applicant was (or is) engaging in SGA. Working, after a claimant becomes entitled, can cause SSA to discontinue disability benefits or SSI payments. Using information from Form SSA–820–U4, SSA can determine if we should stop the respondent's benefits or payments. The respondents are applicants and claimants for SSI or Social Security disability benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden per Response: 30 minutes.

Estimated Annual Burden: 50,000 hours.

4. *Request for Waiver of Special Veterans Benefits (SVB) Overpayment Recovery or Change in Repayment Rate—20 CFR 408.900–408.950, 408.923(b), 408.931(b), 408.932(c), (d) and (e), 408.941(b) and 408.942—0960–0698. Title VIII* of the *Social Security Act* (the *Act*) allows SSA to pay a monthly benefit to a qualified World War II veteran who resides outside the United States. When an overpayment in SVB occurs, the beneficiary can request a waiver of recovery of the overpayment or a change in the repayment rate. SSA uses the SSA–2032–BK to obtain the information necessary to establish whether the claimant met the waiver of recovery provisions of the overpayment, and to determine the repayment rate if we do not waive repayment. Respondents are beneficiaries who have overpayments on their *Title VIII* record and wish to file a claim for waiver of recovery or change in repayment rate.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 450.

Frequency of Response: 1.

Average Burden per Response: 120 minutes.

Total Annual Burden: 900 hours.

5. *Protection and Advocacy for Beneficiaries of Social Security (PABSS)—Grant Awardees/Protection and Advocacy for Beneficiaries of Social Security (PABSS)—Beneficiaries—20 CFR 435.51–435.52—0960–0768.* In August of 2004, SSA announced its intention to award grants to establish community-based protection and advocacy projects in every State and U.S. Territory, as authorized under *section 1150* of the *Social Security Act.* Potential awardees were protection and advocacy organizations established under *Title I* of the *Developmental Disabilities Assistance and Bill of Rights Act,* which submitted a timely application conforming to the requirements listed in the 2004 announcement. The projects SSA funds under PABSS program are part of SSA's strategy to increase the number of beneficiaries who return to work and achieve self-sufficiency as the result of receiving advocacy or other services. The overall goal of the program is to provide information and advice about obtaining vocational rehabilitation and employment services, and to provide advocacy or other services a beneficiary with a disability may need to secure, maintain, or regain gainful employment.

The PABSS Semi-Annual Program Performance Report collects statistical information from the various protection and advocacy (P&A) projects to manage program performance. SSA uses the information to evaluate the efficacy of the program, and to ensure beneficiaries are receiving the dollars appropriated for PABSS services. The project data is valuable to SSA in its analysis of, and future planning for, the Social Security Disability Insurance (SSDI) and SSI programs. The respondents are the 57 designated P&A project system sites (in each of the 50 States, the District of Columbia, and the U.S. Territories), and beneficiaries of SSDI and SSI programs.

Type of Request: Revision of an OMB-approved information collection.

Type of respondent	Number of respondents	Frequency of response	Number of annual responses	Average burden per response (minutes)	Total annual burden (hours)
PABBS Program Grantees	57	2	114	60	114
Beneficiaries	5,000	1	5,000	15	1,250
Totals	5,057		5,114		1,364

II. SSA has submitted the information collections listed below to OMB for clearance. Your comments on the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than September 27, 2010. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

1. *Travel Expense Reimbursement—20CFR 404.999(d) and 416.1499—0960–0434. The Social Security Act* provides for travel expense reimbursement by Federal and State agencies for claimant travel incidental to medical examinations, and to parties, their representatives, and all reasonably necessary witnesses for travel exceeding 75 miles to attend medical examinations, reconsideration interviews, and proceedings before an administrative law judge (ALJ). Reimbursement procedures require the claimant to provide (1) a list of expenses incurred, and (2) receipts of such expenses. Federal and State personnel review the listings and receipts to verify the reimbursable amount to the requestor. The respondents are claimants for Title II benefits and Title XVI payments, their representatives, and witnesses.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 8,333 hours.

2. *Incorporation by Reference of Oral Findings of Fact and Rationale in Wholly Favorable Written Decisions (Bench Decision Regulation)—20 CFR 404.953 and 416.1453—0960–0694.* If an ALJ makes a wholly favorable oral decision that includes all the findings and rationale for the decision for a claimant of Title II or Title XVI payments at an administrative appeals hearing, the records from the oral hearing preclude the need for a written decision. We call this the incorporation-by-reference process. In addition, the regulations for this process state if the involved parties want a record of the oral decision, they may submit a written request for these records. Therefore, SSA collects identifying information under the aegis of sections *20 CFR 404.953* and *416.1453* of the *Code of Federal Regulations* to determine how to send interested individuals written records of a favorable incorporation-by-reference oral decision made at an administrative review hearing. Since there is no prescribed form to request a written record of the decision, the involved parties send SSA their contact information and reference the hearing for which they would like a record. The respondents are applicants for SSDI and SSI payments, or their representatives, to whom SSA gave a wholly favorable oral decision under the regulations cited above.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 2,500.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Annual Burden: 208 hours.

3. *Authorization for SSA to Disclose Tax Information for Your Appeal of Your Medicare Part B Income-Related Monthly Adjustment Premium Amount—20 CFR 418.1350—0960–0762.* Medicare Part B beneficiaries who wish to appeal SSA's reconsideration of their Income-Related Monthly Adjustment Amount (IRMAA) must ensure the availability of relevant Internal Revenue Service (IRS) income tax data to the Health and Human Services ALJ who will consider their appeal. Through Form SSA–54, SSA obtains beneficiary authorization to disclose the IRS beneficiary tax data to the ALJ. The respondents are Medicare Part B recipients who want to appeal SSA's reconsideration of their IRMAA amount.

Correction Notice: This is a correction notice. SSA published this information collection as an extension on June 7, 2010 at 75 FR 32231. Since we are revising the Privacy Act Statement, this is now a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 6,000.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 1,500 hours.

Dated: *August 23, 2010,*

Faye Lipsky,

Reports Clearance Officer, Center for Reports Clearance, Social Security Administration.

[FR Doc. 2010–21239 Filed 8–25–10; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice # 7130]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

SUMMARY: The Advisory Committee on Historical Diplomatic Documentation will meet on September 13—14, 2010 at the Department of State, 2201 "C" Street, NW., Washington, DC. Prior notification and a valid government-issued photo ID (such as driver's license, passport, U.S. government or military ID) are required for entrance into the building. Members of the public planning to attend must notify Margaret Morrissey, Office of the Historian (202–663–3529) no later than September 9, 2010, to provide date of birth, valid government-issued photo identification number and type (such as driver's license number/state, passport number/country, or U.S. government ID number/agency or military ID number/branch), and relevant telephone numbers. If you cannot provide one of the specified forms of ID, please consult with Margaret Morrissey for acceptable alternative forms of picture identification. In addition, any requests for reasonable accommodation should be made no later than September 7, 2010. Requests for reasonable accommodation received after that time will be considered, but might be impossible to fulfill.

The Committee will meet in open session from 1:30 p.m. through 2:30 p.m. on Monday, September 13, 2010, in the Department of State, 2201 "C" Street, NW., Washington, DC, in Conference Room 1205, to discuss declassification and transfer of Department of State records to the National Archives and Records Administration and the status of the *Foreign Relations* series. The remainder of the Committee's sessions from 2:45 p.m. until 5 p.m. on Monday, September 13, 2010 and 9 a.m. until 12 p.m. on Tuesday, September 14, 2010, will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). The agenda calls for discussions of agency declassification decisions concerning the *Foreign Relations* series and other declassification issues. These are matters properly classified and not subject to public disclosure under 5 U.S.C. 552b(c)(1) and the public interest requires that such activities be withheld from disclosure.

Questions concerning the meeting should be directed to Ambassador Edward Brynn, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian,

Washington, DC 20520, telephone (202) 663–1123, (e-mail *history@state.gov*).

Dated: August 16, 2010.

Ambassador Edward Brynn,

Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State.

[FR Doc. 2010–21284 Filed 8–25–10; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 7105; Greece Docket No. DOS–2010–0339; Colombia Docket No. DOS–2010–0340]

Notice of Meeting and Closed Meeting of the Cultural Property Advisory Committee

There will be a meeting of the Cultural Property Advisory Committee on Tuesday, October 12, 2010, from approximately 9 a.m. to 5 p.m., on Wednesday, October 13, 2010, from approximately 9 a.m. to 5 p.m., and on Thursday, October 14, 2010, from approximately 9 a.m. to 1 p.m, at the Department of State, Annex 5, 2200 C Street, NW., Washington, DC.

During its meeting on Tuesday, October 12, the Committee will begin its review of a new cultural property request from the Government of the Hellenic Republic seeking import restrictions on archaeological and ethnological material [Docket No. DOS–2010–0339]. An open session to receive oral public comment on this request will be held from 10 a.m. to 1 p.m. Please see the link to the Public Summary of this request at *http://exchanges.state.gov/heritage/whatsnew.html.*

On Wednesday, October 13, the Committee will review a proposal to extend the *Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Columbian Cultures and Certain Ethnological Material from the Colonial Period of Colombia* [Docket No. DOS–2010–0340]. The Government of the Republic of Colombia has notified the Government of the United States of America of its interest in extending the MOU. On Wednesday, October 13, the Committee will have an open session from approximately 9:30 a.m. to 11 a.m., to receive public comment on the proposal to extend the MOU with Colombia.

On Thursday, October 14, the Committee will conduct interim reviews of the *Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Cyprus Concerning the Imposition of Import Restrictions on Pre-Classical and Classical Archaeological Objects and Byzantine Period Ecclesiastical and Ritual Ethnological Material,* and of the *Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Peru Concerning the Imposition of Import Restrictions on Archaeological Material from the Prehispanic Cultures and Certain Ethnological Material from the Colonial Period of Peru.* This will be a closed session. Public comment, oral and written, will be invited at a time in the future should these MOUs be proposed for extension.

The Committee's responsibilities are carried out in accordance with provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*). The text of the Act and subject MOUs, as well as related information, may be found at *http://exchanges.state.gov/heritage/.* Persons wishing to attend either of the open sessions should notify the Cultural Heritage Center of the Department of State at (202) 632–6301 no later than 5 p.m. (EDT) September 22, 2010, to arrange for admission. Seating is extremely limited. Special accommodation needs should be specified upon notification of attendance.

Portions of the meeting on October 12 and 13, and the entire meeting on October 14, will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h), the latter of which stipulates that "The provisions of the Federal Advisory Committee Act shall apply to the Cultural Property Advisory Committee except that the requirements of subsections (a) and (b) of section 10 and 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiation objectives or bargaining positions on the negotiations of any agreement authorized by this title."

Persons wishing to make an oral presentation at either public session, on October 12 or October 13, must request to be scheduled and must submit a written text of the oral comments, ensuring that it is received no later than September 22, 2010, 11:59 p.m. (EDT) to allow time for distribution to Committee members prior to the meeting. Oral comments will be limited to allow time for questions from members of the Committee. All oral and written comments must relate specifically to the determinations under Section 303(a)(1) (19 U.S.C. 2602) of the Convention on Cultural Property Implementation Act, pursuant to which the Committee must make findings. This statute can be found at the Web site noted above.

Submitting written comments: All written materials, including the written texts of oral statements, may be submitted on paper via regular or express mail, or hand delivery; or electronically through the Regulations.gov Web site. For submissions of more than three (3) pages, 20 paper copies must be sent to the address below. Those having access to the Internet and wishing to make a comment of three or fewer pages regarding this Public Notice, may do so through the Regulations.gov Web site (see below). This change in procedure facilitates public participation, implements Section 206 of the E-Government Act of 2002, Public Law 107–347, 116 Stat. 2915, and also supports the Department of State's "Greening Diplomacy" initiative. Therefore, *comments by fax or by e-mail will no longer be accepted.* Please submit comments only one time.

- *Regular or Express Mail.* Cultural Heritage Center (ECA/P/C), SA–5, Fifth Floor, Department of State, Washington, DC 20522–0505.
- *Hand Delivery.* Cultural Heritage Center (ECA/P/C), Department of State, 2200 C Street, NW., Washington, DC 20522–0505.
- *Electronic Delivery.* To submit comments electronically, go to *http://www.regulations.gov* and enter the relevant docket number into the box under "Enter Keyword or ID", and follow the prompts to submit a comment. For further information, *see http://exchanges.state.gov/heritage/whatsnew.html.*

Privacy: Comments submitted in electronic form will be posted on the regulations.gov Web site. Because the comments cannot be edited to remove any identifying or contact information, the Department of State cautions against including any information in an electronic submission that one does not want publicly disclosed (including trade secrets and commercial or financial information that is privileged or confidential pursuant to 19 U.S.C. 2605(i)(1)). The Department of State requests that any party soliciting or aggregating comments received from other persons for submission to the Department of State inform those

persons that the Department of State 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.

Dated: August 18, 2010.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–21286 Filed 8–25–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7104]

Notice of Proposal To Extend the Agreement Between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Imposition of Import Restrictions on Archaeological Material From the Pre-Columbian Cultures and Certain Ecclesiastical Material from the Colonial Period of Colombia

The Government of the Republic of Colombia has informed the Government of the United States of its interest in an extension of the Agreement Between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Columbian Cultures and Certain Ecclesiastical Material from the Colonial Period of Colombia.

Pursuant to the authority vested in the Assistant Secretary for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this Agreement is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of the Agreement, the Designated List of restricted categories of material, and related information can be found at the following Web site: *http://exchanges.state.gov/heritage/.*

Dated: August 1, 2010.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–21285 Filed 8–25–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7106]

Notice of Receipt of Cultural Property Request From the Government of the Hellenic Republic

Greece, concerned that its cultural heritage is in jeopardy from pillage, made a request to the Government of the United States under Article 9 of the 1970 UNESCO Convention. The request was received on July 2, 2010, by the United States Department of State. It seeks U.S. import restrictions on archaeological and ethnological material from Greece dating to the Neolithic Era through the mid-eighteenth century.

The specific contents of this request are treated as confidential government-to-government information.

Information about the Act and U.S. implementation of the 1970 UNESCO Convention can be found at *http://exchanges.state.gov/heritage/.* A public summary of the Greek Request will be posted on the Web site.

Dated: August 18, 2010.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–21287 Filed 8–25–10; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 7131]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Global Undergraduate Exchange Program in Eurasia and Central Asia

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E/EUR 11–04.

Catalog of Federal Domestic Assistance Number: 19.009.

Key Dates:

Application Deadline: October 1, 2010.

Executive Summary: The Office of Academic Exchange Programs of the Bureau of Educational and Cultural Affairs announces an open competition for the administration of the FY 2011 Global Undergraduate Exchange Program in Eurasia and Central Asia (UGRAD). The total amount of funding for this award will be up to $3,995,000, pending the availability of FY 2011 funds. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3) may submit proposals to administer the selection, placement, monitoring, evaluation, follow-on, and alumni activities for the UGRAD program. Organizations with less than four years experience in conducting international exchange programs are not eligible for this competition. The UGRAD Program selects outstanding students from Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Ukraine, Uzbekistan, Tajikistan and Turkmenistan to receive scholarships for one year of non-degree study at U.S. institutions of higher education. Scholarships are available in the fields of accounting, agriculture, anthropology, biology, business, chemistry, computer science, criminal justice, economics, education, engineering, environmental management, geology, hospitality management, international relations, journalism/mass communications, law, physics, political science, psychology, sociology, urban planning, and U.S. studies. Funding should support a minimum of 135 participants. Every effort should be made to maximize the number of scholarships awarded.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Purpose

The UGRAD Program is designed to promote mutual understanding among the people of Eurasia and Central Asia and the United States by awarding Eurasian and Central Asian undergraduate students full scholarships for one year of non-degree undergraduate study at accredited two- and four-year institutions of higher education in the United States. Students will enhance their academic education with community service participation and an internship. The academic

component of the program begins in the fall semester of the year following the Agreement start date (academic year 2011–2012). Recruitment for the 2011–2012 student cohort should begin immediately once the cooperative agreement is awarded. At the end of their academic programs, students are required to immediately return to their home countries.

Applicant organizations must demonstrate the ability to administer all aspects of the UGRAD Program—-recruitment, selection, university placements, orientation, monitoring and support of FY 2011 participants including all logistics, financial management, evaluation, follow-on, and alumni. Applicant organizations must demonstrate the ability to recruit and select a diverse pool of candidates from various geographic regions in Eurasia and Central Asia. The cooperating organization will serve as the principal liaison with UGRAD Program host institutions and the Bureau. Further details on specific program responsibilities can be found in the Project Objectives, Goals, and Implementation (POGI) Statement, which is part of the formal solicitation package available from the Bureau. Interested organizations should read the entire **Federal Register** announcement for all information prior to preparing proposals.

The Bureau will award one cooperative agreement for this program. Should an applicant organization wish to work with other organizations in the implementation of this program, the Bureau requests that a sub-grant agreement be developed. The same requirements apply to the sub-grantee as to the recipient organization.

In a cooperative agreement, the Office of Academic Exchange Programs, European and Eurasian Branch (ECA/A/E/EUR) is substantially involved in program activities above and beyond routine grant monitoring. ECA/A/E/EUR activities and responsibilities for this program are as follows:

1. Participating in the design and direction of program activities;
2. Approval of key personnel;
3. Approval and input for all program agendas and timelines;
4. Providing guidance in execution of all project components;
5. Monitoring the target goal for number of participants and expenditure of funds toward meeting that goal;
6. Providing guidance on content and speakers for workshops;
7. Assisting with SEVIS-related issues;
8. Assisting with participant emergencies;
9. Providing background information related to participants' home countries and cultures;
10. Providing liaison with Public Affairs Sections of the U.S. Embassies and country desk officers at the State Department;
11. Providing Bureau evaluation mechanisms and instruments.

II. Award Information

Type of Award: Cooperative Agreement.

The Bureau's level of involvement in this program is listed under number I above.

Fiscal Year Funds: 2011.

Approximate Total Funding: $3,995,000, pending availability of FY 2011 funds.

Approximate Number of Awards: 1.

Ceiling of Award Range: $3,995,000.

Anticipated Award Date: Pending availability of funds, December 1, 2010.

Anticipated Project Completion Date: 10/31/2013.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is the Bureau's intent to renew this grant for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the cooperating organization must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, written records must be maintained to support all costs which are claimed as contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110 (Revised), Subpart C.23—Cost Sharing and Matching. In the event that the minimum amount of cost sharing as stipulated in the approved budget is not provided, the Bureau's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. The Bureau anticipates awarding one grant, in an amount up to $3,995,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package

Please contact Program Officer Karene Grad in the Office of Academic Exchange Programs, ECA/A/E/EUR, U.S. Department of State, SA–5, U.S. Department of State, 2200 C Street, NW., Washington, DC 20522–0504, tel. (202) 632–3237, e-mail: *GradKE@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number *ECA/A/E/EUR–11–04* when making your request. Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Bureau Program Manager Karene Grad and refer to the Funding Opportunity Number *ECA/A/E/EUR–11–04* on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/*

education/rfgps/menu.htm, or from the Grants.gov Web site at *http://www.grants.gov.* Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for Bureau federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov website as part of the Bureau's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from the Bureau in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to All Regulations Governing the J VISA. The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Grantee will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street, NW., Washington, DC 20522–0505, FAX: (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2. Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs*

are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

(1) Program Expenses
(2) Domestic Administration
(3) Overseas Administration

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: 10/1/2010.

Reference Number: ECA/A/E/EUR 11–04.

Methods of Submission: Electronic and Hard Copy.

Applications may be submitted in one of two ways:

(1.) In hard-copy, via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2.) electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications. Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at the Bureau more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. The Bureau will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to the Bureau via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and eight copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/A/E/EUR–11–04, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20522–0504.

Applicants submitting hard-copy applications must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) format on a CD–ROM. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassies for their review.

IV.3f.2. Submitting Electronic Applications. Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please Note: The Bureau bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. The Bureau strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. The Bureau bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. The Bureau will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and the Bureau bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for Cooperative Agreement awards resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institutional Record and Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau awards (grants or cooperative agreements) as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

7. *Follow-on Activities and Evaluation:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events. Proposals also should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

8. *Cost-sharing and cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

9. *Value to U.S.-Partner Country Relations:* Proposed projects should receive positive assessments by the U.S. Department of State's geographic area desk and overseas officers of program need, potential impact, and significance in the partner countries.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the Bureau program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of Bureau agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."
OMB Circular A–87, "Cost Principles for State, Local and Indian Governments."
OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.
OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.
OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information:

http://www.whitehouse.gov/omb/grants.
http://fa.statebuy.state.gov.

VI.3. Reporting Requirements

You must provide the Bureau with a hard copy original plus one copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of the Bureau's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

(4) Quarterly program and financial reports which should include summaries of program activity and lessons learned.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the Bureau Grants Officer and the Bureau Program Officer listed in the final assistance award document.

Program Data Requirements:

Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information, biographic sketch, and U.S. host institution of higher education of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the Bureau Program Officer at least two weeks prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Program Officer Karene Grad, Office of Academic Exchange Programs, ECA/A/E/EUR, Reference Number: ECA/A/E/EUR–11–04, U.S. Department of State, 2200 C Street, NW., Washington, DC 20522–0503, (202) 632–3237, e-mail: *GradKE@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the title and number ECA/A/E/EUR–11–04. Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the U.S. Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: August 18, 2010.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2010–21279 Filed 8–25–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2010–0122]

2009 Fatality Analysis Reporting System (FARS)/National Automotive Sampling System General Estimates System (NASS GES) Updates

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for advertisement of public meeting via webinar. Reserve your Webinar seat now at: *https://www2.gotomeeting.com/register/428930602.*

SUMMARY: In 2009, the National Highway Traffic Safety Administration (NHTSA) took a big step toward the goal of unifying the FARS and NASS GES data definitions and changes, simplifying crash data entry and analysis while also reducing costs and errors. The Data Standardization Work Group, consisting of representatives from NHTSA, the Federal Motor Carrier Safety Administration (FMCSA) and the Federal Highway Administration (FHWA), was chartered in 2006. The mission of the work group was to improve the compatibility of FARS and NASS GES and to bring both systems into alignment with the Model Minimum Uniform Crash Criteria (MMUCC), the guideline used now by nearly all States in the development and revision of their crash report forms and databases. After a thorough review of the data elements and attributes (variable values) in FARS and NASS GES and comparison to the recommended MMUCC data elements and attributes, the first of two phases of identified standardization changes were implemented in 2009, involving 45 common data elements. The second and much larger phase involving all the remaining variables was implemented in 2010. This webinar will highlight the 2009 changes. Also, NCSA will be presenting "how to use" the auxiliary files created from the FARS and NASS GES data bases.

Join us for a National Highway Traffic Safety Administration (NHTSA)—2009 Fatality Analysis Reporting System (FARS) & National Automotive Sampling System General Estimates System (NASS GES) Updates—Grand Rounds Electronic Webinar. Reserve your Webinar seat now at: *https://www2.gotomeeting.com/register/428930602.*

This Webinar will be recorded.

DATES: September 14, 2010 @ 10 a.m.–12 p.m.

ADDRESSES: Refer to the docket notice number cited at the beginning of this notice and send your comments by any of the following methods:

- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Ave., SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday–Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Rhea, Chief, State Data Reporting Systems Division, Office of Data Acquisitions (NVS–412), Room W53–304, 1200 New Jersey Avenue, SE., Washington, DC 20590. Mr. Rhea's telephone number is (202) 366–2714 and e-mail address is *barbara.rhea@dot.gov.*

Marilena Amoni,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2010–21302 Filed 8–25–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2010–0076]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before October 25, 2010.

FOR FURTHER INFORMATION CONTACT: Joe Strassburg, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. *Telephone:* 202–366–4156; or *e-mail: joe.strassburg@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: *Title of Collection:* War Risk Insurance, Applications and Related Information.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0011.

Form Numbers: MA–355; MA–528; MA–742; MA–828, and MA–942.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: As authorized by Chapter 539 of 46 U.S.C., the Secretary of the U.S. Department of Transportation may provide war risk insurance adequate for the needs of the waterborne commerce of the United States if such insurance cannot be obtained on reasonable terms from qualified insurance companies operating in the United States. This collection is required for the program. The collection consists of forms MA–355, MA–528, MA–742, MA–828, and MA–942.

Need and Use of the Information: The collected information is necessary to determine the eligibility of the applicant and the vessel(s) for participation in the war risk insurance program.

Description of Respondents: Vessel owners or charterers interested in participating in MARAD's war risk insurance program.

Annual Responses: 20.

Annual Burden: 256 hours

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://regulations.gov/search/index.jsp.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. *EDT (or EST),* Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://regulations.gov.*

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://regulations.gov.*

Authority: 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: August 19, 2010.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010–21208 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

AGENCY: Surface Transportation Board.

ACTION: 30-day notice of request for approval: Waybill Compliance Survey.

SUMMARY: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (STB or Board) has submitted a request to the Office of Management and Budget (OMB) for a reinstatement of approval for the collection of the Waybill Compliance Survey. The Board previously published a notice about this collection in the **Federal Register** on May 27, 2010, at 75 FR 29812. That notice allowed for a 60-day public review and comment period. No comments were received. The Waybill Compliance Survey is described in detail below. Comments may now be submitted to OMB concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether this collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility.

Description of Collection

Title: Waybill Compliance Survey.

OMB Control Number: 2140–0010.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Regulated railroads that did not submit carload waybill sample information to the STB in the previous year.

Number of Respondents: 120.

Estimated Time per Response: .5 hours.

Frequency: Annually.

Total Burden Hours (annually including all respondents): 60.

Total "Non-hour Burden" Cost: No "non-hour cost" burdens associated with this collection have been identified.

Needs and Uses: The ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (1995), which took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred to the STB the responsibility for the economic regulation of common carrier rail transportation, including the collection and administration of the Carload Waybill Sample. Under 49 CFR 1244, a railroad terminating 4500 or more carloads, or terminating at least 5% of the total revenue carloads that terminate in a particular state, in any of the three preceding years is required to file carload waybill sample information (Waybill Sample) for all line-haul revenue waybills terminating on its lines. The information in the Waybill Sample is used to monitor traffic flows and rate trends in the industry. The Board needs to collect information in the Waybill Compliance Survey—information on carloads of traffic terminated each year by U.S. railroads—in order to determine which railroads are required to file the Waybill Sample. In addition, information collected in the Waybill Compliance Survey, on a voluntary basis, about the total operating revenue of each railroad helps to determine whether respondents are subject to other statutory or regulatory requirements. Accurate determinations regarding the size of a railroad helps the Board minimize the reporting burden for smaller railroads. The Board has authority to collect this information under 49 U.S.C. 11144 and 11145 and under 49 CFR 1244.2.

DATES: Comments on this information collection should be submitted by September 27, 2010.

ADDRESSES: Written comments should be identified as "Paperwork Reduction Act Comments, Surface Transportation Board, Waybill Compliance Survey." These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Chandana Achanta, Surface Transportation Board Desk Officer, by fax at (202) 395–6974; by mail at Room 10235, 725 17th Street, NW., Washington, DC 20503; or by e-mail at *OIRA_SUBMISSION@OMB.EOP.GOV.*

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THE STB FORM, CONTACT: Paul Aguiar, (202) 245–0323 or at *paul.aguiar@stb.dot.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339].

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under § 3506(b) of the PRA, Federal agencies are required to provide, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period, through publication in the **Federal Register**, concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: August 23, 2010.

Andrea Pope-Matheson,

Clearance Clerk.

[FR Doc. 2010–21241 Filed 8–25–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare a Supplemental Environmental Impact Statement (SEIS) for the Cal Black Memorial Airport at Halls Crossing, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Prepare a Supplemental Environmental Impact Statement.

SUMMARY: The Northwest Mountain Region of the Federal Aviation Administration (FAA) as lead agency and the Bureau of Land Management (BLM) as a cooperating agency announce that the FAA will prepare a Supplemental Environmental Impact Statement (EIS) to address issues arising from the 1993 10th Circuit U.S. Court of Appeals Decision concerning the development of Cal Black Memorial Airport. This supplemental EIS does not involve any new development or project at the airport. The Cal Black Memorial Airport opened in April 1992. To ensure that all significant issues related to the action are identified, additional scoping comments are requested.

Scoping Meeting: Scoping was conducted in 1990 concerning the development of this replacement airport and the transfer of land from the BLM to San Juan County. Subsequent to the 1993 10th Circuit Court Decision, additional scoping was conducted in 1995 and 1998. Additional scoping is being conducted prior to preparing the Supplemental EIS. A scoping meeting for agency representatives will be held at 2 p.m. MST and a scoping meeting for the general public will be held at 6 p.m. MST on Wednesday, September 22, 2010. The meetings will be conducted in Blanding, Utah at the College of Eastern Utah San Juan Campus: 639 West 100 South, Blanding, Utah 84511.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Luey, Project Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Ave., Suite 224, Denver, CO 80249–6361 or via E-mail at: *Kevin.Luey@faa.gov.* Telephone—(303) 342–1253.

Submit Written Comments, Send To: Mr. Kevin Luey, Project Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Ave., Suite 224, Denver, CO 80249–6361 or via E-mail at: *Kevin.Luey@faa.gov.*

To be considered, written comments must be received on or before September 30, 2010.

SUPPLEMENTARY INFORMATION: Halls Crossing Airport was located within the boundary of the Glen Canyon National Recreation Area, a unit of the National Park Service (NPS). Due to safety issues with this airport, an EIS was undertaken concerning the development of a replacement airport. In 1990, the FAA issued a Draft and Final Environmental Impact Statement for the development of a replacement Airport. In August 1990, the FAA issued a record of decision approving the development of Cal Black Memorial Airport. The FAA determined in the record of decision that the use of the BLM lands upon which the airport was built were reasonably necessary for the project. Accordingly, the BLM issued a Patent for the airport land to San Juan County on September 25, 1990. In reaching its approval, the FAA determined that no significant impacts would result from the new airport to the recreational experience of visitors to the recreational area.

In 1990, the National Parks and Conservation Association (NPCA), et al brought suit against the FAA concerning the adequacy of the EIS and the adequacy of the BLM Plan Amendment and land transfer process. In its July 7, 1993, decision, the U.S. Court of Appeals, 10th Circuit, remanded the EIS decision back to the FAA for further environmental analysis of aircraft noise impacts to the recreational use of public lands and the BLM's plan amendment and transfer of land.

On November 17, 2008 the BLM issued the Monticello Field Office Record of Decision and Approved Resource Management Plan. The

document provides guidance for the management of Federal lands administered by the BLM in San Juan County and a small portion of Grant County in south-east Utah and includes provisions for the disposal of the Cal Black Memorial Airport property.

Thus, the purpose of the Supplemental Environmental Impact Statement is to address the requirements of the U.S. Court of Appeals findings. The scope of the EIS will include: (1) The measurement of actual aircraft noise levels, (2) the evaluation of existing and future aircraft noise levels; and (3) if significant impacts are identified, the evaluation of alternative means of mitigating the significant impact. In addition, the Supplemental EIS will review the transfer of land from BLM to San Juan County for airport purposes.

Issued in Denver, CO on Tuesday, August 17, 2010.

John P. Bauer,

Manager, Denver Airports District Office (Airports Division), Northwest Mountain Region.

[FR Doc. 2010–21211 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held September 15, 2010 from 8:30 a.m. to 1:30 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 850, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a RTCA Program Management Committee meeting. The agenda will include:

- Opening Plenary (Welcome and Introductions).
- Review/Approve Summary of June 10, 2010 PMC meeting, RTCA Paper No. 136–10/PMC–803.
- Publication Consideration/Approval.
- Final Draft, Revised DO–315, *Minimum Aviation System Performance Standards (MASPS) for Enhanced Vision Systems, Synthetic Vision Systems, Combined Vision Systems and Enhanced Flight Vision Systems,* RTCA Paper No. 142–10/PMC–805, prepared by SC–213.
- Integration And Coordination Committee (ICC)—Report.
- ICC Review of RTCA Weather Information Data-Link Related Activities—Further Recommendations.
- SC–206—Aeronautical Information Services (AIS) Data Link—Discussion—Recommendation—Revised Terms of Reference.
- Action Item Review.
- SC–186—Automatic Dependent Surveillance—Broadcast—Review/Approve Revised Terms of Reference.
- FAA Update on Airborne SWIM.
- Discussion.
- SC–213—Enhanced Flight Vision Systems/Synthetic Vision Systems, (EFVS/SVS)—Discussion—Revised Terms of Reference.
- SC–216—Aeronautical Systems Security—Status and Briefing on Future Activities and Revised Terms of Reference.
- SC–186/WG–51 Ad Hoc on ADS–B Application Standards Flow and the Role of Safety and Performance Requirements (SPRs).
- Airport Security Access Control Systems—Discussion—Possible New Special Committee.
- Trajectory Operations—Discussion—Status.
- NextGen Advisory Committee—Discussion—Status.
- Special Committees—Chairmen's Reports.
- Closing Plenary (Other Business, Document Production and PMC Meeting Schedule Meeting, Adjourned).

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 18, 2010.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2010–21213 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventy-First Meeting: RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

DATES: The meeting will be held September 28–30, 2010 from 9 a.m.–5 p.m. SC–147 *Plenary Session:* September 28 & 29 Working Group Planning and organizational meetings September 30.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment meeting. The agenda will include:

SC–147 Plenary Agenda:

- Agenda Item 1. Opening Plenary Session
  - SC–147 Co-Chairmen's opening remarks
  - Introductions—See attendance list
  - Approval of Agenda—Agenda was approved as written
  - Approval of Minutes from 70th meeting of SC147
- Agenda Item 2. Revised Terms of Reference for SC147

- Agenda Item 3. Working Group Status Reports
  - Requirement Working Group
  - Surveillance Working Group
- Agenda Item 4. TCAS Program Office Activities
  - Monitoring Efforts/TRAMS/TOPA
  - TCAS Development Scenarios Paper
  - Independence considerations for potential "NextCAS"
  - Horizontal Maneuvering
- Agenda Item 5. AVS and other FAA activities
  - TSOs, etc.
  - ASIAS/CAST/CAS Steering Committee
- Agenda Item 6. EUROCAE WG–75: Status of current activities
- Agenda Item 7. Narrow-band receivers (ACSS)
- Agenda Item 8: Other related TCAS efforts from industry
  - Airbus automating responses for TCAS RAs (SC220)
- Agenda Item 10: Closing Session

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 18, 2010.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2010–21216 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventh Meeting: RTCA Special Committee 221: Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 221 meeting: Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 221: Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures.

DATES: The meeting will be held September 14–15, 2010. September 14th from 12 p.m. to 5 p.m., September 15th from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., Colson Board Room, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a RTCA Special Committee 221: Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures meeting. The agenda will include:

- Welcome/Introductions/Administrative Remarks.
- Approval of Summary of the Sixth Meeting held June 15–16, 2009, RTCA Paper No. 103–10/SC221–019.
- Leadership Comments.
- Review of Threat Work Group—Status Report.
- Review of Alternative Methods Work Group—Status Report.
- Review of Installed Physical Secondary Barrier (IPSB) Work Group—Status Report.
- Presentation/Discussion of SC–221 tentative conclusions, discussion of framework and content for final report.
- Discussion of Working Group reports: re-allocation of groups, capture learning points, discuss additional or follow-on goals.
- Approval and Tasking of Existing/Proposed Working Groups.
- Other Business—Including Proposed Agenda, Date and Place for Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 18, 2010.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2010–21212 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–98–3599 (PD–19(R))]

New York State Department of Environmental Conservation Requirements on Gasoline Transport Vehicles

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice reopening period for comments on petition for reconsideration of administrative determination of preemption.

Petitioner: New York State Department of Environmental Conservation (NYSDEC).

SUMMARY: PHMSA is reopening the period for comments on NYSDEC's petition for reconsideration of PHMSA's January 23, 2009 administrative determination with respect to the findings that Federal hazardous material transportation law preempts the requirements in 6 NYCRR 230.6(b) and (c) for maintaining a copy of the most recent pressure-vacuum test results with the gasoline transport vehicle and retaining pressure-vacuum test and repair results for two years, respectively.

DATES: Comments received on or before October 12, 2010, will be considered before a decision on NYSDEC's petition for reconsideration is issued by PHMSA's Chief Counsel.

ADDRESSES: All documents in this proceeding, including PHMSA's January 23, 2009 preemption determination (PD–19(R)), NYSDEC's petition for reconsideration, and the comments submitted on the petition for reconsideration may be reviewed in the Docket Operations Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. All documents in this proceeding are also available on the U.S. Government Regulations.gov Web site: *http://www.regulations.gov.*

Comments must refer to Docket No. PHMSA–98–3599 [1] and may be submitted to the docket in writing or electronically. Mail or hand deliver three copies of each written comment to the above address. If you wish to receive confirmation of receipt of your

[1] As published in the **Federal Register**, PHMSA's January 23, 2009 determination in PD–19(R) indicated an incorrect docket number (99–3559, instead of 98–3559). However, all comments submitted on NYSDEC's petition for reconsideration have been placed in the proper docket.

comments, include a self-addressed, stamped postcard. To submit comments electronically, log onto the U.S. Government Regulations.gov Web site: *http://www.regulations.gov.* Use the Search Documents section of the home page and follow the instructions for submitting comments.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (70 FR 19477–78), or you may visit *http://www.dot.gov.*

FOR FURTHER INFORMATION CONTACT:

Frazer C. Hilder, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Background

In PD–19(R), published in the **Federal Register** on January 23, 2009 (74 FR 4291), PHMSA considered NYSDEC's requirements for marking a gasoline transport vehicle, near the DOT specification plate, to indicate that it has been successfully tested for vapor tightness in accordance with the U.S. Environmental Protection Agency's "Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test" as set forth in Appendix A to 40 CFR part 60, and related requirements for maintaining records of pressure-vacuum test results.

PHMSA found that Federal hazardous material transportation law preempts the requirements (1) that the marking must be a minimum two inches and contain "NYS DEC" (6 NYCRR 230.4(a)(3)); (2) for maintaining a copy of the most recent pressure-vacuum test results with the gasoline transport vehicle (6 NYCRR 230.6(b)); and (3) to retain pressure-vacuum test and repair results for two years (6 NYCRR 230.6(c)), because these requirements are not substantively the same as requirements in the HMR on the marking, maintaining, repairing, or testing of a package or container that is represented, marked, certified, or sold as qualified for transporting hazardous material.

Within the 20-day time period provided in 49 CFR 107.211(a), NYSDEC submitted a petition for reconsideration of PHMSA's decision in PD–19(R). The American Trucking Associations, Inc. (ATA) and its affiliated National Tank Truck Carriers, Inc. (NTTC) submitted comments in response to NYSDEC's petition for reconsideration. Subsequently, NYSDEC purported to "object" to the ATA and NTTC comments and, thereafter, called attention to the President's May 20, 2009 Memorandum on "Preemption" (74 FR 24693 (May 22, 2009)), to which ATA submitted a further response.

Recently, PHMSA received e-mails from counsel for NTTC asking about the status of PHMSA's decision on NYSDEC's petition for reconsideration and indicating that NYSDEC was seeking to settle a citation issued to a motor carrier in 2006.

II. EPA Requirements

When PHMSA issued its determinations in PD–19(R), we were unaware of a final rule published by EPA on January 10, 2008, that added to 40 CFR part 63 a new subpart CCCCCC on "National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities." 73 FR 1916. In Table 2 of this subpart, EPA adopted the requirement, effective on the date of publication in the **Federal Register**, that: "The filling of storage tanks at GDF [gasoline dispensing facilities] shall be limited to unloading by vapor-tight gasoline cargo tanks. *Documentation that the cargo tank has met the specifications of EPA Method 27 shall be carried on the cargo tank.*" 73 FR at 1949 (emphasis supplied). In addition, EPA has advised PHMSA that the following recordkeeping requirement in 40 CFR 63.10(b)(1) is applicable to records of the Method 27 pressure-vacuum test:

> The owner or operator of an affected source subject to the provisions of this part shall maintain files of all information (including all reports and notification) required by this part recorded in a form suitable and readily available for expeditious inspection and review. *The files shall be retained for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.* At a minimum, the most recent 2 years of data shall be retained on site. The remaining 3 years of data may be retained off-site. Such files may be maintained on microfilm, on a computer, on computer floppy disks, on magnetic tape disks, or on microfiche.

(emphasis supplied)

In response to petitions for reconsideration of its January 10, 2008 final rule, EPA has published a notice proposing to make amendments and clarifications to its requirements in 40 CFR part 63. 74 FR 66470 (Dec. 15, 2009). Among the proposals in the EPA notice is a proposal to revise the retention requirement in Table 2 to subpart CCCCCC of part 63 to provide that "Documentation that the cargo tank has met the specifications of EPA Method 27 shall be carried *with* the cargo tank, *as specified in § 63.11125(c).*" 74 FR at 66494 (proposed new language in italics). Proposed new paragraph (c) of section § 63.11125 would provide:

> (c) Each owner or operator of a gasoline cargo tank subject to the management practices in Table 2 to this subpart must keep records documenting vapor tightness testing for a period of 5 years. Documentation must include each of the items specified in § 63.11094(B)(1) through (viii). Records of vapor tightness must be retained as specified in either paragraph (c)(1) or paragraph (c)(2) of this section.
>
> (1) The owner or operator must keep all vapor tightness testing records with the cargo tank.
>
> (2) As an alternative to keeping all records with the cargo tank, the owner or operator may comply with the requirements of paragraphs (c)(2)(i) and (ii) of this section.
>
> (i) The owner or operator may keep records of only the most recent vapor tightness test with the cargo tank and keep records for the previous 4 years at their office or another central location.
>
> (ii) Vapor tightness testing records that are kept at a location other than with the cargo tank must be instantly available (e.g., e-mail or facsimile) to the Administrator's designated representative during the course of a site visit or within a mutually agreeable time frame. Such records must be an exact duplicate image of the original paper copy record with certifying signatures.

74 FR at 66492–93.

III. Public Comments

Interested parties are invited to comment on the effect on the pending petition for reconsideration of PD–19(R) of the existing Federal requirements promulgated at 40 CFR part 63, subpart CCCCCC, and the proposed changes to subpart CCCCCC of 40 CFR part 63. Comments should specifically address, with respect to each aspect of the NYSDEC recordkeeping requirements in 6 NYCRR 230.6(b) and (c), whether those requirements are "authorized by another law of the United States," under the preemption criteria set forth in 49 U.S.C. 5125(a) and (b)(1).

Issued in Washington, DC on August 23, 2010.

Bizunesh Scott,

Chief Counsel.

[FR Doc. 2010–21315 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2010–39]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petitions or their final disposition.

DATES: Comments on these petitions must identify the petition docket number involved and must be received on or before September 15, 2010.

ADDRESSES: You may send comments identified by Docket Number FAA–2010–0751 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tyneka L. Thomas, 202–267–7626, or Ralen Gao, 202–267–3168, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 23, 2010.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2010–0751.

Petitioner: JetBlue Airways Corporation.

Section of 14 CFR Affected: § 119.3.

Description of Relief Sought

JetBlue Airways Corporation (JetBlue) requests relief from § 119.3 to permit JetBlue to operate flights between Puerto Rico and the Dominican Republic under the rules applicable to domestic operations.

[FR Doc. 2010–21238 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Panama City-Bay County International Airport (PFN), Panama City, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Request To Release Airport Property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at the Panama City-Bay International Airport (PFN), Panama City, FL under the provisions of 49 U.S.C. 47107(h).

DATES: Comments must be received on or before September 27, 2010.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Rebecca R. Henry, Program Manager, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Randall S. Curtis, A.A.E., Executive Director, Northwest Florida Beaches International Airport, 6300 West Bay Parkway, Panama City, FL 32409.

FOR FURTHER INFORMATION CONTACT: Rebecca R. Henry, Program Manager, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release approximately 708 acres of property known as the Panama City-Bay County International Airport (PFN) under the provisions of 49 U.S.C. 47107(h)(2).

On April 19, 2010, the Executive Director of the PFN on behalf of the Panama City-Bay County Airport and Industrial District (Airport Sponsor) notified the FAA that because of the intended opening of the Northwest Florida Beaches International Airport (ECP) in Bay County Florida on May 23, 2010, and the subsequent decommissioning and sale of PFN, he requested full release of the affected property from federal obligations. The ECP was opened to commercial airline operations on May 23, 2010, and commercial airline operations were discontinued at PFN. General aviation operations at PFN are in the process of relocating to ECP and other airports in the region. The FAA has determined that the request to release property at PFN submitted by the Airport Sponsor meets the procedural requirements of the FAA and the release of the property does not and will not impact future aviation needs in the region. The FAA may approve the request in whole no sooner than 30 days after publication of this notice.

The following is a brief overview of the request:

The Airport Sponsor is proposing the release of the entire airport property and associated facilities with the exception of Goose Island which will revert to the Bureau of Land Management. The release of land is necessary to comply with FAA Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale and permanent abandonment of the subject property will result in the lands of PFN being changed from aeronautical to nonaeronautical use and release the lands from the conditions of the AIP Grant Agreement Grant Assurances. In accordance with 49 U.S.C.

47107(c)(2)(B)(i) and (iii), the Airport Sponsor will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project, including the financing of the recently-constructed ECP.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Northwest Florida Beaches International Airport.

Issued in Orlando, Florida, on August 17, 2010.

W. Dean Stringer,

Manager, FAA Orlando Airports District Office.

[FR Doc. 2010–21209 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement (VISA)

AGENCY: Maritime Administration, DOT.

ACTION: Notice of open season for enrollment in the VISA program.

Introduction

The VISA program was established pursuant to section 708 of the Defense Production Act of 1950, as amended (DPA), which provides for voluntary agreements for emergency preparedness programs. VISA was approved for a two year term on January 30, 1997, and published in the **Federal Register** on February 13, 1997, (62 FR 6837). Approval is currently extended until October 1, 2011, as published in the **Federal Register** on March 24, 2010 (75 FR 14245).

As implemented, the VISA program is open to U.S.-flag vessel operators of oceangoing militarily useful vessels, to include tugs and barges. An operator is defined as an owner or bareboat charterer of a vessel. Tug enrollment alone does not satisfy VISA eligibility. Operators include vessel owners and bareboat charter operators if satisfactory signed agreements are in place committing the assets of the owner to the bareboat charterer for purposes of VISA. Voyage and space charterers are not considered U.S.-flag vessel operators for purposes of VISA eligibility.

VISA Concept

The mission of VISA is to provide commercial sealift and intermodal shipping services and systems, including vessels, vessel space, intermodal systems and equipment, terminal facilities, and related management services, to the Department of Defense (DOD), as necessary, to meet national defense contingency requirements or national emergencies.

VISA provides for the staged, time-phased availability of participants' shipping services/systems to meet contingency requirements through prenegotiated contracts between the Government and participants. Such arrangements are jointly planned with the Maritime Administration, U.S. Transportation Command (USTRANSCOM), and participants in peacetime to allow effective and best valued use of commercial sealift capacity, to provide DOD assured contingency access, and to minimize commercial disruption, whenever possible.

There are three time-phased stages in the event of VISA activation. VISA Stages I and II provide for prenegotiated contracts between DOD and participants to provide sealift capacity to meet all projected DOD contingency requirements. These contracts are executed in accordance with approved DOD contracting methodologies. VISA Stage III will provide for additional capacity to DOD when Stages I and II commitments or volunteered capacity are insufficient to meet contingency requirements, and adequate shipping services from non-participants are not available through established DOD contracting practices or U.S. Government treaty agreements.

VISA Annual Enrollment Open Season

The purpose of this notice is to invite interested, qualified U.S.-flag vessel operators that are not currently enrolled in the VISA program to participate. The annual enrollment is intended to link the VISA enrollment cycle with DOD's peacetime cargo contracting to ensure eligible participants priority consideration for DOD awards of cargo.

Alignment of VISA enrollment and eligibility for VISA priority will solidify the linkage between commitment of contingency assets by VISA participants and receiving VISA priority consideration for the award of DOD peacetime cargo. This is the only planned enrollment period for carriers to join the VISA program and derive benefits for DOD peacetime contracts during the time frame of October 1, 2010 through September 30, 2011. The only exception to this open season period for VISA enrollment will be for a non-VISA carrier that reflags a vessel into U.S. registry. That carrier may submit an application to participate in the VISA program at any time upon completion of reflagging.

Advantages of Peacetime Participation

Because enrollment of carriers in the VISA program provides DOD with assured access to sealift services during contingencies based on a level of commitment, as well as a mechanism for joint planning, DOD awards peacetime cargo contracts to VISA participants on a priority basis. This applies to liner trades and charter contracts alike. Award of DOD cargoes to meet DOD peacetime and contingency requirements is made on the basis of the following priorities:

- U.S.-flag vessel capacity operated by VISA participants and U.S.-flag Vessel Sharing Agreement (VSA) capacity held by VISA participants.
- U.S.-flag vessel capacity operated by non-participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by VISA participants, and combination U.S.-flag/foreign-flag VSA capacity held by VISA participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by non-participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by VISA participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by non-participants.
- Foreign-owned or operated foreign-flag vessel capacity of non-participants.

Participation

Any U.S.-flag vessel operator organized under the laws of a state of the United States, or the District of Columbia, who is able and willing to commit militarily useful sealift assets and assume the related consequential risks of commercial disruption, may be eligible to participate in the VISA program. The term "operator" is defined in the VISA document as "an ocean common carrier or contract carrier that owns, controls or manages vessels by which ocean transportation is provided". Applicants wishing to become participants must provide satisfactory evidence that the vessels being committed to the VISA program are operational and that vessels are intended to be operated by the applicant in the carriage of commercial or government preference cargoes. While vessel brokers, freight forwarders and agents play an important role as a

conduit to locate and secure appropriate vessels for the carriage of DOD cargo, they may not become participants in the VISA program due to lack of requisite vessel ownership or operation. However, brokers, freight forwarders and agents should encourage the carriers they represent to join the program.

Commitment

Any U.S.-flag vessel operator desiring to receive priority consideration in the award of DOD peacetime contracts must commit no less than 50 percent of its total U.S.-flag militarily useful capacity in Stage III of the VISA program. Participants operating vessels in international trade may receive top tier consideration in the award of DOD peacetime contracts by committing the minimum percentages of capacity to all three stages of VISA or bottom tier consideration by committing the minimum percentage of capacity to only Stage III of VISA. USTRANSCOM and the Maritime Administration will coordinate to ensure that the amount of sealift assets committed to Stages I and II will not have an adverse national economic impact. To minimize domestic commercial disruption, participants operating vessels exclusively in the domestic Jones Act trades are not required to commit the capacity of those U.S. domestic trading vessels to VISA Stages I and II. Overall VISA commitment requirements are based on annual enrollment.

In order to protect a U.S.-flag vessel operator's market share during contingency activation, VISA allows participants to join with other vessel operators in Carrier Coordination Agreements (CCAs) to satisfy commercial or DOD requirements. VISA provides a defense against antitrust laws in accordance with the DPA. CCAs must be submitted to the Maritime Administration for coordination with the Department of Justice for approval, before they can be utilized.

Vessel Position Reporting

If VISA applicants have the capability to track their vessels, they must state which system is used in their VISA application and will be required to provide the Maritime Administration with access to their vessel tracking systems upon approval of their VISA application. If VISA applicants do not have a tracking system, they must indicate this in their VISA application. The VISA program requires enrolled ships to comply with 46 CFR Part 307, Establishment of Mandatory Position Reporting System for Vessels.

Compensation

In addition to receiving priority in the award of DOD peacetime cargo, a participant will receive compensation during contingency activation for that capacity activated under Stage I, II and III. The amount of compensation will depend on the Stage at which capacity is activated. During enrollment, each participant must select one of several compensation methodologies. The compensation methodology selection will be completed with the appropriate DOD agency, resulting in prices in contingency contracts between DOD and the participant.

Application for VISA Participation

New applicants may apply to participate by obtaining a VISA application package (Form MA–1020 (OMB Approval No. 2133–0532)) from the Director, Office of Sealift Support, at the address indicated below. Form MA–1020 includes instructions for completing and submitting the application, blank VISA Application forms and a request for information regarding the operations and U.S. citizenship of the applicant company. A copy of the VISA document as published in the **Federal Register** on March 24, 2010, will also be provided with the package. This information is needed in order to assist the Maritime Administration in making a determination of the applicant's eligibility. An applicant company must provide an affidavit that demonstrates that the company is qualified to document a vessel under 46 U.S.C. 12103, and that it owns, or bareboat charters and controls, oceangoing, militarily useful vessel(s) for purposes of committing assets to the VISA program.

New VISA applicants are required to submit their applications for the VISA program as described in this Notice no later than 30 days after the date of publication of this **Federal Register** notice. Applicants must provide the following:

- U.S. citizenship documentation;
- Copy of their Articles of Incorporation and/or By Laws;
- Copies of loadline documents from a recognized classification society to validate oceangoing vessel capability;
- U.S. Coast Guard Certificates of Documentation for all vessels in their fleet;
- Copy of Bareboat Charters, if applicable, valid through the period of enrollment, which state that the owner will not interfere with the charterer's obligation to commit chartered vessel(s) to the VISA program for the duration of the charter; and
- Copy of Time Charters, valid through the period of enrollment, for tug services to barge operators, if sufficient tug service is not owned or bareboat chartered by the VISA applicant. Barge operators must provide evidence to MARAD that tug service of sufficient horsepower will be available for all barges enrolled in the VISA program.

Approved VISA participants will be responsible for ensuring that information submitted with their application remains up to date beyond the approval process. Any changes to VISA commitments must be reported to the Maritime Administration and USTRANSCOM not later than seven days after the change. If charter agreements are due to expire, participants must provide the Maritime Administration with charters that extend the charter duration for another 12 months or longer.

Once the Maritime Administration has reviewed the application and determined VISA eligibility, the Maritime Administration will sign the VISA application document which completes the eligibility phase of the VISA enrollment process.

After VISA eligibility is approved by the Maritime Administration, approved applicants are required to execute a joint VISA Enrollment Contract (VEC) with DOD [USTRANSCOM and the Military Sealift Command (MSC)] which will specify the participant's Stage III commitment, and appropriate Stage I and/or II commitments for the period October 1, 2010 through September 30, 2011. Once the VEC is completed, the applicant completes the DOD contracting process by executing a Drytime Contingency Contract (DCC) with MSC and, if applicable, a VISA Contingency Contract (VCC) with USTRANSCOM (for Liner Operators). The Maritime Administration reserves the right to revalidate all eligibility requirements without notice.

FOR ADDITIONAL INFORMATION AND APPLICATIONS CONTACT: Jerome D. Davis, Director, Office of Sealift Support, U.S. Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone (202) 366–0688; Fax (202) 366–5904. Other information about the VISA can be found on the Maritime Administration's Internet Web Page at *http://www.marad.dot.gov.*

(Authority: 49 CFR 1.66)

Dated: August 20, 2010.

By Order of the Maritime Administrator.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010–21313 Filed 8–25–10; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Financial Education Core Competencies; Comment Request

AGENCY: Department of the Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, in its capacity as Chairperson of the Financial Literacy and Education Commission ("Commission"), invites the public to comment on a proposed set of financial education core competencies ("Core Competencies"). Comments are requested specifically on whether the list of Core Competencies referenced in the Supplementary Section is complete and whether there are portions that should be deleted, revised, or expanded.

DATES: Comments should be received on or before September 12, 2010, to be considered.

ADDRESSES: Written comments should be sent via e-mail to *FLECstrategy@do.treas.gov* or by mail to the Department of the Treasury, Office of Financial Education and Financial Access, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

In general, the Department will make all comments available in their original format, including any business or personal information provided such as names, addresses, e-mail addresses, or telephone numbers, for public inspection and photocopying in the Department's library, Room 1428, Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. You can make an appointment to inspect comments by calling (202) 622–0990. All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Dubis Correal by e-mail at *ofe@do.treas.gov* or by telephone at (202) 622–5770 (not a toll free number). Additional information regarding the Commission and the Department of the Treasury's Office of Financial Education and Financial Access may be obtained through its Web site, *http://www.treasury.gov/financialeducation*.

SUPPLEMENTARY INFORMATION: The Department of the Treasury, in its capacity as Chairperson of the Commission, invites the public to comment on a proposed set of financial education core competencies Core Competencies. The request is under authority of Title V of the Fair and Accurate Credit Transactions Act of 2003 (Pub. L. 108–159), which directs the Commission to review, not less than annually, the National Strategy to promote basic financial literacy and education. As part of the development of the new National Strategy, the Commission determined that it is necessary to develop core competencies for consumers and financial education providers. The financial education field lacks a common understanding of what we collectively are trying to achieve, and there is no agreement on the appropriate basic content for financial literacy and education. The development of core competencies is a fundamental step in establishing a clear understanding about what individuals should know and the basic concepts program providers should cover. Furthermore, the Core Competencies are particularly important in establishing a baseline of knowledge, which is crucial for both individuals and providers of financial education to address the current lack of consistency in various financial literacy programs in identifying their goals and objectives, how program success is measured, and what financial information and problem-solving skills participants can be expected to acquire.

The Department of the Treasury, in conjunction with the Commission's Core Competencies Subcommittee, identified five core concept areas: (1) Earning, (2) spending, (3) saving, (4) borrowing, and (5) protecting against risk, as well as specific core competencies for each area. The goal of the Core Competencies is to define what consumers should know and be able to do to successfully understand and make informed decisions about their personal finances.

This request for comments is one of several steps in the validation phase of the development of the Core Competencies. Ultimately, the goal is to put the Core Competencies into a format and language that are both easily accessible and easily remembered—analogous to the "food pyramid." This step will be undertaken once we have received public comment. Comments are requested specifically on whether the list of Core Competencies is complete and whether there are portions that should be deleted, revised, or expanded.

Core concept	Knowledge	Action/behavior
Earning	Gross versus net pay	Understand your paycheck.
	Benefits and taxes	Learn about potential benefits and taxes.
	Education is important	Invest in your future.
Spending	The difference between needs and wants	Develop a spending plan.
		Track spending habits.
		Live within your means.
		Understand the social and environmental impacts of your spending decisions.
Saving	Saved money grows	Start saving early.
		Pay yourself first.
	Know about transactional accounts (checking)	Understand and establish a relationship with the financial system.
	Know about financial assets (savings accounts, bonds, stocks, mutual funds).	Comparison shop.
		Balance risk and return.
	How to meet long-term goals and grow your wealth	Save for retirement, child's education, and other needs.
		Plan for long-term goals.
		Track savings and monitor what you own.
Borrowing	If you borrow now, you pay back more later. The cost of borrowing is based on how risky the lender thinks you are (credit score).	Avoid high cost borrowing, plan, understand, and shop around.
		Understand how information in your credit score affects borrowing.
		Plan and meet your payment obligations.
		Track borrowing habits.
		Analyze renting versus owning a home.

Core concept	Knowledge	Action/behavior
Protect	Act now to protect yourself from potential catastrophe later.	Choose appropriate insurance. Build up an emergency fund. Shop around.
	Identity theft/fraud/scams	Protect your identity. Avoid fraud and scams. Review your credit report.

Dated: August 18, 2010.

Alistair Fitzpayne,

Executive Secretary.

[FR Doc. 2010–21305 Filed 8–25–10; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8809

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8809, Application for Extension of Time To File Information Returns.

DATES: Written comments should be received on or before October 25, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Joel Goldberger at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 927–9368, or through the Internet at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File Information Returns.

OMB Number: 1545–1081.

Form Number: Form 8809.

Abstract: Form 8809 is used to request an extension of time to file Forms W–2, W–2G, 1042–S, 1098, 1099, 5498, or 8027. The IRS reviews the information contained on the form to determine whether an extension should be granted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, farms, and Federal, State, local or tribal governments.

Estimated Number of Respondents: 50,000.

Estimated Time per Respondents: Three (3) hours, 15 minutes.

Estimated Total Annual Burden Hours: 162,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 18, 2010.

Gerald Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–21207 Filed 8–25–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

RIN 1545–BJ63

DEPARTMENT OF LABOR

Employee Benefits Security Administration

RIN 1210–AB45

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RIN 0991–AB70

Availability of Interim Procedures for Federal External Review and Model Notices Relating to Internal Claims and Appeals and External Review Under the Patient Protection and Affordable Care Act; Notice

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Office of Consumer Information and Insurance Oversight, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This document announces the availability of guidance detailing interim procedures for the Federal external review process and model notices both for internal claims and appeals and for external review processes under the Patient Protection and Affordable Care Act.

FOR FURTHER INFORMATION CONTACT: Amy Turner or Beth Baum, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 622–6080; Ellen Kuhn, Office of Consumer Information and Insurance Oversight, Department of Health and Human Services, at (301) 492–4100.

Customer Service Information: Individuals interested in obtaining

information from the Department of Labor concerning employment-based health coverage laws may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department of Labor's Web site (*http://www.dol.gov/ebsa*). In addition, information from HHS on private health insurance for consumers can be found on the Centers for Medicare & Medicaid Services (CMS) Web site (*http://www.cms.hhs.gov/HealthInsReformforConsume/01_Overview.asp*) and information on health reform can be found at *http://www.hhs.gov/ociio/* and *http://www.healthcare.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act (the Affordable Care Act), Public Law 111–148, was enacted on March 23, 2010; the Health Care and Education Reconciliation Act (the Reconciliation Act), Public Law 111–152, was enacted on March 30, 2010. The Affordable Care Act and the Reconciliation Act reorganize, amend, and add to the provisions of part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. The Affordable Care Act adds section 715(a)(1) to the Employee Retirement Income Security Act (ERISA) and section 9815(a)(1) to the Internal Revenue Code (the Code) to incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code, and make them applicable to group health plans, and health insurance issuers providing health insurance coverage in connection with group health plans. The Departments of Labor, Health and Human Services, and the Treasury (the Departments) have been issuing regulations in several phases to implement the revised PHS Act sections 2701 through 2719A and related provisions of the Affordable Care Act.

Section 2719 of the PHS Act applies to group health plans and health insurance coverage that are not grandfathered health plans within the meaning of section 1251 of the Affordable Care Act.[1] It sets forth standards for plans and issuers regarding both internal claims and appeals and external review. The Departments published interim final regulations implementing PHS Act section 2719 on July 23, 2010, at 75 FR 43330 (the interim final regulations). In general, the interim final regulations require plans and issuers to comply with the requirements of 29 CFR 2560.503–1 (the DOL claims procedure regulation) and impose specified additional standards for internal claims and appeals.

Section 2719 of the PHS Act provides that plans and issuers in States without an applicable State external review process shall implement an effective external review process that meets minimum standards established by the Secretary through guidance and that is similar to a State external review process described in PHS Act Section 2719(b)(1). The statute and the interim final regulations also provide a basis for determining when plans and issuers must comply with an applicable State external review process and when they must comply with the Federal external review process. Generally, if a State has an external review process that meets, at a minimum, the consumer protections set forth in the interim final regulations, an issuer (or a plan) subject to the State process must comply with the State process. The regulations include a transition period for plan years (in the individual market, policy years) beginning before July 1, 2011, during which the Department of Health and Human Services (HHS) will work individually with States on an ongoing basis to assist in making any necessary changes to incorporate additional consumer protections so that the State process will continue to apply after the end of the transition period. For plans and issuers not subject to an existing State external review process (including self-insured plans), a Federal process is to apply for plan years (in the individual market, policy years) beginning on or after September 23, 2010.

The preamble to the interim final regulations provided that the Departments would issue additional guidance on the Federal external review process. In addition, the preamble stated that the Departments would issue model notices that could be used to satisfy the notice requirements under the interim final regulations. This notice announces the availability of and provides links to guidance on the interim Federal external review process, as well as links to the model notices.

II. Interim Federal External Review Process for Self-Insured Group Health Plans

This notice announces the availability of EBSA Technical Release No. 2010–01, which provides an interim enforcement safe harbor for non-grandfathered self-insured group health plans not subject to a State external review process, and therefore subject to the Federal external review process. (In the case of health insurance coverage offered in connection with a group health plan, the issuer has primary responsibility to comply with the interim final regulations.) This interim enforcement safe harbor applies for plan years beginning on or after September 23, 2010 and until superseded by future guidance on the Federal external review process that is being developed and that will apply after this interim period. During the period that this interim enforcement safe harbor is in effect, the Department of Labor and the Internal Revenue Service will not take any enforcement action against a self-insured group health plan that complies with either of the following interim compliance methods (and if a plan complies with one of the interim compliance methods of this notice, no excise tax liability should be reported on IRS Form 8928 with respect to PHS Act section 2719(b)):

- *Compliance with the procedures outlined in Technical Release 2010–01.* The Department of Labor and the Internal Revenue Service will not take enforcement action against any plan that complies with the procedures set forth in Technical Release No. 2010–01. These procedures are based on the Uniform Health Carrier External Review Model Act promulgated by the National Association of Insurance Commissioners (NAIC Model Act) in place on July 23, 2010.[2] The Technical Release is available today on the Department of Labor's Web site at: *http://www.dol.gov/ebsa.*
- *Voluntary compliance with State external review processes.* Alternatively, States may choose to expand access to their State external review process to plans that are not subject to the applicable State laws, such as self-insured plans, and such plans may choose to voluntarily comply with the provisions of that State external review process. In such circumstances, while the interim enforcement safe harbor is in effect, the Department of Labor and

[1] The Departments published interim final regulations implementing section 1251 of the Affordable Care Act on June 17, 2010, at 75 FR 34538.

[2] Even though these procedures are based on the NAIC Model Act, they do not include all the consumer protections of the NAIC Model Act. For example, the procedures set forth in this notice do not include the special provisions for claims relating to experimental or investigational treatment and do not include a government agency certifying and assigning independent review organizations. The NAIC Model Act is available at *http://www.dol.gov/ebsa* and *http://www.hhs.gov/ociio/.* Future guidance will address the minimum consumer protections required under the Federal external review process after the interim enforcement safe harbor period.

the Internal Revenue Service also will not take enforcement action against a plan that voluntarily complies with the provisions of a State external review process that would not otherwise be applicable or available.

The Departments will issue guidance regarding what process will apply under 26 CFR 54.9815–2719T(d), 29 CFR 2590.715–2719(d), and 45 CFR 147.136(d) no later than July 1, 2011 to replace the interim process.

III. Interim Federal External Review Process for Issuers

For issuers in the individual market and the small group and large group health insurance markets (including fully-insured group health plans), there will be an interim enforcement safe harbor which will apply only for plan years (in the individual market, policy years) beginning on or after September 23, 2010 and until superseded by future guidance on the Federal external review process that is being developed and that will apply after this interim period. During this limited interim enforcement safe harbor period, HHS will not take any enforcement action against an issuer that complies with the interim compliance method that will be detailed by HHS on the Office of Consumer Information and Insurance Oversight Web site (*http://www.hhs.gov/ociio/*). This method will either involve use of a State external appeals process or a temporary process established by HHS.

Prior to July 1, 2011, HHS will issue further guidance as to which State external review laws have been determined to satisfy the minimum standards of the NAIC Model Act as identified in 45 CFR 147.136(c). The Departments will issue guidance regarding what process will apply under 26 CFR 54.9815–2719T(d), 29 CFR 2590.715–2719(d), and 45 CFR 147.136(d) no later than July 1, 2011 to replace the interim process.

IV. Model Notices

Model notices that can be used to satisfy the disclosure requirements of the interim final regulations [3] are being posted on the Department of Labor's Web site at *http://www.dol.gov/ebsa* and the Department of HHS/Office of Consumer Information and Insurance Oversight Web site at *http://www.hhs.gov/ociio/*. These models include:

(1) A notice of adverse benefit determination;

(2) A notice of final internal adverse benefit determination; and

(3) A notice of final external review decision.

Model language for the description of the internal claims and appeals and external review procedures in the summary plan description provided to participants and beneficiaries will be posted on these websites in the future.

Please note that the Departments accounted for the actual costs of the external appeal process taking into account the model notices when the interim final regulations were issued.

Signed: August 19, 2010.

Sarah Hall Ingram,

Acting Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

Signed: August 20, 2010.

Michael L. Davis,

Deputy Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Dated: August 20, 2010.

Jay Angoff,

Director, Office of Consumer Information and Insurance Oversight.

[FR Doc. 2010–21206 Filed 8–23–10; 11:15 am]

BILLING CODE 4830–01–P; 4510–29–P; 4120–01–P

[3] For rules regarding the form and manner of notice, see 26 CFR 54.9815–2719T(e), 29 CFR 2590.715–2719(e), and 45 CFR 147.136(e).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Members of Senior Executive Service Performance Review Boards; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice.

SUMMARY: This document contains a correction to a notice that was published in the **Federal Register** on Wednesday, August 18, 2010 (75 FR 51168) providing the list of names of those IRS employees who will serve as members on IRS' Fiscal Year 2010 Senior Executive Service (SES) Performance Review Boards.

DATES: This notice is effective on September 1, 2010.

FOR FURTHER INFORMATION CONTACT: Sharnetta Walton, 1111 Constitution Avenue, NW., Room 2403, Washington, DC 20224, (202) 283–6246.

SUPPLEMENTARY INFORMATION:

Background

The notice that is the subject of this correction is pursuant to 5 U.S.C. 4314(c)(4) and announces the appointment of members to the Internal Revenue Service's SES Performance Review Boards.

Need for Correction

As published, the notice for Members of Senior Executive Service Performance Review Boards contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice for Members of Senior Executive Service Performance Review Boards, which was the subject of FR Doc. 2010–20331, is corrected as follows:

On page 51169, column 1, in the preamble, under the caption **SUPPLEMENTARY INFORMATION**, the language "Charles Hunter, Director of Field Operations (CI)" is inserted between lines 16 and 17 of the column.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2010–21272 Filed 8–25–10; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Thursday,
August 26, 2010

Part II

Department of Health and Human Services

Food and Drug Administration

Food Labeling; Labeling of Food Made From AquAdvantage Salmon; Public Hearing; Request for Comments; Veterinary Medicine Advisory Committee; Notice of Meeting; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0385]

Food Labeling; Labeling of Food Made From AquAdvantage Salmon; Public Hearing; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing regarding the labeling of food derived from AquAdvantage Salmon, a genetically engineered Atlantic salmon. The purpose of the hearing is for FDA to explain the relevant legal principles for food labeling and to solicit information and views from interested persons on the application of these principles to the labeling of food derived from AquAdvantage Salmon. In a separate notice published elsewhere in this issue of the **Federal Register**, FDA is announcing that it will hold a public Veterinary Medicine Advisory Committee (VMAC) meeting.

DATES: See "How to Participate in the Hearing" in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: See "How to Participate in the Hearing" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

For questions about registration, to register orally, or to submit a notice of participation by mail, fax, or by e-mail: Syreeta Jones, BL Seamon Corporation, 9001 Edmonston Road, Suite 200, Greenbelt, MD 20770, phone: 301–577–0244 ext. 4900, fax: 301–577–5261, e-mail: *sjones@blseamon.com*.

For questions about the hearing, if you need special accommodations due to a disability, or to submit the full text, comprehensive outline or summary of an oral presentation: Juanita Yates, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1731, e-mail: *Juanita.Yates@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In a separate notice published elsewhere in this issue of the **Federal Register**, FDA is announcing that it will hold a public VMAC meeting. The VMAC will consider issues regarding the safety and effectiveness of the new animal drug that is the subject of the new animal drug application (NADA) concerning AquAdvantage Salmon produced by AquaBounty Technologies, Inc. In the event that the NADA relating to AquAvantage salmon is approved, public input from this hearing on the labeling of food from AquAdvantage Salmon will assist FDA in the application of its food labeling principles which will determine if we should require labeling for such food beyond that required for food from other varieties of Atlantic salmon. A background document entitled, "Background Document: Public Hearing on the Labeling of Food Made from the AquAdvantage Salmon" describing the relevant legal principles and related questions specific to the labeling of foods from AquAdvantage Salmon is available at: *http://www.fda.gov/Food/LabelingNutrition/FoodLabelingGuidanceRegulatoryInformation/Topic-SpecificLabelingInformation/default.htm*. In addition to this background document, approximately 2 weeks (but no later than 2 business days) prior to the hearing, specific technical information on the AquAdvantage Salmon will be posted on FDA's Web site at: *http://www.fda.gov/AdvisoryCommittees/Committees MeetingMaterials/VeterinaryMedicineAdvisoryCommittee/ucm201810.htm*.

The following are five key principles for labeling foods that are applicable to the specific issue of the labeling of foods from genetically engineered animals, such as the AquAdvantage Salmon:

1. The law prohibits food labeling that is false (Section 403(a)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(a)(1)));
2. The law prohibits food labeling that is misleading, particularly in light of material facts about the product (Sections 403(a)(1) and 201(n) of the act (21 U.S.C. 343(a)(1) and 321(n)))[1];
3. The law allows voluntary labeling about production methods, so long as the labeling is not false or misleading;
4. The law requires that the label include a name that accurately describes the basic nature of the food (Section 403(i) of the act (21 U.S.C. 343(i))); and
5. FDA cannot require additional labeling about production methods unless it is necessary to ensure that the labeling is not false or misleading (See e.g., 72 FR 16291 at 16294, April 4, 2007). Another way of stating this point is that FDA cannot require labeling based on differences in the production process if the resulting products are not materially different due solely to the production process.

II. Purpose and Scope of the Hearing

The purpose of the hearing is for FDA to explain the relevant legal principles for food labeling and to solicit information and views from interested persons on the application of this framework to the labeling of food derived from AquAdvantage Salmon. The scope of this hearing is determined by this notice. We invite information and comments on the issues and questions listed in section III of this document as follows.

III. Issue for Discussion

At this hearing, FDA will seek public comment on the application of the principles of food labeling to food from the AquAdvantage Salmon. To facilitate public comment, specific technical information about the AquAdvantage Salmon will be posted on the FDA website approximately 2 weeks (but no later than 2 business days) prior to the public hearing.

At the public hearing, FDA will be inviting the public to share its views on:

1. Which facts about the AquAdvantage Salmon seem most pertinent for FDA's consideration of whether there are any "material" differences between foods from this salmon and foods from other Atlantic salmon. (Keep in mind that the use of genetic engineering does not, in and of itself, constitute a "material" difference under the law.)
2. If FDA determined there are "material" differences, how would that difference be described on a food label in a way that is truthful and non-misleading. (Keep in mind that it is the difference in composition, or in functional, organoleptic or other material properties that must be described, not the underlying production process.)

Information about changes in the attributes of the food itself, such as its nutritional value, functional properties (e.g., storage), and "organoleptic" qualities (e.g., texture and aroma) could be material (see e.g., 72 FR 16291 at 16293, April 4, 2007). When commenting on these issues, FDA requests that respondents include support for their answers with relevant data, where appropriate, and/or references to the relevant legal principles.

[1] Section 201(n) of the act (21 U.S.C. 321(n)) provides information on how labeling can be misleading. It states that labeling is misleading if it fails to reveal facts that are (1) material in light of representations made or suggested in the labeling, or (2) material with respect to consequences that may result from the use of the food to which the labeling or advertising relates under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual.

IV. Notice of Hearing Under 21 CFR Part 15

Because this is the first time the Agency is considering an application for a genetically engineered animal intended for use as food, at this hearing FDA invites the public to share its views on the application of the relevant legal principles of food labeling to food from the AquAdvantage Salmon. By delegation from the Commissioner of Food and Drugs (the Commissioner) (Staff Manual Guide 1410.21, section 1(G)(5)), the Assistant Commissioner for Policy finds that because this is the first time the Agency is considering such an application, it is in the public interest to permit persons to present information and views at a public hearing regarding the labeling of food made from AquAdvantage Salmon, and is announcing that the public hearing will be held in accordance with part 15 (21 CFR part 15). The presiding officer will be the Commissioner or her designee. The presiding officer will be accompanied by a panel of FDA employees with relevant expertise.

Persons who wish to participate in the hearing (either by making an oral presentation or as a member of the audience) must file a notice of participation (see Table 1, **FOR FURTHER INFORMATION CONTACT**, and "How to Participate in the Hearing" in section V of this document). By delegation from the Commissioner (Staff Manual Guide 1410.21, section 1(G)(5)), the Assistant Commissioner for Policy has determined under § 15.20(c) that advance submissions of oral presentations are necessary for the panel to formulate useful questions to be posed at the hearing under § 15.30(e), and that the submission of a comprehensive outline or summary is an acceptable alternative to the submission of the full text of the oral presentation. We request that individuals and organizations with common interests consolidate their requests for oral presentations and request time for a joint presentation through a single representative. After reviewing the notices of participation and accompanying information, we will schedule each oral presentation and notify each participant of the time allotted to the presenter and the approximate time that the presentation is scheduled to begin. If time permits, we may allow interested persons who attend the hearing but did not submit a notice of participation in advance to make an oral presentation at the conclusion of the hearing. The hearing schedule will be available at the hearing.

After the hearing, we will place the hearing schedule and a list of participants on file in the Division of Dockets Management (see Table 1) under the docket number listed in brackets in the heading of this notice.

To ensure timely handling of any mailed notices of participation, presentations, or comments, any outer envelope should be clearly marked with the docket number listed in brackets in the heading of this notice along with the statement "Food Labeling; Labeling of Food Made From AquAdvantage Salmon; Public Hearing; Request for Comments."

Under § 15.30(f), the hearing is informal, and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation.

Public hearings under part 15 are subject to our policy and procedures for electronic media coverage of our public administrative proceedings in part 10, subpart C (21 CFR part 10, subpart C). Under § 10.205, representatives of the electronic media may be permitted, subject to the procedures and limitations in § 10.206, to videotape, film, or otherwise record our public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b).

Any persons requiring special accommodations to attend the hearing due to a disability, should direct those needs to the contact person (see **FOR FURTHER INFORMATION CONTACT**).

To the extent that the conditions for the hearing, as described in this notice, conflict with any provisions set out in part 15, this notice acts as a waiver of these provisions as specified in §§ 10.19 and 15.30(h). In particular, § 15.21(a) states that the notice of hearing will provide persons an opportunity to file a written notice of participation with the Division of Dockets Management within a specified period of time. If the public interest requires, e.g., if a hearing is to be conducted within a short period of time, the notice may name a specific FDA employee and telephone number to whom an oral notice of participation may be given. If the public interest requires, the notice may also provide for submitting notices of participation at the time of the hearing. In this document, the conditions for the hearing specify that notices of participation be submitted electronically to an agency Internet site, to a contact person (outside of FDA) who will accept notices of participation by mail, telephone, fax, or e-mail, or in person on the day of the hearing (as space permits). We are using these procedures for submitting notices of participation, rather than provide for the submission of notices of participation to the Division of Dockets Management, because the hearing is to be conducted within a short period of time and these procedures are more efficient. In addition, these procedures provide more flexibility to persons who wish to participate in the hearing than would be provided if participants were required to submit the notice of participation in writing to the Division of Dockets Management. By delegation from the Commissioner (Staff Manual Guide 1410.21, section 1(G)(5)), the Assistant Commissioner for Policy finds under § 10.19 that no participant will be prejudiced, the ends of justice will thereby be served, and the action is in accordance with law if notices of participation are submitted by the procedures listed in this notice rather than to the Division of Dockets Management.

V. How to Participate in the Hearing

Advance registration by submission of a notice of participation is necessary to ensure participation and will be accepted on a first-come, first-served basis. You may submit the notice of participation electronically (see Table 1); we encourage you to use this electronic means of advance registration. You also may submit the notice of participation orally or by mail, fax, or e-mail (see **FOR FURTHER INFORMATION CONTACT**). See Table 1 for the dates by which you must submit your notice of participation. A single copy of any notice of participation is sufficient.

TABLE 1.—INFORMATION ON PARTICIPATION IN THE HEARING AND ON SUBMITTING COMMENTS

	Date	Electronic Address	Address (Non-electronic)	Other Information
Date of Hearing	September 21, 2010, from 9 a.m. to 4:30 p.m.		Hilton Hotel and Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20850, 301–468–1100	
Advance Registration	By September 13, 2010	*http://www.fedmeetings.net/common/registration.cfm?mid=3210*	We encourage you to use electronic registration if possible.	Registration to attend the hearing will also be accepted onsite on the day of the hearing, as space permits. Requests made on the day of the hearing to make an oral presentation may be granted as time permits. Registration information and information on requests to make an oral presentation may be posted without change to *http://www.regulations.gov*, including any personal information provided.
Make a request for oral presentation	By September 8, 2010			
Provide a brief description of the oral presentation and any written material for the presentation	By September 13, 2010		Juanita Yates (See **FOR FURTHER INFORMATION CONTACT**)	Written material associated with an oral presentation may be posted without change to *http://www.regulations.gov*, including any personal information provided.
Request special accommodations due to a disability	By September 13, 2010		Juanita Yates (See **FOR FURTHER INFORMATION CONTACT**)	
Submit comments	By November 22, 2010	Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.	FAX: 301–827–6870 Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane rm. 1061, Rockville, MD 20852	All comments must include the agency name and the docket number found in brackets in the heading of this document. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. We encourage you to continue to submit electronic comments by using the Federal eRulemaking Portal. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

* You may also register or request to make an oral presentation by mail, fax, e-mail, or phone by providing registration information (including name, title, business affiliation (if applicable), address, telephone number, fax number (if available), and e-mail address (if available)) (see **FOR FURTHER INFORMATION CONTACT**).

The notice of participation must include your name, title, business affiliation (if applicable), address, telephone number, fax number (if available), and e-mail address (if available). If you wish to request an opportunity to make an oral presentation during the open public comment period of the hearing, your notice of participation also must include the title of your presentation, the sponsor of the oral presentation (e.g., the organization paying travel expenses or fees), if any; and the approximate amount of time requested for the presentation. Presentations must be limited to the questions and subject matter identified in section III of this document.

Under § 15.20(c), if you request an opportunity to make an oral presentation you must submit your presentation (either as the full text of the presentation, or as a comprehensive outline or summary). You may do so by e-mail or in writing. See Table 1 for the dates by which you must submit your presentation. See Table 1 and **FOR FURTHER INFORMATION CONTACT** for information on where to send your presentation.

Individuals who request an opportunity to make an oral presentation will be notified of the scheduled time for their presentation prior to the hearing. Depending on the

number of oral presentations, we may need to limit the time allotted for each oral presentation (e.g., 5 minutes each). Depending on the content of the presentations, the time allotted for oral presentations may vary. We request that interested persons and groups having similar interests consolidate their requests for oral presentation and present them through a single representative. If you need special accommodations due to a disability, please inform us (see Table 1 and **FOR FURTHER INFORMATION CONTACT**).

We will also accept registration onsite; however, space is limited. Onsite registration will be accepted on a first-come, first-served basis and will be closed when the maximum seating capacity is reached. Requests for an opportunity to make a presentation from individuals or organizations that did not register in advance to make an oral presentation may be granted if time permits.

Persons who registered in advance for the hearing should check in at the onsite registration desk between 8:30 and 9 a.m. Persons who wish to register onsite on the day of the hearing should do so at the registration desk between 8:30 and 9 a.m. We encourage all participants to attend the entire day.

VI. Request for Comments

Interested persons may submit to the Division of Dockets Management (see Table 1) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

VII. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov*. It may be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to Division of Freedom of Information (HFI–35), Office of Management Programs, Food and Drug Administration, 5600 Fishers Lane, rm. 6–30, Rockville, MD 20857.

Dated: August 23, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–21243 Filed 8–25–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Veterinary Medicine Advisory Committee; 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: Veterinary Medicine Advisory Committee.

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 September 19, 2010, from 1 p.m. to 5:30 p.m. and on September 20, 2010, from 8 a.m. until 6 p.m.

Location: Rockville Hilton, 1750 Rockville Pike, Rockville, MD 20852, 301–468–1100.

Contact Person: Aleta Sindelar, Center for Veterinary Medicine (HFV–3), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9004, FAX: 240–276–9020, email: *aleta.sindelar@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512548. 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 September 19, 2010, the committee will receive an orientation on both general scientific issues surrounding genetically engineered animals and the statutory and regulatory constraints under which the Agency must operate. On September 20, 2010, the committee will consider issues regarding the safety and effectiveness of the new animal drug that is the subject of a new animal drug application (NADA) concerning AquAdvantage salmon produced by AquaBounty Technologies, Inc. These genetically engineered Atlantic salmon are intended to grow faster than conventionally bred Atlantic salmon.

Two background documents entitled "An overview of Atlantic salmon, its natural history, aquaculture, and genetic engineering" and "The VMAC Meeting on Science-Based Issues Associated with AquAdvantage Salmon" can be found at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/VeterinaryMedicineAdvisoryCommittee/ucm201810.htm.*

In a separate notice published elsewhere in this issue of the **Federal Register**, FDA is announcing that it will hold a public hearing on the labeling of food, including naming of the food, from the AquAdvantage salmon on September 21, 2010. This public hearing will allow the public to comment on the application of food labeling principles to food from the AquAdvantage Salmon, if the NADA is approved. An overview of the labeling issues to be addressed is described in "Background Document: Public Hearing before the Commissioner on the Labeling of Food Made from the AquAdvantage Salmon" *at http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/VeterinaryMedicineAdvisoryCommittee/ucm201810.htm*.

FDA anticipates making the meeting materials available approximately 16 days before this meeting, but in any event no later than 2 business days before the meeting at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/VeterinaryMedicineAdvisoryCommittee/ucm201810.htm*. 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.

Additional information regarding the Center for Veterinary Medicine's (CVM's) regulatory oversight of genetically engineered animals can be found at *http://www.fda.gov/AnimalVeterinary/DevelopmentApprovalProcess/GeneticEngineering/GeneticallyEngineeredAnimals/default.htm*.

Please be advised that as soon as a transcript is available, it can be obtained in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of

Information (HFI–35), Office of Management Programs, Food and Drug Administration, 5600 Fishers Lane, rm. 6–30, Rockville, MD 20857.

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 September 16, 2010. Oral presentations from the public will be scheduled between approximately 2:45 p.m. and 4 p.m. on September 20, 2010. 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 September 7, 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 September 9, 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 Aleta Sindelar 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 publioc conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 23, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–21245 Filed 8–25–10; 8:45 am]

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H.R. 511/P.L. 111–231
To authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village. (Aug. 16, 2010; 124 Stat. 2489)

H.R. 2097/P.L. 111–232
Star-Spangled Banner Commemorative Coin Act (Aug. 16, 2010; 124 Stat. 2490)

H.R. 3509/P.L. 111–233
Agricultural Credit Act of 2010 (Aug. 16, 2010; 124 Stat. 2493)

H.R. 4275/P.L. 111–234
To designate the annex building under construction for the Elbert P. Tuttle United States Court of Appeals Building in Atlanta, Georgia, as the "John C. Godbold Federal Building". (Aug. 16, 2010; 124 Stat. 2494)

H.R. 5278/P.L. 111–235
To designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the "President Ronald W. Reagan Post Office Building". (Aug. 16, 2010; 124 Stat. 2495)

H.R. 5395/P.L. 111–236
To designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the "Paula Hawkins Post Office Building". (Aug. 16, 2010; 124 Stat. 2496)

H.R. 5552/P.L. 111–237
Firearms Excise Tax Improvement Act of 2010 (Aug. 16, 2010; 124 Stat. 2497)

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